

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 13th June, 2012

The House met at 9.00 a.m.

*[The Temporary Deputy Speaker
(Dr. Laboso) in the Chair]*

PRAYERS

PAPER LAID

The following Papers was laid on the Table:-

Report of the Departmental Committee on Local Authorities on nominations of chairperson and members of the Transition Authority.

(Mr. Ngugi)

NOTICE OF MOTION

ADOPTION OF REPORT ON NOMINATION OF CHAIRPERSON/
MEMBERS OF TRANSITION AUTHORITY

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

THAT, this House adopts the Report of the Departmental Committee on Local Authorities on the nominations of chairperson and members of the Transition Authority laid on the table of the House on Wednesday, 13th June, 2012.

QUESTIONS BY PRIVATE NOTICE

PARTICIPATION OF LEETA/KIOLO PRIMARY
SCHOOLS PUPILS IN DEMONSTRATION

(Mr. M'Mithiaru) to ask the Minister for Education:-

(a) Is the Minister aware that pupils from Leeta and Kiolo primary schools in Igembe North District were released by their respective head teachers to participate in a demonstration on 7th March, 2012, and that one of them was seriously injured and commercial wares looted at several market centres?

(b) Why were the pupils released to participate in the demonstration and what disciplinary action has the Minister taken against the head teachers?

The Temporary Deputy Speaker (Dr. Laboso): The Member for Igembe North! We shall give him a little time in case he is stuck in traffic.

The Temporary Deputy Speaker: Next Question is by Dr. Otichilo.

INCREASE OF FUEL PRICES BY ERC

Dr. Otichilo: Madam Temporary Deputy Speaker, I beg to ask the Minister for Energy the following Question by Private Notice.

(a) What factors did the Energy Regulatory Commission (ERC) consider when it increased the retail prices for super petrol and kerosene during the month of May, 2012?

(b) Is the Minister aware that during the month of April, the price of crude oil declined from US\$126 in March to US\$121 a barrel and local currency had stabilized against the world's major currencies and if so, why did the Commission fail to factor in the decline of the cost of crude oil and stability of the shilling when setting retail prices for May, 2012?

(c) Could the Minister consider disbanding the Commission since it is not serving the purpose for its establishment?

The Assistant Minister for Energy (Eng. M.M. Mahamud): Madam Temporary Deputy Speaker, I beg to reply.

(a) In determining the pump prices, the Energy Regulatory Commission (ERC) considered the following factors:-

The actual landed cost of each imported cargo received, which is made up of cost of product at the time the product was procured and cost of shipping to Mombasa, taxes and levies, cost of financing, overheads and margin and distribution costs.

(b) I am aware that the price of murban crude in the month of April 2012 was posted at US\$121 per barrel as compared to US\$126 in March 2012. It is important to note that it takes approximately 60 days to process crude imported and get the products into the market. There is, therefore, a lag between the products being sold in the market and their corresponding crude. During the May 2012 pricing period, the quantity of super petrol and kerosene processed at the Kenya Petroleum Refineries Limited amounted for only 17.38 per cent and 16.83 per cent respectively, of the total product availed in the country.

The average landed cost of imported super petrol increased by 2.93 per cent from US\$1,200.41 per tonne in March, 2012 to US\$1,235.56 per tonne in April 2012. Over the same period, the average landed cost of imported diesel decreased by 2.34 per cent from US\$1,085.10 per tonne in March, 2012 to US\$1,059.66 per tonne in April, 2012, while the average landed cost of imported kerosene increased by 0.75 per cent from US\$1,108.98 per tonne in March, 2012 to US\$1,117.26 per tonne in April, 2012.

Over the same period, the mean monthly exchange rate weakened marginally to Kshs83.24 per US Dollar in April, 2012 compared to Kshs82.82 per US Dollar in March, 2012.

(c) I do not consider disbanding the Commission since ERC was established with a wide range of mandate, with price regulation just being one among them.

Dr. Otichilo: Madam Temporary Deputy Speaker, first, I want to thank the Assistant Minister for that elaborate answer. However, I wish to know from him: What factors have caused fuel prices to be increased to the current level, given that the current levels are equivalent or almost the same levels that were being charged in 2011, when the prices of crude oil were very

high and the Kenya Shilling was very weak? It was more than Kshs100 to a dollar. So, what other factors, apart from price of crude oil and a weak shilling, have made those prices more or less to be the same as they were in 2011?

Eng. M.M. Mahamud: Madam Temporary Deputy Speaker, I have mentioned the factors that we consider in pricing. Actually, they are the cost of the product itself, the transport cost to Mombasa and taxes and levies that are levied on the products received in Kenya. There is an allowance for financing overheads and margin and distribution costs. In fact, I have mentioned those costs in my answer.

Dr. Otichilo: On a point of order, Madam Temporary Deputy Speaker. Is the Assistant Minister in order to say the same factors influenced increase of crude oil prices in 2011? Given that the factors remained the same in 2012, the prices should not have been all that different.

Eng. M.M. Mahamud: Madam Temporary Deputy Speaker, I did not get the question of the hon. Member clearly. Maybe he could repeat it clearly, so that I can answer him.

Dr. Otichilo: Madam Temporary Deputy Speaker, is the Assistant Minister in order to say other factors made the price of fuel to be increased and yet he told us that the same factors were in play in 2011? There should not have been all that difference in prices.

The Temporary Deputy Speaker (Dr. Laboso): Assistant Minister, you are being asked if the factors have remained the same.

Eng. M.M. Mahamud: Madam Temporary Deputy Speaker, as I said the factors have remained the same. These factors included the price of crude, transport costs, fuel levies and other costs which are incurred locally. So, all those are factors which are incurred and they never change.

Mr. Imanyara: Madam Temporary Deputy Speaker, this Ministry is quite notorious in dealings that are not in the public interest. It is one Ministry that has the largest number of parastatals. You notice that this is known as the Energy Regulatory Commission (ERC). When the Assistant Minister was answering part "c" of the Question, he said that they have no intention of disbanding it. Could he tell us how this ERC was established? Could he also tell us if there was any public participation, or if the law relating to the creation of commissions was followed? How was it staffed?

Eng. M.M. Mahamud: Madam Temporary Deputy Speaker, yes, in the process of establishing the ERC, which is normal like in any other country, we had the regulation board before. So, after going through the process of developing Sessional Paper No. 4 of 2006, the Commission was formed. The Act was done in the right way. So, the process was followed. There was public participation and the proper procedure was followed to make the law establishing this Commission.

Mr. Koech: Madam Temporary Deputy Speaker, the answer by the Assistant Minister is shocking to the people of Kenya. This ERC was established to remove the cartels and ensure that Kenyans pay for the actual price of fuel. The Assistant Minister has confirmed to this House that, actually, the price came down from US\$126 to US\$121. Since the establishment of this regulatory body, could he confirm to this House that never have they ever reduced the price by even Kshs1? Could he also tell this House what other works this regulatory body was established for which is making him not to disband it and yet it is not serving the people of the Republic of Kenya.

Eng. M.M. Mahamud: Madam Temporary Deputy Speaker, I do confirm that after this capping mechanism was put in place, indeed, the price actually did decrease on two occasions. On the issue of the cartels, what we have done as a Ministry to avoid them is that we actually go

through a tender process. Oil is brought into this country through an open tender system, which people only compete on the price of the product at the source, the transportation and a small premium. So, we have actually removed the cartel issue. But because we do not produce our own oil, its price keeps on increasing. Frankly, I think that the system we have put in place is trying to cap---

Mr. Koech: On a point of order, Madam Temporary Deputy Speaker. Is the Assistant Minister in order to mislead the House that the price of fuel keeps increasing when, in his own answer, he has confirmed that, actually, the crude oil price declined from US\$126 to US\$121? Is he in order to mislead the House?

Eng. M.M. Mahamud: Madam Temporary Deputy Speaker, yes, I agree that the crude oil price decreased by US\$5 between March and April, but I did also say that the crude which we imported during those periods only constituted 17.38 per cent of the actual product that we have in the country and 16.83 in the other month. So, what we do is that the price is normally weighted pricing. So, the price which arrives here is more like the price of the refined product which landed in Mombasa. So, the crude is insignificant. So, the reduction in the crude price did not have a great effect because it was actually diluted by the price of the refined oil which was imported, because of the inefficiencies in our refineries.

Mr. Koech: On a point of order, Madam Temporary Deputy Speaker. Is the Assistant Minister in order to avoid answering my question? What are the other roles that the ERC was established for because he has made it clear that it is not only price regulation?

The Temporary Deputy Speaker (Dr. Laboso): Order! I think your point is made. That was part of his question, which you have not answered. What other role does the ERC have, apart from regulating prices of fuel? Do they have any other role?

Eng. M.M. Mahamud: Yes, Madam Temporary Deputy Speaker. The ERC regulates:-

(a) Importation, exportation, generation, transmission, distribution, supply and use of electrical energy. That is one function.

(b) Importation, exportation, transportation, refining, storage and sale of petroleum and petroleum products; that is the one that relates to petroleum.

(c) Production, distribution, supply and use of renewal and other forms of energy. So, all the licensing which is done in this country in terms of energy is done by the ERC.

So, price capping is not the only function they do.

Mr. Wambugu: Thank you, Madam Temporary Deputy Speaker. I think when fuel prices are going down in the world, in Kenya, it is the reverse.

I believe that when the ERC was formed, it was also to stabilize the fuel prices, so that we remove the uncertainty of doing business in this country. What action is the Assistant Minister taking to make sure that uncertainty of fuel prices in this country is removed so that we are able to predict the way of doing business in this country?

Eng. M.M. Mahamud: Madam Temporary Deputy Speaker, to the extent that we do not have our own oil, it will be very difficult for us to ascertain the actual price of fuel. So, the uncertainty and the volatility of price will continue. So, the only solution will be if we have our own oil so that we can overcome that. But I assure the hon. Members that, in fact, in the next review, because of the current downward trend in the prices which started in April and May, we expect the pump prices to be reduced.

Mr. Kiuna: Thank you, Madam Temporary Deputy Speaker. How come when the Organization of the Petroleum Exporting Countries (OPEC) sneezes, the East African countries get flu, if not pneumonia? In most cases, we have heard that when there is just a slight

increment of crude oil price our Government and the Ministry normally hike the price of our fuel locally. Does it not mean that in the energy sector, they do not have a reservoir which, at least, can absorb those shocks before they sit down and regulate or control the prices? Does the Ministry of Energy have enough reservoir so that it can contain these haphazard increments?

The Temporary Deputy Speaker (Dr. Laboso): Thank you. I think you have explained your question, let the Assistant Minister now answer it.

Eng. M.M. Mahamud: Madam Temporary Deputy Speaker, we have not been able to make strategic reserves. In fact, the intention is to develop a strategic reserve and we have to develop the infrastructure to store and also get the finances. We have the plan; the Ministry has, at least, to have the 90-day strategic reserve. I think that is a good idea, but we have not been able to manage it because of other issues.

Dr. Khalwale: Madam Temporary Deputy Speaker, to Kenyans, the meaning of ERC is price regulation. Now that they have failed miserably, we, as parliamentarians, on behalf of the people, we are demanding that the Commission be disbanded immediately.

(Applause)

Madam Temporary Deputy Speaker, if the Assistant Minister does not want to heed to what we are saying, could he demonstrate here what areas in its wide mandate this Commission is performing? You are merely telling us what those areas are; could you demonstrate that they are performing, so that it mitigates against this mal-performance by way of failure to regulate the prices?

Eng. M.M Mahamud: Madam Temporary Deputy Speaker, one of the areas that we are dealing with is regulating the importation and distribution of Liquid Petroleum Gas (LPG). In fact, you realize that it is a very dangerous product in terms of storage and distribution. On the pricing of electricity, the Kenya Power and Lighting Company (KPLC) cannot increase prices without the Energy Regulatory Commission (ERC) coming in. When we are negotiating---

Dr. Khalwale: On a point of order, Madam Temporary Deputy Speaker. The Assistant Minister is failing to appreciate the import of my question. My question was for you to demonstrate the success they have had in the other areas of their mandate, and you have quickly gone to the price of electricity. Are you aware that electricity is one of the items where, again, they have failed miserably, because the price of electricity keeps on going up? Are you in order to mislead the House?

Eng. M.M. Mahamud: Madam Temporary Deputy Speaker, that is a very good question. May I request that a substantive Question be brought to that effect, so that I can come with the full dossier of what they have done since they were established.

The Temporary Deputy Speaker (Dr. Laboso): Last question, Dr. Otichilo!

Dr. Otichilo: Madam Temporary Deputy Speaker, I want to know from the Assistant Minister if all what he has said is correct. What reasons can he give for some oil companies, like the National Oil Corporation, reducing the price of petrol and kerosene, while the ERC increased?

Eng. M.M. Mahamud: Madam Temporary Deputy Speaker, when we put a price cap, we allow the companies to compete within that range. This is the maximum and so, people can sell below that. So, what the National Oil Corporation has done is actually to go below our maximum price, but nobody goes above the maximum price which has been set.

OUTBREAK OF MEASLES IN KENYA

Mrs. Shebesh: Madam Temporary Deputy Speaker, I beg to ask the Minister for Public Health and Sanitation the following Question by Private Notice.

(a) Is the Minister aware that there is an outbreak of measles which has so far left six children dead in the country?

(b) Why has the Government not issued an alert on the same?

(c) Has the Ministry launched immunization programmes in the country?

The Assistant Minister for Medical Services (Mr. Kambi): Madam Temporary Deputy Speaker, in the principle of collective responsibility, I beg to answer this Question on behalf of the Ministry of Public Health and Sanitation.

(Applause)

(a) Yes, I am aware.

(b) My Ministry issued an alert to all levels of the health system on 16th February, 2011 when the outbreak was first detected and reported. The provincial and district health management teams and health workers were directed to:-

(i) intensify surveillance activities up to the village level;

(ii) enhance involvement of other stakeholders such as Provincial Administration, communities and other partners in measles surveillance and advocacy activities;

(iii) identify children who had missed their measles vaccination to be vaccinated;

(iv) institute appropriate immunization response plan to prevent spread of the outbreak; and,

(v) ensure prompt and proper management of all measles cases identified.

(c) The Ministry has been given money by the World Health Organization (WHO) to address this issue of immunization.

Mrs. Shebesh: Madam Temporary Deputy Speaker, I appreciate the Assistant Minister for Medical Services for attempting to answer this Question. Just allow me to inform him, as I ask my supplementary question, that the reason for the current outbreak is the insecurity that is in our border countries of Somalia and Ethiopia. Therefore, the crossing over has increased the measles outbreak in our towns of Garissa, Turkana and subsequently in Kamukunji in Nairobi, because of the movement of those from our borders to Kamukunji. How is the Ministry working with the Ministry of State for Immigration and Registration of Persons to ensure that even as we are accommodating our brothers in war-torn countries, they do not bring to us a disease that we had dealt with in terms of immunization, because unfortunately for them, they do not have the requisite knowledge on measles transmission, especially the immunization that can help in curbing this disease?

Mr. Kambi: Madam Temporary Deputy Speaker, the Ministry of Public Health and Sanitation has mobilized resources and coordinated with the border officials, including the immigration and public health officers to check these people. However, there are those who had possibly entered the country and we have also mobilized people and resources to check them, particularly in Nairobi. But we have tried to arrest the situation before it becomes an emergency.

Mr. Mureithi: Madam Temporary Deputy Speaker, considering that recently there was a shortage of BCG vaccines and we have been without measles for quite a while, what assurance can the Assistant Minister give this House that he has got enough vaccines which will be

distributed around the country, because right now we cannot see the immunization programme going on in our areas?

Mr. Kambi: Madam Temporary Deputy Speaker, I am the one who led a team to the WHO in Geneva. The Government was given about Kshs50 billion for the Neumococo Vaccine and Kenya was the first country to launch the vaccine. Therefore, measles has also been arrested because we were given this money to conduct Neumococo vaccination and vaccination against measles.

Dr. Nuh: Madam Temporary Deputy Speaker, the Assistant Minister says that they have issued a health alert to all the systems. What type of alert or advertisement was it? Was it a paper advert or communication through radio? Could he table such a document? But more importantly, I want to ask whether the Ministry has instituted mandatory vaccinations for all the refugees who are coming to the country at the border points. How is that being enforced?

Mr. Kambi: Madam Temporary Deputy Speaker, the Ministry issued the alert through our systems and heads of various departments. I also want to thank the Ministry of State for Provincial Administration and Internal Security for helping us address this issue, particularly at the border level. I do not have the details to table, but I can avail the same to this House.

Mr. Mbadi: Madam Temporary Deputy Speaker, the Assistant Minister has talked about a mass measles vaccination campaign in May 2011. Could he tell us, what was the target population and percentage of success for that particular initiative?

Mr. Kambi: Madam Temporary Deputy Speaker, all children under five years were our target. The programme went on well and we have addressed these issues.

Mr. Wambugu: Thank you, Madam Temporary Deputy Speaker. The Assistant Minister has just said that he has already sent out teams to the whole country. Can he be specific and tell us exactly which particular areas those teams were sent and confirm what the success rate was in Central Province?

Mr. Kambi: Madam Temporary Deputy Speaker, all district hospitals have public health officers. Therefore, all facilities countrywide have been equipped and the issue has been addressed. The progress has been good and we have achieved almost 96 per cent of the results.

Mrs. Shebesh: Madam Temporary Deputy Speaker, could the Assistant Minister tell us whether they have instituted the mandatory immunization programme especially at the border points and areas where, for religious reasons like it is happening in Mwingi, some parents or sects are refusing to immunize their children? Has he instituted mandatory immunization and how much money has the Government allocated for that?

Mr. Kambi: Madam Temporary Deputy Speaker, Sir, as I said there are those cases where some parents have refused to have their children immunized. However, we have made it mandatory. We have instructed our officers and with the help of officers from the Ministry of State for Provincial Administration and Internal Security, we have been able to overcome this.

Mr. Mbadi: On a point of order, Madam Temporary Deputy Speaker. There is a question that Rachel had asked about how much the Treasury had allocated to this project apart from the World Bank funds.

Mr. Kambi: Madam Temporary Deputy Speaker, that is a different Question but I can still bring the figures.

The Temporary Deputy Speaker (Dr. Laboso): Next Question by Mr. Gitari!

Mr. Gitari: Madam Temporary Deputy Speaker, although I have not received a copy of the written answer, I beg to ask Question No.4 by Private Notice.

GOVERNMENT RECOGNITION/HONOUR TO KENYAN
SOLDIERS IN SOMALIA

Mr. Gitari: Madam Temporary Deputy Speaker, I beg to ask the Minister of State for Defence the following Question by Private Notice.

(a) What arrangements, if any, has the Government made to recognize and honour the Kenyan soldiers deployed in Somalia under the auspices of AMISOM following the successful capture of Afmadow Town?

(b) What assistance will the government extend to those soldiers who have been injured while on duty in this peace-keeping mission?

The Temporary Deputy Speaker (Dr. Laboso): Where is the Minister of State for Defence? It appears not only have you not got a copy of the written answer to your Question but the Minister is also not here. I will give him a little time as we did with the hon. Member.

We will now move on to the next Question by hon. Amina Abadalla.

MEASURES TO FACILITATE SOUND MANAGEMENT AT CRICKET KENYA

Ms. Amina Abdalla: Madam Temporary Deputy Speaker, Sir, I beg to ask the Minister for Youth Affairs and Sports the following Question by Private Notice.

(a) Is the Minister aware that the leadership wrangles facing the management of Cricket Kenya are affecting the quality and standard of services rendered by the entity?

(b) Is the Minister further aware that the coach and the Chief Executive Officer of Cricket Kenya earn twice as much as the total allowances paid to the 20 the players of the Kenya cricket team?

(c) What measures is the Minister taking to facilitate sound management and prudent expenditure in Cricket Kenya?

The Assistant Minister for Youth Affairs and Sports (Mr. Kabondo wa Kabando): Madam Temporary Deputy Speaker, I beg to reply.

(a) I am aware that wrangles in cricket management are affecting the quality and standard services rendered by the cricket body. Investigations have revealed that this has been caused by the nomination of delegates from Nairobi Province to represent Nairobi Province Cricket Association (NPCA) in the national elections when actually there were no elections held.

The Cricket Kenya Annual General Meeting (AGM) was scheduled for 27th May, this year and to prepare for this, the NPCA nominated eight delegates who were to agree among themselves on three people who would be presented as candidates in the Cricket Kenya elections as chairperson, treasurer and Development Officer but this ended up in a stalemate. As Cricket Kenya prepared for the AGM on this date, Mr. Tom Tikolo obtained a court injunction stopping the Nairobi delegates from participating in the AGM. The matter is currently in court.

To help resolve the stalemate, I have instructed the clubs in Nairobi and the Executive Committee to initiate dialogue amongst themselves and try to come up with an amicable solution to the stalemate.

(b) Yes, I am aware that the coach and the Chief Executive Officer earn salaries commensurate with their qualifications and experience. The coach was hired based on his qualification and as per the International Kenya Cricket Council requirements which is a minimum of level three coupled with experience in coaching senior teams in the test playing

countries. The CEO's emoluments have a basic salary component and earnings of 20 per cent commission for every sponsorship deal that he brings to the association.

The current CEO was hired in a World Cup year where big sponsorship was obtained for the team and this may explain the high payments he receives from the organization. If both the coach and the CEO, therefore, earn more than the players, which I am not aware, it will be due to this reason.

(c) As I have stated above, I have taken action to ensure that free and fair elections are conducted to enable efficient and effective management of cricket in the country and avoid unnecessary squabbles. I will also institute an independent audit to establish if there is any improper use of funds. I have given directions to my technical team to pursue this to that effect.

Ms. Amina Abdalla: Thank you, Madam Temporary Deputy Speaker. Kenya was on the verge of becoming a test nation in 2003. Kenya is now ranked among the lowest and we could not even beat Nepal because of the wrangles in Cricket Kenya. The Assistant Minister has told this House that the problem emanates from the NPCA. Instead of asking, as per our Constitution for a free and fair election, the Assistant Minister has told us that he has asked the NPCA to go and have dialogue; a dialogue among eight persons. If the Assistant Minister is aware that the commission earned by this CEO, who is by the way an expatriate, is because his basic qualification is being able to negotiate sponsorship deals, how many Kenyans are qualified to raise funds for this association?

(Applause)

The Temporary Deputy Speaker (Dr. Laboso): One question at a time.

Ms. Amina Abdalla: My question to the Assistant Minister is---

The Temporary Deputy Speaker (Dr. Laboso): I thought you have already asked it?

Ms. Amina Abdalla: No, I have not, Madam Temporary Deputy Speaker. If the Assistant Minister is aware that this person earns 20 per cent, how can he not be aware that he earns Kshs14 million per year while the players are earning Kshs30,000 per year; a mere USD400?

Mr. Kabando wa Kabando: Madam Temporary Deputy Speaker, those are two questions in one. Therefore, I do answer as follows:- Currently, we do not have qualified Kenyans to coach the national team and this is the reason. As per the International Cricket Council (ICC) requirements, a coach must---

Ms. Amina Abdalla: On a point of order, Madam Temporary Deputy Speaker. My question is with regard to the CEO. I am aware that we do not have a qualified Kenyan to be a coach but a CEO is a mere person with Masters who can negotiate deals.

The Temporary Deputy Speaker (Dr. Laboso): Address yourself to the question.

Mr. Kabando wa Kabando: Yes, Madam Temporary Deputy Speaker, Sir, I am doing that. If I get a little patience from the Questioner, I will do that.

A coach, as per the ICC requirements is supposed to be on level three and has an experience for coaching senior counties or national teams from the test status nation. I also want to inform this House that last year, two Kenyans were sponsored for level three coaching course in South Africa but they were unable to pass the exams. It is true that the players get Kshs30,000 per month as a retainer. However, they also get other allowances including match fees and medical allowances when they participate in international matches. But I want to accept because I do not want to be in denial that much more, this crisis has given us the opportunity to audit and

interrogate Cricket Kenya. We need to level the ground for the players and put more focus in this docket for the cricket management in Kenya.

There have been issues in 2010, if this House can remember when we dealt with the crisis of the management and we managed to mainstream it. Last year, there was the crisis about the elections and the legitimacy of the officials. There are also other underlying issues that I would like to tell this House. I know that there have been questions of prejudices within cricket management in this country. My Ministry is not in denial. We accept this and that is why we are doing this audit. Dialogue is important because it enables the Ministry and the officials of the federations to get solutions because we do not want to micromanage the federations. We want to hold them to account as per the sports policy in this country.

I am giving the firmest assurance in this House that this crisis may be the template necessary to actually turn round the management of cricket and make it expansive and inclusive, so that it is not a club for the minority – it should be a club for the whole country. We know that there is a problem and that is why we have summoned those officials, be they interim or contesting the elections.

Dr. Khalwale: Madam Temporary Deputy Speaker, there is serious segregation along racial lines that takes place in cricket. The best players who have been in the team in the history of this country have been Kenyans of black origin. However, when segregation is applied it tends to favour Kenyans of Asian origin. What is the Assistant Minister doing to ensure that black Kenyan youth are given the same treatment as Asian youths as they play and want to excel in cricket?

Mr. Kabando wa Kabando: Madam Temporary Deputy Speaker, I have given the assurance that we are aware that there are underlying serious issues in cricket management in the Republic of Kenya. These issues need to be addressed comprehensively. We take solace in the fact that even our own Constitution forbids exclusion on the basis of race, age or colour. At the end of it, this House will be satisfied that we will have overhauled cricket management. We will ensure that those who have used skin colour or economic disability of young people who have got the talent to play cricket, or those who have disabled expansion of cricket to the rest of the regions of this country--- These are issues that the Ministry is addressing.

Madam Temporary Deputy Speaker, it is not just financial audit or tournament audit, it is about the totality of cricket in this country as a major sport. Therefore, this House should be assured that I am taking steps to redress the way players have been treated. I will also redress the narrowness of cricket in order to give an opportunity to many.

Mr. Ruteere: Madam Temporary Deputy Speaker, now that the Assistant Minister has accepted that the CEO is running down the organization, and he is not giving incentives to the players, what immediate action will he take before they overhaul the whole team, so that at least we embark on the way forward to having cricket team take its rightful place as was the case before?

Mr. Kabando wa Kabando: Madam Temporary Deputy Speaker, I have not admitted that the CEO is running down the organization. I will not be hasty in making such a statement on the Floor. The CEO, as I have said already, earns 20 per cent commission on sponsorships that he is able to negotiate. I think that is the way to go in public/private partnerships, including in sports, where the heads of institutions, for example the CEOs and the directors, are given motivation and incentives, so that the more they bring in from the corporate world, the more they earn. This is part of the performance contracting that the sports federations should be encouraged to undertake. Therefore, we are doing an institutional audit. It is not to focus on any particular

individual, but rather it is to ensure that we overhaul organisations. I think this House should be happy that from the Floor of the House I am admitting that there is a problem in the management of cricket in this country and that the audit will change it.

Mr. Hassan: Madam Temporary Deputy Speaker, it is sad that after nearly 49 years of Independence we are still talking about making cricket a game that is played by everybody in Kenya. I think that is a failure, perhaps, on the part of our Government to invest in facilities, training and to produce a more balanced cricket team than the one we have at the moment. From my own experience of other countries where cricket is played, I know that it is played by working class people. This is true of India, Pakistan and Sri Lanka where there is a lot of interest in cricket. However, in our case, cricket is played by, probably, the middle class and above and you cannot simply introduce racial connotations. The Asians excel in this game because they have invested in it and they love the game. We should select our teams in accordance with merit rather than colour. It has not worked in other parts of the world, and so we might kill the game. Therefore, we should encourage them---

The Temporary Deputy Speaker (Dr. Laboso): What is your question?

Mr. Hassan: Madam Temporary Deputy Speaker, how much is the Government investing in cricket to make sure that it becomes a national game that is enjoyed and played in other parts of Kenya and not only in small and exclusive pockets like Nairobi?

Mr. Kabando wa Kabando: Madam Temporary Deputy Speaker, the Government is investing all it has, including providing facilitation when the national team qualifies for international tournaments. We should appreciate that of all the sports, cricket, even though played on a small scale, has some of the best facilities, including the ultra-modern Nairobi Gymkhana, which hosts international tournament. The challenge is to ensure that we improve on its management; we should also ensure that the other stadia across the county that we are building are used.

The Temporary Deputy Speaker (Dr. Laboso): Your last question, hon. Amina Abdalla. Hon. Members we cannot go on with that one Question for too long.

Ms. Amina Abdalla: Madam Temporary Deputy Speaker, sports tourism is one of the ways in which Kenya is trying to diversify our tourism. The outgoing coach of the Kenya cricket team posted on the website that the reason for his resigning as the coach of the Kenya team was that Kenya is unsafe. Subsequently, other nations have refused to play international games in Kenya. Many sports are recruiting international coaches. I would like to know from the Assistant Minister what measures he is taking to ensure that the contracts signed by these coaches protect our country in terms of them being capable of destroying our tourism.

Mr. Kabando wa Kabando: Madam Temporary Deputy Speaker, all the contracts signed between federations and expatriates are about management, remuneration and duration. As to whether those contracts can protect them better than they can protect Kenyans--- If there is any information that any official contracted to work for any Kenya federation in the sports sector has given that depicts Kenya as an unsafe country, that information is not yet with the Ministry. However, I will seek information---

Mrs. Shebesh: On a point of order, Madam Temporary Deputy Speaker. Is it in order for the Assistant Minister to ask for information when hon. Amina Abdalla has just stated here clearly that on the website of the Kenya Cricket Association, the coach, as he was resigning, said that he was doing so because Kenya is not safe? Is it in order for the Assistant Minister to ask for more information when the Questioner has given him information?

Mr. Kabando wa Kabando: Madam Temporary Deputy Speaker, I am not asking for information. I am just saying that as the Government and as the Ministry charged with sports in this country, we will validate the information. We cannot just make a reckless statement of admission that an official is declined security and, therefore, goes away. In any case, any reference to a website could mean even a social media website where a lot of gossip could be going on, but I do not want to dismiss on the Floor of this House what hon. Abdalla has given.

Therefore, I would seek to validate that information from her and from my office and should that be the case, the necessary action will be taken and any person working for any sports federation in Kenya who goes out to give wrong information because that person working within Nairobi cannot be as more insecure than we who are living as the residents and owners of this country, this information will be remedied in the necessary format.

The Temporary Deputy Speaker (Dr. Laboso): Thank you. Hon. Members, a Minister has requested and I am inclined to agree that we start with Ordinary Question No.1391 of hon. C. Kilonzo. If he is here, then he can go ahead.

ORAL ANSWERS TO QUESTIONS

Question No.1391

ILLEGAL SALE OF WATER TANKS AT MATUU DISTRICT HOSPITAL

Mr. C. Kilonzo asked the Minister for Medical Services:-

(a) whether he is aware that two water tanks at Matuu District Hospital, complete with towers and borehole accessories, were sold without following the procurement process and, if so, how much money was realized from the sale;

(b) whether he is also aware that the community has objected to the illegal sale; and,

(c) what action the Government will take against the officer(s) who were involved.

The Minister for Medical Services (Prof. Anyang-Nyong'o): Madam Temporary Deputy Speaker, I beg to reply.

(a) I am aware that two pressed steel water tanks and their towers belonging to Matuu District Hospital were sold in October 2011. Kshs5,000 was realized from the sale. However, I am not aware that borehole accessories were part of the sale.

(b) I am aware that the community has objected to the sale of the tanks.

(c) The Ministry plans to have the tanks re-valued by experts from the Ministry of Water and Irrigation and Ministry of Public Works to determine their correct value. This will be done with support from the area District Commissioner as the tanks are now private property and the security of the officers who will carry out the re-valuation needs to be assured. After the re-valuation, members of the hospital management involved in the sale will be surcharged for the difference in value if it is determined that the tanks were sold below their true worth. In addition, disciplinary measures will be taken against them in accordance with Civil Service regulations.

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, I want to thank the Minister and I think I have no further question for him.

The Temporary Deputy Speaker (Dr. Laboso): Thank you. Let us then go back to Question No. 1 by Private Notice.

Mr. Mututho: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): The hon. C. Kilonzo had no further questions. Do you have a question?

Mr. Mututho: Yes, Madam Temporary Deputy Speaker. From your previous ruling, Questions are the property of the House. Out of curiosity, even looking at the total mass of the metal involved, can it be Kshs5,000, surely? I think I seek your indulgence to allow us to interrogate the actual sale so that we know what really happened about these tanks because it looks very interesting. It has borehole accessories and it was sold for Kshs5,000. Even if it was tough metal, it sounds very strange indeed.

The Temporary Deputy Speaker (Dr. Laboso): The hon. Member who asked the Question is satisfied with the answer and he is the one who asked it. We should really move on.

Mr. Affey: On a point of order, Madam Temporary Deputy Speaker. We are not satisfied.

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Affey! We move to the first Question by Private Notice. Mr. M'Mithiaru!

QUESTION BY PRIVATE NOTICE

PARTICIPATION OF LEETA/KIOLO PRIMARY SCHOOLS PUPILS IN DEMONSTRATION

Mr. M'Mithiaru: Madam Temporary Deputy Speaker, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that pupils from Leeta and Kiolo primary schools in Igembe North District were released by the respective head teachers to participate in a demonstration on 7th March, 2012, and that one of them was seriously injured and commercial wares looted at several market centres?

(b) Why were the pupils released to participate in the demonstration and, what disciplinary action has the Minister taken against the head teachers?

The Temporary Deputy Speaker (Dr. Laboso): Minister for Education!

The Assistant Minister for Education (Mr. Mwatela): Madam Temporary Deputy Speaker, on the face of it, this Question seems to be an issue of my Ministry. I am alive to the fact that this is a Question by Private Notice and the initial investigations have revealed to us that this Question cuts across issues of internal security. So, I have instructed my Permanent Secretary to write to his colleague in the Ministry of Provincial Administration and Internal Security who will get information so that we can properly execute this Question. I have consulted with the hon. Member and he is in agreement.

The Temporary Deputy Speaker (Dr. Laboso): Is that the position, hon. M'Mithiaru?

Mr. M'Mithiaru: Madam Temporary Deputy Speaker, yes, I have consulted with the Assistant Minister but actually the issue on this Question was how children's lives were endangered by being dragged to walk on the highway. Since the Assistant Minister says that he is consulting with the Ministry of State for Provincial Administration and Internal Security, I have no objection but he can only give a time frame when he can actually be ready.

The Temporary Deputy Speaker (Dr. Laboso): So, how much time do you require for consultations with the Ministry of State for Provincial Administration and Internal Security?

The Assistant Minister for Education (Mr. Mwatela): Madam Temporary Deputy Speaker, I think one week should be enough.

The Temporary Deputy Speaker (Dr. Laboso): Very good! So, this Question will appear on the Order Paper next Wednesday.

(Question deferred)

The Temporary Deputy Speaker (Dr. Laboso): So, let us move to Ordinary Questions. Hon. Kiuna, I apologise. We had hon. Gitari's Question by Private Notice.

GOVERNMENT RECOGNITION\HONOUR TO
KENYAN SOLDIERS IN SOMALIA

Mr. Gitari: Madam Temporary Deputy Speaker, I beg to ask the Minister of State for Defence the following Question by Private Notice.

(a) What arrangements, if any, has the Government made to recognize and honour the Kenyan soldiers deployed in Somalia under the auspices of AMISOM following the successful capture of Afmadow Town?

(b) What assistance will the Government extend to those soldiers who have been injured while on duty in this peace-keeping mission?

The Temporary Deputy Speaker (Dr. Laboso): Do we have the Minister of State for Defence in the House now? Can any other Minister also take this magnanimously and support their fellow Minister?

The Assistant Minister for Education (Mr. Mwatela): Madam Temporary Deputy Speaker, can I plead for a little more time so that I get into contact?

The Temporary Deputy Speaker (Dr. Laboso): You can contact your fellow Minister.

Mr. Keter: On a point of order, Madam Temporary Deputy Speaker. The Minister in charge of Defence is just outside having a cup of tea. So, can we send somebody? One of the clerks can call him to come and answer the Question. I have just seen him outside.

The Assistant Minister for Education (Mr. Mwatela): Madam Temporary Deputy Speaker, let me do that.

The Temporary Deputy Speaker (Dr. Laboso): All right. Let us move to the Ordinary Questions. Hon. Kiuna!

ORAL ANSWERS TO QUESTIONS

Question No.1401

COMPLETION OF OLENGURUONE-KIBUNJA ROAD

Mr. Kiuna asked the Minister for Roads:-

(a) how much money was allocated for the tarmacking of Olenguruone-Kibunja Road in Molo Constituency and how much has been spent so far;

(b) whether he is also aware that there are potholes on the tarmacked sections of the road already and yet it has not been completed and what the Ministry is doing about it; and,

(c) when the project will be completed.

The Temporary Deputy Speaker (Dr. Laboso): Is the Minister for Roads not here? It seems we might soon have to really seriously institute some measures because Ministers are not coming to answer Questions. This is a bad show.

Mr. Duale: On a point of order, Madam Temporary Deputy Speaker. We were here yesterday morning talking about the failure of the Government on the implementation of the Constitution and the tradition is that when a Member of the Back Bench is not there, his Question is dropped. All of us are here to ask our Questions but you can see there is no single Member of the Government.

(Ms. Mathenge and Mr. Kambi stood up in their places)

Yes, but these are not the Ministers whose Questions are on the Order Paper!

Madam Temporary Deputy Speaker, we want action to be taken. Very severe action must be taken even if it means the Speaker writing to the Head of State because you cannot drive from your house and earn Government money and you are not here to answer Questions on behalf of our people. It is very serious.

The Temporary Deputy Speaker (Dr. Laboso): I totally agree with you, hon. Duale.

Mr. Mututho: On a point of order, Madam Temporary Deputy Speaker. A few minutes ago, you heard that a Minister is having a cup of tea. It has gone into the record of the proceedings of this House that a Minister was having a cup of tea and therefore a Question that has been brought to this House has remained unanswered. The Minister is going to appear here, after having taken a cup of tea and satisfied himself. We need to take this matter very seriously. Under Standing Order No.88, the Minister should be considered to be grossly out of order for refusing to come here to answer a Question and going for a cup of tea instead.

Mrs. Shabesh: On a point of order, Madam Temporary Deputy Speaker. Just last week, we discussed the issue of Ministers not coming here to answer Questions. It was a very substantial discussion. The Speaker gave us time to ventilate the matter. Unfortunately, our ventilation seems to have fallen on deaf ears. This House has powers it can exercise. Without wasting any more time and in honour of the late hon. Ojode, whom we said was the most hardworking Minister, we are asking you to take necessary action against the Ministers who do not come here to answer Questions.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, we need to finish this matter.

Mr. C. Kilonzo: On a point of order, Madam Temporary Deputy Speaker. I am glad that the Assistant Ministers who are here are not willing to defend the lazy Ministers. For once, can the Chair take some action on these lazy Ministers who do not take this House seriously, so that they can know that there is somebody known as the Speaker of this House? That should include barring them from transacting business in this House for---

The Assistant Minister for Medical Services (Mr. Kambi): On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Honourable Assistant Minister, wait for the hon. Member on the Floor to finish what he is saying.

The Assistant Minister for Medical Services (Mr. Kambi): Madam Temporary Deputy Speaker, I am not lazy! I am active!

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, the fact that the Assistant Minister is active does not mean that his colleagues are also active. They are lazy. I was saying that action should be taken against these lazy Ministers, so that they can appreciate that the Speaker of this House has the power to make sure that the Executive respects the National Assembly.

The Temporary Deputy Speaker (Dr. Laboso): What is your point of order, hon. Kazungu?

The Assistant Minister for Medical Services (Mr. Kambi): Madam Temporary Deputy Speaker, we do not have lazy Ministers in the Government. Yesterday, we were all here and---

Mr. Ethuro: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Ethuro, the Assistant Minister is on a point of order.

Mr. Ethuro: Madam Temporary Deputy Speaker, he is misleading the House.

The Assistant Minister for Medical Services (Mr. Kambi): Madam Temporary Deputy Speaker, I am not misleading the House. Yesterday, all the Questions were dropped. As Government, we are never notified when Questions will be coming to the House.

Mr. Ethuro: On a point of order, Madam Temporary Deputy Speaker. This House has formal structures, including constitutional offices and constitutional office holders. The one responsible to the House, on behalf of the Government, is known as the Leader of Government Business.

Secondly, the one responsible for supervision and co-ordination of Government activities – a function which is entrenched in the Constitution – is not my good friend, the Assistant Minister for Medical Services. This is not an issue of Prof. Anyang’-Nyong’o. It is a function for the Prime Minister of the Republic of Kenya. In the absence of those two, the Assistant Minister has no capacity to comment on the performance of Ministers.

That is the point I wanted to make.

The Temporary Deputy Speaker (Dr. Laboso): Yes, hon. Gitobu Imanyara.

Mr. Imanyara: Madam Temporary Deputy Speaker, you are the one who pointed out that Question Time will never be the same again without our late colleague, hon. Orwa Ojode. You can now see that within hours, we are back to square one. Is it in order for this Assistant Minister to mislead the House that the Questions were dropped yesterday when we know clearly that the Speaker’s instructions were that the Questions will come today, except the Questions that relate to the Ministry of State for Provincial Administration and Internal Security? Is it in order for him to stand up and look us straight in the face and mislead the House that the Questions were ordered removed from the Order Paper?

The Temporary Deputy Speaker (Dr. Laboso): Assistant Minister, the information from hon. Imanyara is exactly that; no Question was dropped, except those Questions relating to the Ministry of State for Provincial Administration and Internal Security. Can you clarify that point?

The Assistant Minister for Medical Services (Mr. Kambi): Madam Temporary Deputy Speaker, we are always notified about Questions that are coming up for answering on a daily basis. In this case, the House Business Committee never notified us that the Questions are coming today, at this time.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Order! Order, hon. Members! We cannot go on arguing on this matter any further. We have ventilated it enough. We shall inform the Leader of Government Business, in no uncertain terms, about the displeasure from Members of Parliament and disappointment suffered. We will decide on the punitive measures needed to make sure that the Government begins to behave well and takes this House seriously. So, can we move on, hon. Members?

(Question deferred)

Next Question, hon. Sheikh Dor!

Question No.1462

PROVISION OF DETAILS OF BOAT ACCIDENT IN LAMU

Mr. Yakub asked the Minister for Transport:-

- (a) what caused the boat accident in Lamu on 1st January, 2012, and whether he could indicate how many people died or were injured in the accident;
- (b) how the Government will assist the victims and families of the deceased; and,
- (c) what measures the Ministry will take to ensure that such accidents do not recur.

The Temporary Deputy Speaker (Dr. Laboso): Where is the Minister for Transport, hon. Esther Murugi?

The Minister of State for Special Programmes (Ms. Mathenge): Madam Temporary Deputy Speaker, a lot of the Ministers were in the meeting for the burial preparations for our departed heroes. So, I think that is where they are right now.

The Temporary Deputy Speaker (Dr. Laboso): Honourable Minister, it has been mentioned in this House over and over again that, for purpose of answering Parliamentary Questions, Ministers, Assistant Minister, the Prime Minister and the Deputy Prime Ministers are all Ministers of Government. So, if the Ministers are engaged, as we know they will be engaged, where are the other Ministers who are supposed to be here?

Mr. Chanzu: On a point of order, Madam Temporary Deputy Speaker. This Government is bloated with 42 Ministers and 50 Assistant Ministers. Is the Minister telling us that all the 96 Ministers or so are in a meeting that is making funeral arrangements for our departed colleagues?

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, let us not go back. I have ruled on this matter. Let us move on. We cannot ventilate on this matter any further.

Next Question, Member for Wajir South.

Question No.1293

BREAKDOWN OF 2011 COUNTRYWIDE RECRUITMENT
OF CADETS BY KDF

Mr. Sirat asked the Minister of State for Defence:-

(a) how many cadets were recruited by the Kenya Armed Forces during the last exercise in 2011, and whether he could provide a per-constituency list of recruits and state how many were recruited from northern Kenya;

(b) how many such cadets have been recruited from Wajir South Constituency in the last five years; and,

(c) whether he could consider lowering the minimum grade from B to B- or C+ for the marginalized areas.

The Temporary Deputy Speaker (Dr. Laboso): Is the Minister for Defence still not here?

Hon. Members: Absent!

Mr. Sirat: On a point of order, Madam Temporary Deputy Speaker. I filed this Question six months ago. The Question has come to the Floor of this House twice. This is the third time. The Minister has two able Assistant Ministers. So, they are three of them. Where are they? He is outside. It is unfair for the Chair to defer this Question.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Mwatela, where is the Minister?

The Assistant Minister for Education (Mr. Mwatela): Madam Temporary Deputy Speaker, I think it is proper that where there is failure, there is acceptance of that fact. I took it upon myself to physically go and check in the lounge to see whether the Minister of State for Defence or his Assistant Ministers were there. Unfortunately, none of them is there. I am most apologetic for this situation.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! Let him finish.

The Assistant Minister for Education (Mr. Mwatela): Madam Temporary Deputy Speaker, I started by saying that I think where there is failure, it should be accepted. We should be here to address the issues of this House. Therefore, I would like to, again, make an undertaking that I will make this a priority. I apologise to hon. Members of the Back Benche because they do not ask Questions on their own behalf.

(Mr. Duale stood up in his place)

The Temporary Deputy Speaker (Dr. Laboso): What is it, hon. Duale? Are you on a point of order?

Mr. Duale: Yes, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, let us allow hon. Duale to raise his point of order.

Mr. Duale: Madam Temporary Deputy Speaker, you need to make a ruling. The hon. Member who wants to apologise to the nation, the Back Bench and to Parliament has no capacity to do so. There is a Leader of Government Business who is recognized under the Standing Orders. He has two deputies. There is the Prime Minister of the Republic of Kenya who is the co-ordinator and the supervisor of Government business. We also have two Whips in this House.

Madam Temporary Deputy Speaker, the business of this House today has been circumvented by the Government. This is a very serious issue. We came here, it is a Parliament day and we want to address issues concerning our people. We have seen an Assistant Minister

come to apologise to the nation, Parliament and to the Back Bench. It is not procedural. We want the Leader of Government Business, his two deputies and the Prime Minister to apologise to the nation and not even to the Back Bench.

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! Just for clarity and so that we all understand, I had already said it earlier. Under Standing Order No.2, the definition of “Minister” means the President, the Vice-President, the Prime Minister, the Deputy Prime Minister or other Minister including the Attorney-General and Assistant Minister and any person who is temporarily in that office. Therefore, he has that capacity as an Assistant Minister to answer on behalf of the Government. So, please let us not go back on that. I have already made a ruling that this matter will be brought up between the Speaker’s office and the Leader of Government Business.

Mr. Ethuro: On a point of order, Madam Temporary Deputy Speaker. According to Standing Order No.2 which you have quoted and I want to thank you for it, it is for purposes of answering. I did not hear you say; “for purposes of giving an excuse that he can serve the same purpose.” But more importantly, even when you were on your feet, the hon. Assistant Minister also rose on his feet.

The Temporary Deputy Speaker (Dr. Laboso): That is not in order, hon. Assistant Minister!

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! Can we give Mr. Nanok an opportunity to speak because he has been up standing?

Mr. Assistant Minister, are you rising on a point of order?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Yes, Madam Temporary Deputy Speaker. I believe the section of the Standing Order you have just read says it right that whether we are Assistant Ministers or Ministers in this House, we have the collective responsibility to represent the Government.

Yesterday, I was within the precincts of Parliament until 8.00 p.m. I asked for the Order Paper for today but it was not ready. I believe probably this confusion is the reason why my colleagues have not been here to answer the Questions. When I was asking for the Order Paper to find out whether my Ministry has Questions, it was not there.

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, I want to make an appeal since you have said you will communicate with the Government through the Leader of Government Business. That has been done before and it has never worked. So, I have a suggestion to the Chair; if you can convene the Speaker’s Committee which deals with the Standing Orders or the rules which guide this House and we borrow from the German Parliament where if an hon. Member does not appear in the House, their allowance is deducted. Since these Ministers will come here to make technical appearances just to earn that sitting allowance, we should make sure immediately that committee is convened, we amend that particular area such that if a Minister does not appear to answer a Question, even if he comes to Parliament that day, that will not be considered as a sitting and he will not get that allowance.

An hon. Member: That is correct!

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! So that we can rest this matter, I am informed that already the Speaker, after the complaints from the hon. Members, was already making a ruling on this matter. Therefore, what we are doing today will

again enrich further what the Speaker was going to rule on. Therefore, let us rest this case. Let us go through the remaining Questions and see whether we do have any Minister in the House who can answer any of the Questions. I hope that is in order, hon. Members, and we can continue.

Mr. Keter: On a point of order, Madam Temporary Deputy Speaker. I just want to seek a clarification. The hon. Assistant Minister for Education alluded to the fact that the Assistant Minister of State for Defence was not outside. I saw hon. David Musila, the Assistant Minister of State for Defence seated outside. My colleagues, hon. Mwaita and hon. Chepchumba, were with him. So, it is good for clarity or for the records of this House to know that hon. Musila was just out there.

The Temporary Deputy Speaker (Dr. Laboso): That one will go on record.

Therefore, we now move on to the next Question by the Member for Central Imenti, hon. Imanyara.

Question No.1400

REFUSAL BY KFS TO HAND OVER
MT. KENYA FOREST TO KWS

Mr. Imanyara asked the Minister for Forestry and Wildlife why the Kenya Forest Service (KFS) has refused to hand over the management of Mt. Kenya Forest to Kenya Wildlife Service (KWS) as provided under Section 18(1) of the Wildlife Conservation and Management Act and the Mt. Kenya National Reserve Order 2000.

Mr. Imanyara: Madam Temporary Deputy Speaker, it is true a copy of the written answer has been given to me. It says:-

“Copies of the Act, sections and legal notices are appended hereto.”

They are not---

The Temporary Deputy Speaker (Dr. Laboso): You should allow the Minister to answer!

Mr. Imanyara: Madam Temporary Deputy Speaker, I am stating that the answer is not complete because it says they have been annexed but they are not annexed to the answer. That is what I am pointing out.

The Temporary Deputy Speaker (Dr. Laboso): Could the Minister then come and give us his answer?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Madam Temporary Deputy Speaker, I beg to reply.

The Kenya Forest Service has not refused to hand over the management of Mt. Kenya Forest to the Kenya Wildlife Service as provided---

Dr. Nuh: On a point of order, Madam Temporary Deputy Speaker. I think it would only be fair if the Assistant Minister first explains why the answer supplied to hon. Imanyara is incomplete before he continues to answer the Question.

The Temporary Deputy Speaker (Dr. Laboso): Thank you. I think that is a valid point of order.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Madam Temporary Deputy Speaker, I would not know what happened between my Ministry and Parliament because this information is normally supplied through the Office of the Clerk. But in case the hon.

Member does not have the annexure, I think I will give copies of the same to him because I had already gotten copies.

The Temporary Deputy Speaker (Dr. Laboso): Is the hon. Member satisfied that the Assistant Minister can continue giving the answer?

Mr. Imanyara: Yes, Madam Temporary Deputy Speaker.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Madam Temporary Deputy Speaker, I beg to reply.

The Kenya Forest Service has not refused to hand over the management of Mt. Kenya Forest to Kenya Wildlife Service as provided under Section 18(1) of the Wildlife Conservation and Management Act, Cap.376 and the Mt. Kenya National Reserve Order 2000.

Mt. Kenya, lower and upper Imenti and Thunguru Hills Forest were conferred national reserve status through Legal Notice No.93 of 24th July, 2000. However, it should be noted that the Government decision in declaring this forest reserve as a national reserve recognizes the need to reserve the functions of the plantation management and utilization of the forest by the local communities under the jurisdiction of the Kenya Forest Service. This was done under a letter Reference No.OP1/17A dated 14th June, 2000, from the Office of the President which stated that the plantations and plantation areas were to be excluded from the national reserves, a copy of which has been provided.

Further, according to Section 18(2) of the Wildlife Conservation and Management Act Cap.376, for any area to be declared a national reserve, there has to be an agreement between all the parties concerned. At such time, it was to be between the then Minister for Environment and Natural Resources and the Minister in charge of Kenya Wildlife at the Office of the President detailing the conditions and restrictions of reserve.

These conditions, restrictions and the provisions of the letter from the Office of the President were not incorporated in Legal Notice No.93 of 24th July, 2000. The then Minister for Environment and Natural Resources did not gazette the forest as a forest reserve and, therefore, it is currently under dual gazettment as a national reserve and a forest reserve.

It was important to explain these conditions and restrictions before the transfer of the national reserve to Kenya Wildlife Service (KWS) for management as a national park. Under the National Park Management Regulations entry into the reserve, utilization by the communities and plantation development activities are not allowed. These conditions and restrictions were necessary to avoid conflict in the management of the reserve by the two services. My Ministry has initiated a new process in consultation with the Office of the President and the Attorney-General to amend Legal Notice No.93/2000, with a view to incorporating in the Legal Notice the jurisdiction of the Kenya Forest Service (KFS) in the management of plantations and plantation areas, and also include conditions and restrictions relating to the management of the National Reserve, especially the community subsistence utilization zones. Copies of the Act, sections and Legal Notice are appended hereto.

Thank you, Madam Temporary Deputy Speaker.

Mr. Imanyara: Madam Temporary Deputy Speaker, I appreciate the answer given by this Assistant Minister. He is one of the very hardworking Assistant Ministers. When he answers his Questions, he addresses the issues.

This is an issue that has been pending since the year 2000, that is for 12 years. In the meantime, the forest is undergoing tremendous destruction because it is not clear which Government department is responsible for the protection of the species of animals and the forest, yet the Assistant Minister is saying the Government is reviewing regulations. I am aware that as

far back as 14th July 2000, the then Minister actually handed over forest area by a letter. The letters says:-

“Following the decision of the Government that the whole of Mt. Kenya gazetted forest area which is currently managed by the Forest Department be placed under the KWS”

As a result of the two Government arms fighting over the control of this forest, we are now facing a real situation of the complete destruction of the forest. When will this review take place? How soon can you assure us that this legal notice will be amended, so that we are clear as to who is managing this forest in order to save the destruction of the forest that is currently going on? Can you give specific timelines when we can expect this to be done?

Mr. Nanok: Madam Temporary Deputy Speaker, you will note that the laws that were made in this House were the ones that brought the conflict of the dual mandate; in particular the 2005 Act established the KFS. It gave them the prime responsibility for all Kenyan forests, yet there had been other laws that had established the management of national parks and national reserves. We have noted this particular anomaly. It may not only be Mt. Kenya; we had a similar problem when we were putting up the 400-kilometer fence around the Aberdares. You will realize that you have forest products, particularly from plantation forests; there are trees that are grown for commercial use. It is the responsibility of the KFS to harvest when they are mature. They are for use by local communities and other people who want to use them for building.

As I said before, my Ministry has initiated this process and we hope that in the next four to five months, we will be clear on this particular subject after reviewing the legal notice.

Mrs. Shebesh: Madam Temporary Deputy Speaker, there is obviously competition between these two--- Could the Assistant Minister listen to me and not his colleague who has just come in and does not even know what is going on? Could the Assistant Minister tell us why there is competition? What we know is that Mt. Kenya Forest at this point is under destruction under your watch as a Ministry. If the people want to go to the KWS because they trust that it will not destroy the forest, why should their voices not be listened to? Who is the Ministry of Forestry and Wildlife compared to the people of Mt. Kenya Forest?

Mr. Nanok: Madam Temporary Deputy Speaker, I note that big concern and indeed we are taking action. One of the things we are doing is similar to what we did at Aberdares Forest. We have began the process of fencing off the forest with electric wire. One thing you have realized is that the anomalies that were there before was due to the dual-gazetment. We have plantations which have trees for commercial purposes. As soon as we sort out this, I think we will fence off the indigenous forest side where the animals are. Together with the local community and stakeholders, we will point out corridors which the wild animals will be migrating through.

Mr. Letimalo: Madam Temporary Deputy Speaker, I think the intension of the KFS was to collaborate with the communities in the conservation of forest and wildlife. Could the Assistant Minister tell us if there is any progress and achievements made in this venture?

Mr. Nanok: Madam Temporary Deputy Speaker, I think we have done a lot since the year 2008 when we began. The forest cover was 1.8 per cent and so far we are close to 6 per cent forest cover. Secondly, in all the areas where we have public forests, we have established Community Forest Associations (CFA) and those associations have the bulk of their representatives from the local communities within those areas.

Mr. Ruteere: On a point of order, Madam Temporary Deputy Speaker. Is the Assistant Minister in order to mislead the House that the community forest services are supported by the

KFS while they are the ones who frustrate the efforts of community service associations, especially in Lower Imenti Forest?

Mr. Nanok: Madam Temporary Deputy Speaker, I did not hear that but I believe if there are problems, I will urge the hon. Member, who is a friend of mine, to tell me the specific areas where there are problems, and where our staff from the KFS have a problem with the CFAs. We will then be able to sort that out.

Mr. Chepkitony: Madam Temporary Deputy Speaker, I would like the Assistant Minister to tell this House whether they have produced any management plan for Mt. Kenya Forest, and any other forest in the country? The CFA was supposed to work hand in hand with the KFS and come up with a management plan on where there is plantation forest and where there is natural forests to be conserved. Do you have any management plans?

Mr. Nanok: Madam Temporary Deputy Speaker, yes, we have an Integrated Management Plan 2010–2020. It was developed by Mt. Kenya major stakeholders, and it clearly spells out the responsibilities of KFS and the KWS, among other stakeholders, in the management of the ecosystem. In addition to this, the KFS has a forest management plan for the Mt. Kenya Forest Reserve for the period 2009 to 2025.

Mr. Shakeel: Madam Temporary Deputy Speaker, it is well known that forest officers are some of the most wealthy and corrupt individuals in this country. If we know that Mt. Kenya Forest is being degraded the way it is, why can the Ministry not ban all logging and harvesting of trees in the Mt. Kenya Forest?

Mr. Nanok: Madam Temporary Deputy Speaker, you have to realize there are indigenous trees or forests, which are banned commodity; nobody is allowed to log it. What we have been doing, in a sustainable manner, is only in relation to the plantation forest. I want to quote the ciders and camphors. If anything is happening, it may be happening in an illegal way. You have to realize that ever since I got appointed to this Ministry in 2008, we have sought---

Mr. Shakeel: On a point of order, Madam Temporary Deputy Speaker. I am not talking about indigenous trees and others. I am asking the Ministry why it cannot have a blanket ban on logging in Mt. Kenya before it becomes a desert. Why can we not have a ban on logging of whatever you want to call them?

Mr. Nanok: Madam Temporary Deputy Speaker, you have to realize that exotic trees that are grown for commercial use have a purpose. We have said in his House that trees that are ready for harvesting are worth about Kshs35 billion. Those trees need to be harvested, because that was the whole purpose for planting them. We are faced with certain problems because those who were managing these forests before did not have the management plan in a proper way and mixed up the plantations and the indigenous forests.

Secondly, we have said in this House a couple of times, particularly when we have been defending our budget, that we have always got less than 40 per cent of what we need to police the forests. Right now, I can tell you that one forest guard takes care of 700 hectares of forest. This is completely inadequate. You will also have to realize that forest is the source of all water, electricity and many other things. If we cannot give appropriate budgetary provisions to this sector---

Mr. Shakeel: On a point of order, Madam Temporary Deputy Speaker. I insist that the Assistant Minister is not answering my question. He is going round and round. He has already said that it is worth Kshs35 billion. That is understating the fact that there is commercial interest; that certain forest officers want to make money out of it. Why can we not have a blanket ban?

We do not want to hear the issue of commercial trees or anything. We said that not even a creeper should be cut in that place. Why can we not just gazette for a blanket ban?

The Temporary Deputy Speaker (Dr. Laboso): You have made your point.

Mr. Shakeel: Madam Temporary Deputy Speaker, he has not answered the question.

Mr. Nanok: Madam Temporary Deputy Speaker, I said clearly that there is still a blanket ban on indigenous forests which constitute 80 per cent of all our public forests. But for the 20 per cent of the forest which is plantation forest, the intention before was for harvesting for commercial use in a sustainable way. I would urge this House to help us. Indeed, there are problems and we have got reports of indigenous forest trees being logged, which is illegal. I would urge this House to give us the appropriate resources. For instance, of the---

Mrs. Shebesh: On a point of information, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Do you want to be informed?

Mr. Nanok: Madam Temporary Deputy Speaker, for instance, you will realize that---

The Temporary Deputy Speaker (Dr. Laboso): You do not want to be informed!

Mr. Nanok: Madam Temporary Deputy Speaker, I do not want to be informed. She is a Backbencher; she is not a Minister. I only want to be informed by my colleagues here. For instance, you will realize that probably---

(Several hon. members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! He does not want to be informed. Allow him to continue.

Mr. Nanok: Madam Temporary Deputy Speaker, you will realize that in the coming financial year, we have sought to be equipped with the necessary resources to better the policing of these forests. When very good legislation was put in place in 2005, we did not put sufficient resources to translate that piece of legislation into reality to a point where more than 80 per cent of the staff, particularly rangers, have not been integrated fully into the Kenya Forest Service (KFS). Now that we are learning the importance of tree cover, we hope that we can put sufficient resources and make sure that any legislation or through the Budget, we allocate sufficient resources so that the KFS can have the right tools and people to police our forests.

Mr. Hassan: Madam Temporary Deputy Speaker, I want to ask the Assistant Minister what they are doing about natural calamities. For example, Mt. Kenya was devastated by fire recently which destroyed thousands of acres. What funding or provisions are they putting in place because we saw that there was inadequate equipment and response or lack of technology in attacking the fire that destroyed much of the natural indigenous trees in that area? The second element of my question is---

The Temporary Deputy Speaker (Dr. Laboso): You are only allowed one supplementary question.

Mr. Nanok: Madam Temporary Deputy Speaker, you will agree with me that that is a different Question. However, you will realize that in the current financial year which is coming to an end, we had very insufficient resources despite the fact that we had asked the Treasury and this House to give us those resources to equip ourselves. We needed almost close to Kshs2 billion of the Kshs6 billion that the KFS is required to buy tools to tackle outbreaks of fire when they happen during the dry season.

Mr. Affey: Madam Temporary Deputy Speaker, the Assistant Minister is aware that we are now operating under a new constitutional dispensation. Why can he not suspend all logging

or activities dealing with logging until the county governments are in place so that the people in those counties can take full charge of those forests? Could he make a commitment that they are going to suspend this?

Mr. Nanok: Madam Temporary Deputy Speaker, there is a logging plan that is probably more than 2,000 hectares of the total plantation forest to be harvested. By the time we will be through with elections, I think a bigger portion of the mature plantations will still be in place when the county governments will be in place.

Mr. Ethuro: Madam Temporary Deputy Speaker, I want to associate myself with the sentiments raised by Mr. Imanyara that this is one of those industrious Assistant Ministers and so he is exempt from the earlier condemnation. Having recognized that, I want him to remember that forestry and wildlife, the mandate of his docket, is now protected by the Constitution.

The Executive Director of Rhino Ark has told us that Kshs56 billion is realized by the fencing of the Aberdares and that by the time they go to fence Mt. Kenya, they pay even more money. Why is the Ministry leaving such an elaborate programme to the hands of private individuals and volunteers when it is a core mandate of the Ministry? He should also extend the same to Turkana South Game Reserve and Loima Mountain Forest Range which are in his county.

Mr. Nanok: Madam Temporary Deputy Speaker, I want to assure this House that all public national parks and forest reserves are still under the management of the Government. What we did with Aberdares was that through the Public Private Partnership, the private sector through the Rhino Ark assisted the Government to put up the 400 kilometer electric fence. Recently, while we were in the Aberdares around Kieni, we launched a trust to maintain it because the electric fence requires constant maintenance throughout the year.

In addition to that, a week ago, we were in Turkana and in my constituency at Kainuk, where Turkana County Council that has the mandate for managing the former trustland of Turkana County told us that there are three forest areas where they want the Government to gazette. We have received those letters and we are still reviewing them. We will relook into them so that the gazette of Loima and Kailongol and a few other identified areas will be put into law.

Mr. Imanyara: Madam Temporary Deputy Speaker, the Assistant Minister says he requires four months within which to regularize this---

Mr. C. Kilonzo: On a point of information, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Do you want to be informed, Mr. Imanyara?

Mr. Imanyara: Yes.

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, I want to inform my good friend, Mr. Imanyara, that the issue of Mt. Kenya Forest was here about six months ago. In fact, it was brought here by the same hon. Member who was asking the same Question. He tabled a report which included photos showing indigenous trees being destroyed. The Assistant Minister promised Mr. Imanyara, Mr. Ruteere and I, that he was going to hire a chopper to go and inspect Mt. Kenya which I came to learn later that when he went there, he was so shocked that he has been dodging us on this matter of us going to inspect the forest. That is what I want to inform my good friend, Mr. Imanyara.

Mr. Imanyara: Thank you very much, hon. Member for Yatta. In fact, the Minister did not come. He gave us an appointment and we waited for him from morning to evening, but he did not show up. Perhaps, this Assistant Minister should take it up from where the former

Minister left. My question is, because there is a binding Legal Notice No.93 of 20th July, 2000 that places the management of this forest to Kenya Wildlife Service (KWS). I have tabled a copy which was preceded by a letter signed by Hon. Francis Nyenze, EGH, MP, Minister for Environment and Natural Resources, placing the management of the forest to KWS. The only reason they have not been managing it is because Kenya Forest Service (KFS) has resisted all such attempts. The Assistant Minister has said that he requires four months to regularize this position. Could he tell us during this remaining four months whether he would allow the KWS to manage the forest in accordance with the legal notice? If they do not have funds, the KWS---

Mrs. Shebesh: On a point of information, Madam Temporary Deputy Speaker.

Mr. Imanyara: Yes, give me the information.

Mrs. Shebesh: Madam Temporary Deputy Speaker, I thank my colleague for recognizing that I can have some information to give. I want to inform my colleague that the reason behind the fight between the KFS and KWS is the money on the red projects. These projects, which we do not know about because it is a secret in the Ministry, is the money being given through the programme of climate change for protecting our forests. It is a lot of money in terms of billions of shillings. That money can be spent, not only to protect our forests, but even integrate the communities around the forest. That is the information I wanted to give to the hon. Member. That is the reason for the tag of war between KFS and KWS.

Mr. Ethuro: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): What is your point of order? We cannot dwell on one Question for half-an-hour.

Mr. Ethuro: Madam Temporary Deputy Speaker, I appreciate that we have taken a bit of time, but when a matter is of national importance, we cannot wish it away. I want you to appreciate the spirit in which some Government operated in 2000 and the spirit in which this Government is operating. If you look at the letter by Mr. Francis Nyenze, the then Minister for Environment and Natural Resources, dated 14th July, 2000 to Mr. Madoka, Minister of State, Office of the President, asking him to gazette it, he brought the notice on 24th July, 2000 which is exactly 10 days after the request was made. It is now taking 12 years for this Government to implement this. Are we dealing with a Government that believes in the rule of law or some Government that works on its own whims and conveniences? That is the point. Go by the law!

The Temporary Deputy Speaker (Dr. Laboso): Allow Mr. Imanyara to finish and then the Assistant Minister can respond.

Mr. Imanyara: Madam Temporary Deputy Speaker, the Assistant Minister has said that he requires four months. I notice that Dr. Wekesa who had assured me that he would come to visit Mt. Kenya Forest, but who has not as yet managed to make that visit, if he could take this opportunity, through his Assistant Minister and confirm that during this coming four months when we are putting this policy in place, he will, indeed, visit and ensure that the KWS does take possession of this forest in accordance with the legal notice and the Government policy as announced by the same Government 12 years ago. Could he give that assurance?

Mr. Nanok: Madam Temporary Deputy Speaker, I said it when I was responding to this Question the first time. Mt. Kenya Forest has been under dual gazette. Despite that gazette order by the Minister issued in July, 2000, this House enacted a law or a piece of legislation; the Forest Act, 2005 that clearly spelt out the mandate of the KFS. That is why we said that when we reviewed and looked at the gazette notice that was done by the then Minister for Environment and Natural Resources, we realized that plantation forests had not been accommodated and rules of how to access the plantation forest had not also been accommodated in that gazette notice.

Mr. C. Kilonzo: On a point of order, Madam Temporary Deputy Speaker. Is the Assistant Minister in order to mislead the House when he says that the plantations had not been incorporated or looked into when this directive was given? There is a letter here addressed to the Permanent Secretary. For the benefit of the Government, I wish to read it. It says as follows:-

“As you may know, the Government has now directed KWS to assume responsibility for the Mt. Kenya Forest and it would be important to work out the modalities.

Obviously, the plantations and areas for plantations are not to be incorporated. Could you urgently give some time to review the steps that need to be taken?”

That was in 2000. Just give out the areas without plantations.

Dr. Nuh: On a point of order, Madam Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Order! Please, Mr. Nanok, can you complete?

Mr. Nanok: Madam Temporary Deputy Speaker, I do not want to disagree with what is in the letter that Mr. C. Kilonzo has read. I just want to categorically say that those rules that were supposed to define which area of the forest is going to be under the mandate for KFS and KWS were not regularized. You will realize that the former Forest Department was in a different Ministry. It kept moving from one Ministry to the other. The KWS was the same. Now, luckily enough, the two services are under the Ministry of Forestry and Wildlife.

Mr. Imanyara: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Order!

Mr. Nanok: Madam Temporary Deputy Speaker, I know my colleague had made an undertaking in this House to visit the Mt. Kenya Forest. I believe that undertaking still stands and we are going to revisit this matter.

Mr. Imanyara: On a point of order, Madam Temporary Deputy Speaker. Is it in order for the Assistant Minister to say that it is not delineated when the gazette notice has four pages describing in great detail the exact area that is covered commencing at the intersection of the south-western boundary of LR.No.7208 and the south-eastern boundary of Nanyuki Township? It is described in great detail in three full pages and yet he says that it has not been done. Is it in order for him to mislead the House when he has this information?

Dr. Nuh: On a point of order, Madam Temporary Deputy Speaker. I think it is a little bit irritating because you must have heard from the time the Minister started responding, he has been blaming a law that was enacted by this House in 2005, but whose onus is it to align the legal notices in Government departments with legislation passed in this House. From 2005 to date is seven years. If they have been unable to align the legal notice in 2000 with the legislation passed by this House in 2005, must we stop legislating as a House because there is a legal notice somewhere?

The Temporary Deputy Speaker (Dr. Laboso): Okay. You have made your point. Address the two points of orders.

Mr. Nanok: Madam Temporary Deputy Speaker, I do not completely disagree with what has been said, but I want to state very clearly here that the law supersedes. If you look at the law that published the KWS, they have no responsibility over plantation forests. That is very clear. I want to make it very clear that we have looked at all those laws, reviewed them and seen the anomalies. Right now, my Ministry which is responsible for the two services is reviewing the laws. I want to assure this House that we are going to make it clearer. My colleague, Dr. Wekesa, who is in the House, is going to gazette the new rules within the next four to five months, but subject to consultations with the Attorney-General's Office and the Office of the President. So

far, I have also said that within the management plan that we have been implementing, the roles of the two services is clearly delineated.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, you know the route you take if you need more information. You are even free to bring a Motion. The next is the Question by the hon. Member for Bura. This Question was already answered quite conclusively. You were only left with a road map, if I remember correctly, Dr. Nuh.

Question No.1477

STATUS OF PENDING CONSTITUTIONAL BILLS

Dr. Nuh asked the Minister for Justice, National Cohesion and Constitutional Affairs:-

(a) whether he could explain the respective status of the constitutional Bills scheduled to be enacted by 27th August, 2012 in line with the Fifth Schedule of the Constitution; and,

(b) when each of the said Bills will be published.

Mr. Nuh: Madam Temporary Deputy Speaker, I want to just inform the Chair that preliminary objections were raised at the initial stage even before the Question was answered. So, no part of this Question has been addressed.

The Temporary Deputy Speaker (Dr. Laboso): That is okay. Then I stand guided.

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

(a) The Fifth Schedule of the Constitution of Kenya, 2010, lists nine key legislative areas that require legislation to be enacted by 27th August, 2012.

(b) Out of these nine legislative areas, five have already been enacted or published and four are pending at various stages as per the attached matrix. The matrix sets out the estimated timelines within which the remaining Bills are published. Because the Members may not be having the matrix, let me just very quickly go through it for the sake of my colleagues.

First, Legislation on Leadership under Article 80 of the Constitution is already developed and is currently being reviewed by the Attorney-General and the CIC. We have undertaken to ensure that this will be published on or before 29th June this year. Secondly, the right to recall has already been done. Thirdly, the determination of question of Membership of Parliament has already been done. The fourth one is on the right to petition Parliament.

Mr. Imanyara: On a point of order, Madam Temporary Deputy Speaker. We need a clarification because yesterday, we spent substantive time on this issue in the form of a discussion in this House where the Leader of Government Business gave certain undertakings. The Assistant Minister is answering the Question without telling this House whether, indeed, he has been in liaison with the Leader of Government Business since yesterday in order to give an answer that is consistent with what was undertaken in the House yesterday. Would it not be in order for him to clarify the issue before giving an answer that appears on the face of it to contradict what the Leader of Government Business said yesterday in relation to the outstanding Bills? It was also in answer to the Chairman of the Committee that should the Government fail to

take certain steps before 27th July, it agrees that the Members of Parliament who were mentioned would have the responsibility of bringing those within notice.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Madam Temporary Deputy Speaker, let me confirm to the House and to my learned senior that, indeed, what I am telling the House now is in line with what the Leader of Government Business mentioned to the House yesterday. In fact, yesterday the Minister also mentioned this issue. So, it is in line with what was said yesterday to this House.

On the right to petition Parliament under Article 119, my Ministry is in consultation with the stakeholders with a view to developing a policy which will guide the petition process. This is equally a very important procedure which we need to complete by 29th June, 2012. The fifth one is the assumption of Office of President under Article 141. We will be having the Assumption of Office of President Bill, 2012. This was approved by the Cabinet last week and will be published on or before 22nd June, 2012. Sixthly, The Judiciary Fund Bill has been enacted. The seventh one is The Financial Control Bill under Article 225 which is before the House. Yesterday, we got a time extension, so that we can deal with this particular Bill. The eighth one is on the national security organs under Article 239. The Bill has been developed and will be published on or before 29th June, 2012.

The Temporary Deputy Speaker (Dr. Laboso): Dr. Nuh, really, we should not spend too much time on this Question. We exhaustively discussed the matters.

Dr. Nuh: Madam Temporary Deputy Speaker, the discussions of yesterday were informal and this Government cannot be trusted on informal discussions. This is the more reason why we should put things on record, so that, at least, Kenyans can know that this Government has committed itself to some specific dates. Later on, we will not trust them to come and say that these were rumours. So, let us have these things on record.

I want to thank the Assistant Minister for at last, after three agonizing months, taking the trouble to put some specific dates on which this House will have to expect some of these Bills. Having read through the matrix that we have been given by the Assistant Minister, I can see that some of the Bills are with the Attorney-General and the CIC at the same time. I thought that as a process, this would lead to some bit of confusion. If the same Bill is being reviewed by the Attorney-General and on the other side being reviewed by the CIC, how are they going to coordinate the efforts? I thought that it has to be with one arm, leave the office and then go to the next office for any further recommendations. So, when he says that a Bill is developed and currently being reviewed by the Attorney-General and the CIC, is the review going on at the same time?

Mr. Cheptumo: Madam Temporary Deputy Speaker, that is a good question because unless we explain exactly what happens, it cannot be clear. The Bill is forwarded to the Attorney-General and at the same time also to the CIC. After that, we have a round table discussion between the CIC, the Attorney-General, the Law Reform Commission and the other stakeholders. What I mean here is that all the stakeholders have these copies, then we will have a round table discussion. That is the meaning of the Bill being with the Attorney-General and also with the CIC.

Mr. Ethuro: Madam Temporary Deputy Speaker, I want to thank Dr. Nuh for bringing this Question. This has stirred the entire nation. It is a matter that we discussed at the Peace Conference in Mombasa, we have discussed as the CIOC and in a Kamkunji. But as Dr. Nuh has said, you cannot trust this Government with Kamkunjis. You know what I mean. Having said so, if you look at the publication dates, for example, the legislation on leadership, it is indicated that

it will be published on or before 29th June, 2012. On the right to petition Parliament, it is indicated that the Bill will be published on or before 29th June, 2012. On the Assumption of Office of President, the Bill will be published on or before 22nd June, 2012. Today is 13th June. The publication period even for ordinary Bills is 14 days. Those are two weeks. Thirteen plus 14 days will be 27th. The Bills are not yet published.

The Assistant Minister is a lawyer and cannot even count basic things like one, two, three to fourteen. Specifically, when will the Bills be published? They must be published tomorrow if he is serious with these timelines.

Mr. Cheptumo: Madam Temporary Deputy Speaker, in the answer, I have talked about on or before. This means that we may even publish the Bills before 29th June. That is the essence of this. When I answered this Question last week, I was requested to give specific dates. I also said that because of the process through which we do these Bills, specific dates as to when they will be published could not be confirmed. After that day, we liaised with the CIC.

Mr. Ruto: On a point of order, Madam Temporary Deputy Speaker. I stand on a point of order to bring to your attention that the Government is actually flouting the Constitution. Even the Assistant Minister purporting to answer this Question is unconstitutional.

Madam Temporary Deputy Speaker, in the first instance, Article 261 of the Constitution says--- I want to remind him just like I reminded the Government yesterday. I do not know why they are having difficulties. I would like to remind them of Article 261(1). It says:-

“Parliament shall enact any legislation required by this Constitution to be enacted to govern a particular matter within the period specified in the Fifth Schedule, commencing on the effective date.”

Then it says on 261(4):-

“ For the purposes of Clause (1), the Attorney-General, (I am not sure whether you are the Attorney-General), in consultation with the Commission for the Implementation of the Constitution, shall prepare the relevant Bills for tabling before Parliament as soon as reasonably practicable, (Is what you are telling reasonably reasonable practicable for Parliament?) to enable Parliament to enact the legislation within the period specified.”

If you are not preparing the legislation within a reasonable time to allow Parliament to enact legislation, you are actually flouting the Constitution.

Madam Temporary Deputy Speaker, in fact, I request your ruling because the Government does not seem to be obeying the law. In this particular instance, this answer is signed and purported to be answered by the Minister for Justice, National Cohesion and Constitutional Affairs. This is a matter that belongs to the Attorney-General. The Constitution specifically says it is the Attorney-General. So, what is it that the Ministry of Justice, National Cohesion and Constitutional Affairs is trying to do?

Mr. Cheptumo: Madam Temporary Deputy Speaker, my Ministry is in charge of constitutional matters. We also answer Questions. This Question was raised by Dr. Nuh, a Member of this House. This is a matter that, as the Ministry responsible for constitutional matters, has the right to address the House.

Madam Temporary Deputy Speaker, the fact that it is the Attorney-General--- That is why I said that part of the process is being undertaken by the Attorney-General in terms of approving the Bills, taking them to the CIC and having the round table. I do not see how unconstitutional it is for my Ministry to answer this Question and yet, it is directed to us and we are in charge of constitutional affairs in this country.

(Mr. C. Kilonzo stood up in his place)

The Temporary Deputy Speaker (Dr. Laboso): Are you on a point of order.

Mr. C. Kilonzo: I want to ask a question.

The Temporary Deputy Speaker (Dr. Laboso): Then allow him to answer.

Mr. Cheptumo: Madam Temporary Deputy Speaker, I think I have answered that. It is within the responsibility of our Ministry to answer this Question.

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, he is giving us an opinion but we are talking about what the Constitution says. Where should the Bills originate from? That is the Attorney-General's Office. So, perhaps, you can help us - you being a lawyer and me not being one - by telling us which clause gives you those powers. Which Article gives you those powers under this Constitution? You remember you are a lawyer and I am not. But here, I see very clearly that it is the Attorney-General's role. Could you help us with that?

Mr. Ethuro: On a point of information, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Do you want to be informed, Mr. Assistant Minister!

Mr. Cheptumo: Not at all, Madam Temporary Deputy Speaker.

Mr. C. Kilonzo: It is me to be informed and I am more than willing.

The Temporary Deputy Speaker (Dr. Laboso): Mr. Assistant Minister, the information is not for you. It is for hon. C. Kilonzo.

Mr. Ethuro: Madam Temporary Deputy Speaker, it is for hon. C. Kilonzo and he has granted me the opportunity. I want the Assistant Minister for Justice, National Cohesion and Constitutional Affairs to remember that the Constitution--- I want to inform hon. C. Kilonzo that in addition to Article 261, the entire constitutionality that is specified in the specific schedules has named only two institutions - the Attorney-General and CIC. Even the entire Cabinet is not known by the Constitution.

Mr. Cheptumo: Madam Temporary Deputy Speaker, I think you should give directions.

Madam Temporary Deputy Speaker, what I fail to understand now is the following: If a Question has been raised by a Member of Parliament to the Ministry, we come to answer and the same Members are now saying we should not answer the Question, was it then---

(Loud consultations)

It is true because this is really fundamental. Yesterday, we had a Committee of this House dealing with constitutional matters sitting and giving timelines within which we should actually bring those Bills to the House.

Madam Temporary Deputy Speaker, we were able to assure the House yesterday - and I am doing so even today - that those Bills will be availed within those timelines. I think the issue before us---

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. I have listened to the hon. Assistant Minister very well. From his statement, he seems to be suggesting that if a Question on forestry is referred to the Ministry of Justice, National Cohesion and Constitutional Affairs, he will answer it because it is a Question that has been sent to him. We really know that procedures and rules in this House require that if a wrong Question is directed to you, you re-direct it.

Madam Temporary Deputy Speaker, perhaps, that is why we are having hitches in constitutional implementation. That is because the core offices that should know that mandate and deal with it have no clue as to what their roles are; that is, the Office of the Attorney-General and the Ministry of Justice, National Cohesion and Constitutional affairs. Is the Assistant Minister in order to mislead this House that when a wrong Question is sent to his Ministry, he has an obligation to answer it?

Mr. Cheptumo: Madam Temporary Deputy Speaker, the Question that is before us is asking us to give this House the timelines.

Madam Temporary Deputy Speaker, honestly, that is the Question that my Ministry can answer. If there are issues on the interpretation of the law and so on, that can go to the Attorney-General.

Madam Temporary Deputy Speaker, we should, as a Government, be able to help this House. Why should we delay this House for a day, week or month and yet, we can answer the Question? On the basis of that, I think it is not really a problem.

Mr. Imanyara: Madam Temporary Deputy Speaker, I appreciate the predicament that the Assistant Minister faces. But none of us on this side has taken the oath that this Assistant Minister took to defend the Constitution, when he was sworn in as an Assistant Minister. Now, where the Constitution is very specific as to who is to do what, I think a valid point was raised. The wording of the Constitution is the Attorney-General. Consultations may take place between different departments of Government, but the responsibility for standing in this House and presenting those Bills under the language of the Constitution rests with the Attorney-General.

Madam Temporary Deputy Speaker, that is an issue that need to be determined. This is my learned friend and he knows very well. Secondly, he, himself, has acknowledged that what he was required to do today is to give specific dates. Today, he has said it is not possible because he is still talking about on or before. Therefore, he has not complied with the requirement given by the Chair to come to this House and give the Government's specific timelines and specific dates when those Bills will be published by the Attorney-General.

Madam Temporary Deputy Speaker, is it in order for him to duck the Question, which raises constitutional obligation on his part, and which he undertook to bring to this House when answered this Question last week?

Mr. Cheptumo: Madam Temporary Deputy Speaker, I see two issues here that we should not answer this Question as a Ministry. That is what you are saying. When we want to answer, they say: Now, it should be done by the Attorney-General.

Madam Temporary Deputy Speaker, I will like to seek your directions here, because----

Mrs. Shebesh: Madam Temporary Deputy Speaker, the Assistant Minister should, in fact, relax and listen to what we are saying because we are very clear on what we are saying. Most of us sit in the Constitutional Implementation Oversight Committee (CIOC). This is an issue which we have tackled for over a year now.

Madam Temporary Deputy Speaker, we are not saying he cannot answer this Question. This Question is about timelines. We expect as the Ministry that oversees this process to go and get timelines from the Attorney-General, or from wherever else they will get it. He has answered this Question very inadequately. He has told us "timelines on or before"; then on the current status of the Bills, he has said "enacted". Enacted to what? For example, I think it is just good to say "enacted into the election law". And then, he says "publication date not applicable." How can there be a publication date of something that has been published which is not applicable?

Madam Temporary Deputy Speaker, we are saying to him, as the Ministry, his role is oversight. They do not generate the Bills. It is the Attorney-General who generates the Bills. But what he is supposed to do, he is not doing it adequately. Therefore, if they could not answer the Question themselves, they should have referred it to the Attorney-General.

The Temporary Deputy Speaker (Dr. Laboso): Mr. Assistant Minister, is that clear?

Mr. Cheptumo: Madam Temporary Deputy Speaker, it should have been enacted by 27th of August in line with the Fifth Schedule of the Constitution. The second part of the Question was “When will each of the said Bills be published?”

That was the Question, Madam Temporary Deputy Speaker. We are talking of the Bills which have not been published so far. So, I applied my mind to the Bills which have not been enacted by this House. The ones which have been enacted have already been published, debated in this House and passed as law. I am dealing with the ones which have not been published. That is the essence of the Schedule.

Secondly, Madam Temporary Deputy Speaker---

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Order! Hon. Members, we cannot continue on this same Question for ever. Yesterday, we had enough time to discuss this issue. So, we need to defer the Question. Could you agree between yourselves and the Attorney-General’s Office?

Mr. Cheptumo: Madam Temporary Deputy Speaker, let me make this statement. I have a responsibility of being candid and honest with this House. I cannot give a date. The process of passing Bills is a long process and there are stakeholders involved. When I say “on or before 29th,” to me, that is really sufficient because this House will be able to follow up to 29th of this month.

Madam Temporary Deputy Speaker, I think to, again, defer this Question for me to give specific answers for a specific date is still going to be the same situation. I cannot mislead the House by giving a date which I cannot confirm.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Order! Order, hon. Members! We cannot continue with this Question any further. The Assistant Minister has explained his role. Some of you are Members of CIOC and as such, you should let the CIOC to decide whether they need the Ministry of Justice, National Cohesion and Constitutional Affairs or whether they will just need the Attorney-General to come and answer the Questions related to the Constitution. I think we do not need to continue harassing him any further.

(Several hon. Members stood up in their places)

Order! Order, hon. Members! Could we move on to the next Question?

Dr. Nuh: Can I ask the last question!

The Temporary Deputy Speaker (Dr. Laboso): Order! Let us have the last question by Dr. Nuh.

Dr. Nuh: Madam Temporary Deputy Speaker, we are not harassing the Assistant Minister. The contestation from the Floor, at least, you can know why we cannot now trust the *Kamukunji*s and a Government that has not honoured its previous *Kamukunji* promises---

Hon. Members: Yes!

Dr. Nuh: Then we have no reason to believe them now.

Madam Temporary Deputy Speaker, I want to quote from a draft Report by the CIOC. When they were giving the schedule of the date the Bills that were due on the 27th of August last year were enacted, two Bills were published 15 days to the deadline. One Bill---

The Minister for Transport (Mr. Kimunya): On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Order, Dr. Nuh! Accept the point of order by hon. Kimunya.

What is your point of order, hon. Kimunya?

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, is the hon. Member in order to quote a document that is still strange to the House? It may have been introduced in the *Kamukunji*, but it has not been tabled in the House. A report of a Committee cannot be quoted or used in the House until it has actually been formally tabled in the House. So, is the hon. Member in order to purport to quote a work-in-progress of a Committee before it has formally been introduced into the House?

The Temporary Deputy Speaker (Dr. Laboso): Okay, hon. Member. It is clearly---

Dr. Nuh: Madam Temporary Deputy Speaker, whether I quoted from a draft or from my head, these are facts!

(Laughter)

Hon. Members: Yes!

Dr. Nuh: And for a second point, Madam Temporary Deputy Speaker---

Mrs. Odhiambo-Mabona: On a point of information, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): What is your point of information, Mrs. Odhiambo-Mabona? Dr. Nuh, are you willing to be informed?

Dr. Nuh: Madam Temporary Deputy Speaker, I will gladly take it.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I would wish to inform Dr. Nuh that, actually as the Vice-Chair of the CIOC, we sat, deliberated and agreed that we should have a *Kamukunji* - which we proceeded and had - where the Executive gave promises which they are reneging on. We, as a Committee, have agreed and we have given ourselves timelines. If they do not bring those Bills within the specific timelines that we have set, we will bring them. Indeed, I am in charge of the Bill on Leadership, which we will bring within the effective dates!

(Applause)

Madam Temporary Deputy Speaker, it is a report which we were not bringing, because we took the word of the Executive, but because they are now reneging, we will bring that report.

Dr. Nuh: Madam Temporary Deputy Speaker, I think the information, to me, has also been duly accepted by the Government or the Executive Side.

But, Madam Temporary Deputy Speaker, the reason as to why I was quoting from the draft Report – which I had permission to quote---

The Temporary Deputy Speaker (Dr. Laboso): Order! Ask what you rose to ask, Dr. Nuh! Ask your question!

Dr. Nuh: Madam Temporary Deputy Speaker, let me build my question. I am trying to give the chronology of the events of the Bills which were due for enactment by 27th of August, 2011. I was just saying that two Bills were published 15 days to the deadline. One Bill was published barely nine days to the deadline---

The Temporary Deputy Speaker (Dr. Laboso): What is your question?

Dr. Nuh: Madam Temporary Deputy Speaker, three Bills were published eight days to the deadline; five Bills were published five days to the deadline, while two Bills were published three days– that is 72 hours – to the deadline that was set in the Constitution.

Madam Temporary Deputy Speaker, having realized the delay this House has suffered because of the man hours lost and because of the quality of legislation, because we were forced to rush through all the Bills, and the fact that the Committee is recommending that the latest date that the Bills have to be published – and which will strain this House – has to be 2nd of July; and the fact that this Executive Bench is giving a deadline again of 29th of July, which is about only two days before a deadline that is said to be extraneous for this House.

Madam Temporary Deputy Speaker, can this Executive Bench commit themselves that they will no longer derail the House and that these Bills, as they are committing themselves to publish before 29th July, 2012, they will actually do so? We do not believe they will.

The Temporary Deputy Speaker (Dr. Laboso): Give the undertaking, Assistant Minister.

Mr. Cheptumo: Madam Temporary Deputy Speaker, let me undertake to this House – and that is why we are saying “on or before.” When you say “before,” it is actually even before 29th; it can be done.

Madam Temporary Deputy Speaker, we undertake to do that and we are serious about this to ensure that we do not have a similar situation like last time when we were passing the other Bills. I want to assure this House that it will be done and that, this time round, we are not going to have the very short moment to debate our Bills.

The Temporary Deputy Speaker (Dr. Laboso): Thank you, Assistant Minister. I think he has given the undertaking.

Next Question.

(Several hon. Members stood up in their places)

Order! Order, hon. Members! We are no longer on this Question!

Next Question.

Question No.1392

PROVISION OF LAND ALLOCATION DETAILS
IN RUIRU/THIKA MUNICIPALITIES

The Temporary Deputy Speaker (Dr. Laboso): The hon. Member for Juja and the Minister have both agreed, and they have both come to say that they would want this Question to be deferred to a later date. So, can this Question appear on the Order Paper next week?

(Question deferred)

Last Question by the Nominated Member, hon. Affey?

Question No.1296

ISSUANCE OF ID CARDS TO YOUTHS
IN WAJIR SOUTH CONSTITUENCY

Mr. Affey asked the Minister of State for Immigration and Registration of Persons:-

(a) whether he is aware that youths in Wajir South Constituency lack National ID cards;

(b) how many cards have been issued in the constituency since 2008 and whether he could provide a per-administrative location list of recipients; and,

(c) what urgent measures he has taken to register residents of the constituency.

The Temporary Deputy Speaker (Dr. Laboso): Is the Minister of State for Immigration and Registration of Persons not here?

Leader of Government Business, we have had a rough morning with Ministers not being in the House to answer Questions. You will be hearing from the Speaker on the same matter, but can you be responsible for ensuring that we get an answer to this Question?

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I am aware that there has been confusion this morning. Part of it arises from the re-ordering of Questions from yesterday. The Order Paper was not available until past 9.00 p.m. last night and hence, some Ministers just learnt this morning that they were supposed to appear.

Mrs. Shebesh: On a point of order, Madam Temporary Deputy Speaker.

*(Mr. Kimunya remained
standing at the Dispatch Box)*

The Temporary Deputy Speaker (Dr. Laboso): Order! You cannot both stand! Hon. Shebesh is on the Floor on a point of order!

Mrs. Shebesh: Madam Temporary Deputy Speaker, yesterday, when the Speaker made his ruling and all the Questions were deferred to today, those of us who know what to do, went to the internet and knew that our Questions were to appear this morning. Is he admitting that the Government is not technologically savvy and does not know that the Order Paper is always on the parliamentary website the night before? The Ministers have no excuse not to be here and you are the Leader of Government Business.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, the Order Paper was only available after 9.00 p.m., but some of the Ministers who were supposed to be here, were also involved in the funeral arrangements for our departed colleagues.

Hon. Members: Aaaaah!

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, it is a fact. There is a committee that has been going on---

Mr. Namwamba: Madam Temporary Deputy Speaker, honestly, the Minister can certainly not be in order to attempt to use a national tragedy, when all of us are in the same situation. All of us are mourning and this, indeed, is the third day of national mourning. But it was agreed during the meeting between the House and the two Principals that the business of the House would proceed, especially because there are so many urgent matters that remain pending. But it is coming only a couple of parliamentary days since this House took its time to discuss in detail the indolence and inertia of the Front Bench. We spent like a whole morning discussing this matter. Therefore, for the Deputy Leader of Government Business to attempt to use this tragedy is a shame and unacceptable, especially coming from a Minister who has admitted to be technologically savvy and also sits in the House Business Committee. Only last evening, the House Business Committee was in session and approved this Order Paper. So, would I be in order to request that the Minister be found to be grossly out of order?

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I am only giving this House the facts. Personally, I was involved in a meeting this morning and could not be here. My Assistant Minister travelled last night and Dr. Machage was in a funeral meeting because one of the---

An hon. Member: He was around!

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, he only came after the meeting. By the time I arrived here the Question had been called and we did not want to go back on the Speaker's ruling. When Dr. Machage came here, the Question had already been called. But he came late because he was in a meeting.

Mr. Imanyara: On a point of information, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Minister, do you want to be informed?

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I am not sure what I am being informed on and so, I would rather--- Thanks for the information, but, indeed,---

(Several hon. Members stood up in their places)

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, if I could finish what I am saying, it would help.

The Temporary Deputy Speaker (Dr. Laboso): Order! Allow the Minister to finish.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, we take the work of this House seriously. I want to, at this point, give an early apology to the House for the absence of the Members of the Front Bench who were not here to respond. In the spirit that we are moving on, we want to provide as much information to the public, by responding to Questions raised by the hon. Members, as practicably and fast as possible. But at times, in this kind of confusion, it is not possible to have the Ministers here, and I would like to ask for the indulgence of the House. It is something that we are working on and hope to sort out, so that Ministers are here when they are required to respond. The absence of a Minister does not indicate that the Government is not serious.

(Loud consultations)

Madam Temporary Deputy Speaker, I hear comments and suggestions about a reshuffle, but as you are aware, one of the limitations that I have, under Section 17 of the Constitution, is that I cannot give advice to the President in terms of a reshuffle, or who and who not to appoint. So, much as the advice is coming from the House, I cannot communicate it to the appointing authority. But we, as a government, take the work of this House seriously. I will undertake to consult all the Ministers who are not here, to make sure that they are available in the House when the Order appears. But the excuse that I received this morning is that they were not sure that they were expected in the House, and those who were expected were not available because of other issues. I gave the example Dr. Machage and I because we are in that committee.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members!

What is your point of order, hon. Isaac?

Mr. Ruto: On a point of order, Madam Temporary Deputy Speaker. Did you hear the Minister quote Article 17 of the Constitution, which actually talks about the revocation of citizenship?

(Laughter)

Madam Temporary Deputy Speaker, this Minister could be referring to the old Constitution and that is where we have a problem. These Ministers are still in the past and that is why we have total confusion.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, as the hon. Members are aware, we have a current Constitution. We also have sections of the former Constitution that were saved. So, when I quote on all matters to do with the Executive, I expect that the hon. Members are fully aware that the section relating to the Executive is the saved section relating to the former Constitution, which is Section 17 of the former Constitution, which was saved by the current Constitution. When I quote that, I expect that hon. Ruto would know that I am quoting the saved section and not the current section, because it does not relate to the Executive.

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. It is very rare that I agree with this Minister, but today I acknowledge that I agree with him on one point; that the Cabinet is confused.

(Applause)

Madam Temporary Deputy Speaker, having said that, I want to ask whether the Minister is in order to mislead this House. He has misled us on so many issues until he is almost rubbing his confusion on me. First, he was out of order when he said that the Ministers were out in meetings and that is why they could not be in the House, yet the Speaker has ruled that we must prioritize House business. Secondly, he has misled the House by indicating that the Ministers are out working on the burial arrangements. He mentioned hon. Machage whom I met out there as I was coming in. He greeted me in *Ki Kuria* which is similar to *Ki Suba* and I responded in *Ki Suba*. Thirdly, he is out of order by quoting for us the old constitution and saying that he cannot

advise the Executive, when I know that he is member number one of the kitchen Cabinet. Is he in order?

(Laughter)

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I stand by my words on my absence and the absence of hon. Dr. Machage because as much as we are here, we came in late after we were delayed in the other meeting. That is a fact. In terms of the former section or my ability to advise, I appreciate the confidence that hon. Millie has in me and the position she has taken in terms of my pecking order in the “kitchen cabinet”. I am very happy with that and I will take it into account. In terms of the confusion, I believe that we do not have any confusion. However, there was a general confusion today in the Order Paper in terms of which question was coming up and all that. I took responsibility for that and I apologize to the House for the confusion that we had. Going forward, I undertake that we move forward in the spirit of serving our people.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Minister, your apology is accepted but you are aware that this matter is not over, and the same will be ruled by the Speaker later on. Hon. Members’ sentiments will still enrich the ruling by the Speaker concerning the absence of Ministers.

Mr. Affey’s Question will be deferred. It will appear next week in the Order Paper.

Hon. Members, let us now move on to Order No.7.

(Question deferred)

The Temporary Deputy Speaker (Dr. Laboso): Do we have any Statements which were due to be given today by the Government? I am not asking about requests for Ministerial Statements. First of all, we want to have the Statements.

Yes, Dr. Wekesa.

The Minister for Forestry and Wildlife (Dr. Wekesa): Madam Temporary Deputy Speaker, I have a Ministerial Statement that was requested by the hon. Member for Gichugu but I can see she is not here. Therefore, we will preserve it until she is here.

The Temporary Deputy Speaker (Dr. Laboso): I think that is in order so that she is able to prosecute it properly.

POINTS OF ORDER

UNDELIVERED MINISTERIAL STATEMENTS

Mr. Langat: Thank you, Madam Temporary Deputy Speaker. Three weeks ago, I requested for a Ministerial Statement from the Ministry of Roads but it has not been brought. I had been promised that it would be brought one week after that date.

The Temporary Deputy Speaker (Dr. Laboso): The Deputy Leader of Government Business, could you undertake when that Statement will be given?

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, the Minister and the Assistant Minister have just been here and we were discussing the same matter.

They have just walked out but I will get them to give this Statement by Tuesday afternoon because tomorrow is not available for Statements.

STATUS OF MATHARE YOUTH SPORTS ASSOCIATION

Mrs. Shebesh: Madam Temporary Deputy Speaker, I believe that three weeks ago, I requested for a Ministerial Statement and the Deputy Leader of Government Business committed it to 23rd May. The Statement was from the Ministry of Youth and Sports and it was on the issues surrounding the Mathare Youth Sports Association. This is an issue which has become very dicey. It is also spoiling our image in Norway, a country that we have very good relations with and continues to affect the young people because it involved sexual exploitation. I want that Statement as soon as possible. The Minister for Youth and Sports Affairs told me that the request has not reached his office. Can the Deputy Leader of Government Business tell us whether he passed the message because he even committed to a date which was 23rd May?

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, let me say that when we make an undertaking, this is captured in the HANSARD and every Ministry has an obligation to look at the proceedings of the House. In addition to that, we communicate. So, that should not be an excuse and I would like to hear what the hon. Member has said from the Minister. I do not doubt the conversation the Member had with the Minister but be that as it may, I would like that Statement to be delivered to this House on Wednesday morning.

DELAYED STATEMENT ON CRASH-LANDING OF EGYPT AIR FLIGHT AT JKIA

Mr. Shakeel: Madam Temporary Deputy Speaker, two weeks ago, I requested for an urgent Statement from the Minister for Transport in respect to the incident that took place at the Jomo Kenyatta International Airport (JKIA) where Egypt Air Flight skidded. The Speaker ruled that the Minister gives the Statement the following day but we have not had it to date. In light of the other accidents that we have had, could the Minister tell us when we can have a report on the facilities at the JKIA? What postmortem has been done in respect to that particular accident?

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, indeed, I will be happy to provide that Statement on the Egypt Air next week. However, we also need to know that there is an investigation on the same. The investigations have commenced and are ongoing. However, I will give a Statement from that perspective by Thursday, next week. I think that will give me adequate time to compile what is left. That is what is practical at this point, bearing in mind that there is an ongoing investigation which we do not want to prejudice. However, we will work out what is possible for the House and what is ongoing by Thursday, next week.

STALEMATE OVER ELECTION OF AFRICAN UNION COMMISSION CHAIRPERSON

Mr. Imanyara: Madam Temporary Deputy Speaker, I rise to seek a Ministerial Statement from the Ministry of Foreign Affairs regarding the stalemate over the election of the

next Chairperson of the African Union Commission (AUC). In the Statement, he should explain why Kenya is not supporting the candidature of the country with which our best interest lies. That is our biggest trading partner, the Republic of South Africa.

The Temporary Deputy Speaker (Dr. Laboso): Mrs. Shebesh, do you want to enrich the point of order?

Mrs. Shebesh: Madam Temporary Deputy Speaker, I just want to enrich on the Statement that has been requested by my colleague, who of course is the head of our Parliamentary Group at the Pan African Parliament (PAP). As the Minister makes the statement, could he also tell us, in relation to these elections, how the Government decides on who to support considering that we are in a Coalition Government, meaning that we have two principals. The two principals, of course, we know should be consulting on issues. Whether the decision to support Jean Ping was made collectively by the Cabinet for the interest of our country, or it was made by one side of the Government, they should tell us why they decided to support him and not the lady who is from South Africa.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I believe that the comprehensive Statement will cover the rationale for Kenya's support of one of candidate or the other. That will comprehensively cover the level of consultation and all those things. Just for correction, South Africa is not our largest trading partner. The Republic of Uganda is our No.1 trading partner. However, in terms of interests, we will communicate and the Ministry will cover the rationale for the support, one way or the other within a comprehensive Statement to be available to this House by Thursday, next week.

BILLS

First Readings

THE INTERNALLY DISPLACED PERSONS BILL
THE KENYA NATIONAL AIDS COMMISSION BILL

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

Second Reading

THE TRAFFIC (AMENDMENT) BILL

(Mr. Midiwo on 16.5.2012)

(Resumption of Debate interrupted on 6.6.2012)

The Temporary Deputy Speaker (Dr. Laboso): Hon. Shakeel Shabir.

Mr. Magwanga: Madam Temporary Deputy Speaker, I am the one who was actually on the Floor discussing this Bill when the House adjourned.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Magwanga, I apologize. Yes, indeed, you were on the Floor. You still had a balance of 19 minutes.

Mr. Magwanga: Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity again to contribute on this Bill.

*[The Temporary Deputy Speaker
(Dr. Laboso) left the Chair]*

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

This is a very important Bill for this country. Allow me to congratulate hon. Jakoyo Midiwo for bringing these amendments. In Kenya, people do not respect the rule of law. This is very critical for this country. We have lost quite a number of our people on the roads. We do not respect these laws. Much as we are actually bringing new policies, people do not respect and internalize them, so that they become part of our culture and guide us to do better things on our roads.

Mr. Temporary Deputy Speaker, Sir, identification and registration of motor vehicles for number plates and owners is very critical. In a number of occasions we have had hit-and-run vehicles; hardly are the owners of the vehicles or the drivers traced. So, surrendering a registration number plate to the Kenya Revenue Authority (KRA) when the ownership is being transferred to another person is very important. That way, any vehicle will be easily traced in the records available in the offices. I recommend and support the identification of the ownership of vehicles by the registration number plate.

We have quite a number of people who drive defective motor vehicles on our roads. They cause accidents to other road users. These are vehicles which do not have brakes. They are vehicles which cannot be controlled and so they cause accidents on our roads. So, driving defective vehicles on our roads must come to an end. I tend to think that this Bill is likely to do that.

Driving under the influence of alcohol has really caused a number of deaths on our roads. This must be the major contributor of accidents on our roads. If we bring in stiffer laws which will bar those under the influence of alcohol from driving on our roads, the number of accidents will come down.

Another important thing which this Bill is prohibiting is driving on the pavements. This is where drivers cross pavements and drive on pedestrian lanes. This causes accidents on our roads. If this Bill goes through, it will bar reckless drivers from driving on the pedestrian walkways.

Mr. Temporary Deputy Speaker, Sir, this Bill is actually trying to instill some discipline in the issuance of driving licences. We have quite a number of people who own driving licences, yet they do not know how to drive. This is a fact. You will find somebody with a driving licence, yet he does not even know how to start or move a vehicle. This means that there are irregularities in the issuance of the driving licences. This must be streamlined to ensure that only those who have been trained properly and certified are issued with driving licences. This way, we will avoid road carnage.

We have seen cases where drivers have killed school children. This can only be curtailed by having experienced drivers and those who care about the lives of those in their vehicles as drivers. In the developed countries, for one to drive, one must be experienced in driving. They respect the road signs. They respect pedestrians. Whenever they see pedestrians crossing a road, they will have to stop in order to allow the pedestrians to cross. This is unlike Kenya, where the

number of hit-and-run cases is very high. For this to come to an end, we must streamline the issuance of the driving licences.

Mr. Temporary Deputy Speaker, Sir, another important element is that this Bill is introducing is the speed limit. A number of our drivers do not observe speed limits. This is what is causing close to 50 per cent of road accidents. People drive at over 100 kilometres per hour, and this is disastrous on our roads.

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

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, they will cause accidents to those who are not aware of what is happening along those roads. The Bill is also bringing in installation of road signs along our roads. Not all road users are familiar with the landscape and the way the roads are in our country. We have those who might be using roads once in a while and so they may not be aware of the blind corners along these roads. So, the road signs are very important. They will guide our drivers who will be using these roads and I would like to emphasize that if we install the correct and visible road signs on our roads, we will reduce cases of accidents along our roads.

Mr. Deputy Speaker, Sir, I want to say that the amendments being introduced by Mr. Midiwo are trying to bring some sanity along our roads. We come across road blocks along our roads which are being used as toll stations by police officers. You bump into a road block whose existence you are totally unaware of. For example, on Monday when I was coming from my constituency, I bumped into a road block at a blind corner and it was at night and the vehicles were parked in the middle of the road. Even if you are an experienced driver you will definitely cause an accident. These road blocks should be designated at specific areas so that those who use those roads know very well that road blocks are at such a point, so that when they near that area, they slow down so that traffic police ensure that they are safe. However, if we just mount road blocks at will, we are endangering the road users. I want to clearly say that, this is very important and I really support the amendments that Mr. Midiwo has brought to this House.

Mr. Deputy Speaker, Sir, another very key amendment Mr. Midiwo is introducing is about the motorcycles. If we are not careful in this country we are going to have a half of the population of this country without hands and legs as a result of the recklessness of the motorcyclists. Motorcyclists carry up to four passengers on one motorcycle. All these people who board these motorcycles are without helmets and when an accident occurs, all of them are likely to die and we will lose very important people in this country. When hon. Midiwo is introducing an amendment that every passenger must wear a helmet, it should be noted that a helmet is very important for the passengers including the motorcycle rider. He or she must have a helmet. It will protect him in the event of an accident. I want to say that these amendments are very key and I concur with the hon. Member who brought them.

Mr. Deputy Speaker, Sir, another area is with regard to contracting diseases. I know that when one is riding a motorcycle, he is likely to be attacked by pneumonia as a result of the wind and this person is not likely to live for long. He is likely to die after a very short time because of pneumonia which comes as a result of strong winds and also even some other insects which enter their noses, mouths *et cetera*. I tend to think the helmets are very key.

Mr. Deputy Speaker, Sir, on identification when it is required, every Public Service Vehicle (PSV) driver or a public transport driver should have uniform. On a number of occasions you will find a conductor at the steering wheel. A driver retires and leaves a conductor to drive the vehicle; a conductor who is not licensed to drive and does not have a driving license. These are the people who normally cause the accidents and if uniforms are introduced, we will know exactly who is driving. Is it the conductor or a genuine licensed driver?

Mr. Deputy Speaker, Sir, I tend to think that if these amendments are passed by this House and internalized by the people of this country, they are likely to bring some sanity on our roads.

I support these amendments. Thank you.

Mr. Shakeel: Mr. Deputy Speaker, Sir, I stand to support this very worthy amendment Bill. I do not want to repeat many of the things that have been said, but there are certain issues that I want to raise in the Bill. First is the issue of road blocks. In Kisumu, at the Mamboleo area, road blocks are the cause of accidents and they have actually caused the death of over 100 people in the last six months. They are not a hindrance, but a hazard.

Mr. Deputy Speaker, Sir, the issue of defective vehicles is not covered very clearly in this amendment Bill. It is a known fact that vehicles are inspected without getting inspection certificates and even without the vehicles being seen. Some of the well-off officers in the Government are previous inspectors. I know of one who became very senior in the Moi Government and he was a motor vehicle inspector. They make a lot of money out of corrupt deals and I see nothing here that deals with defective vehicles. I hope that Mr. Midiwo heard me on that one.

Mr. Deputy Speaker, Sir, the third issue that I would like to bring up is overlapping, which has been covered very clearly here. There are also a lot of illegal turns that are made.

I want to specifically bring to the attention of this House the fact that I have written to the Commissioner of Police, informing him that government vehicles drive in the opposite direction on Posta Road to get to Kenyatta Avenue, but nothing has been done so far. The ones that are more urgent are those on Ralph Bunche Road and Fifth Ngong Avenue Road, which turn into Valley Road. Vehicles on that road move at very high speed and, if something is not done, we will have a major accident.

Mr. Deputy Speaker, Sir, speaking on vehicles that cause accidents in which people die, it appears that the drivers of such vehicles are charged and released on bail, and that the vehicles are released immediately. I want to bring out one point. There was a bus on the road, whose driver was driving while speaking on a mobile phone. That driver was very rough on the road, and he killed a couple of pedestrians. The bus belonged to one of those new bus companies, whose name I cannot remember. The vehicle was released on the second day after the accident.

This Bill does not cover the issue of seizing a vehicle that is involved in a fatal accident. Drivers are very mobile. When their vehicles are involved in accidents, they stop and run away. I think a vehicle that is involved in an accident should be seized because that way, the owner of such vehicle will also have been penalised in that the vehicle will not be on the road.

Mr. Deputy Speaker, Sir, in China and elsewhere, when a Public Service Vehicle (PSV) driver, and especially a bus driver, causes an accident and it is found that the accident happened due to his fault, he is charged with causing death. I have seen some of them taken from the courtroom to an open ground and executed there and then because they caused the death of passengers. I am not saying that we should be executing some of these people but I am sure that

if the penalty for causing death due to dangerous driving is severe enough, people will stop driving dangerously.

Mr. Deputy Speaker, Sir, my colleague talked about motorcycles and crash helmets. If you go to Rwanda and see a single motorcycle rider or passenger without a crash helmet, I will give them US\$50. I have been to Rwanda about 20 times. I have not seen a single person riding on a motorcycle without putting on a crash helmet. It is a question of impunity in Kenya.

Another issue that is not covered in this Bill, although it is in the Traffic Act and is covered by way of other regulations, which I also want covered in this Bill; is that of PSVs playing loud music and donning multiple colours. If such a vehicle causes an accident and runs away, you cannot identify it at all. You cannot say what colour it was. Public Service Vehicles also play loud music. Nowadays they even have television sets onboard.

Playing of loud music in PSVs was stopped through the Michuki Rules, some of which I hope and pray that we will incorporate in this Bill. I also feel that it is important for vehicle registration numbers to be printed on the bodies of PSVs in very large sizes, because offending drivers keep on changing the number plates of their *matatu*, buses and lorries.

Mr. Deputy Speaker, Sir, it appears that one of the most paying jobs in the Police Service is that of a traffic police officer. I remember some police officers who came to me and said: "Please, *mheshimiwa*, can you have us transferred to the Traffic Department?" It seems to be a very well paying job. Therefore, we need to have some sort of rationale as to how somebody is transferred to the Traffic Department.

Another issue I was hoping we could look at is that of having community traffic policing. I have seen vehicles that have committed traffic offences on KISS TV and other television stations. These media houses have cameras everywhere. They actually capture number plates of vehicles that commit traffic offences, but the Commissioner of Police does not do anything. Nobody else does anything.

If we had community traffic police officers or designated responsible persons in place, and we put in place CCTV cameras, which can be sponsored to the police through public-private partnership, like the radio stations that have been sponsoring some of the CCTV footages, we can use such images to penalise traffic offenders.

Mr. Deputy Speaker, Sir, road licences were removed yet they were a very important way of identifying vehicles. I wonder what the benefit of removing road licences is. Now a 20-ton lorry uses the road on the same basis as a small car like Toyota *Vitz*. Road licenses were there because of usage of roads by vehicle owners. Heavier vehicles used to be charged more than lighter vehicles. I would urge that road licences be brought back.

I hope that in the Section governing overlapping and driving on the pavements, we are able to consider those who are travelling on bicycle lanes.

With those remarks, I beg to support.

Mrs. Odhiambo-Mabona: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute. In contributing, I want to thank Mr. Midiwo for bringing the amendments to the Traffic Act. I would like to indicate that many Kenyans have lost their lives. I think traffic accidents could be one of the leading causes of deaths in this country.

Mr. Deputy Speaker, Sir, I have had occasion to live out of the country and whenever there was a traffic accident in most of the countries even if it is just one accident the town comes to a standstill because it is a very rare occurrence.

Sometimes I wonder why we even call them accidents because accidents should be absolutely remote. It should be arising from something unforeseen or something unpreventable.

But many of our accidents stem from human error. Many of them are caused by people drinking and driving. Many of them are also caused by people over-driving especially public vehicles. You will find one driver wants to drive for 48 hours and yet they are not gods; they are mere human beings.

Mr. Deputy Speaker, Sir, it is because people try to make super profits. Therefore, the law must guide against unnecessary deaths. I really do not even want to call them accidents because many of the deaths that are occasioned are not by accident as such.

I would even like to give as an example. I was called by a lady who I used to go to church with in Nairobi Pentecostal Church when we were bringing this and I remember she used to serve as an usher. One time I saw her walking and she was very normal. Then she disappeared for a while and the next time I saw her, she was in a wheelchair. She is now permanently in a wheelchair as a consequence of a road accident. When she saw these amendments proposed she got in touch with me because she said there are certain issues that she felt very passionately about, which she wanted to put forward and I have advised her how she can make her presentation before the relevant committees. That was a very able-bodied person who has been condemned to a life of disability through carelessness.

Mr. Deputy Speaker, Sir, last year I lost my mother, and one of our young nephews who was coming to condole with us did not show up. When we were wondering where he was, we were told that he was involved in a road accident and that he was in the Intensive Care Unit (ICU). He was a young man in his early twenties and he was called Brighton Owuya. He was in ICU for over one month and he subsequently lost his life as a consequence of a useless and unnecessary road accident.

I can give examples of accidents which have occurred forever. My young niece, Natalie Bellow, who is a student at a medical school, asked me the other day to say in Parliament that she has a classmate, I do not remember his name, with whom she was at Aga Khan Primary, who died at Kenyatta University as a consequence of careless driving. He was buried in Molo last month.

Mr. Deputy Speaker, Sir, I am saying this to show that accidents have affected each one of us in a very personal way. There are many young people who did not need to die and who have died as a consequence of carelessness. It is within that context that I want to make certain comments in relation to this Bill.

Mr. Midiwo has given very noble suggestions but I would just want him to explain why in clause 4 he is not providing for a minimum sentence and, instead, allows discretion. The challenge we have in this country is because we make laws as decorative things. We do not make laws, so that they can be implemented, be followed, and be punitive.

Mr. Deputy Speaker, Sir, you notice, therefore, that if you give some room for discretion then people get away with murder. I am almost sure that the person who caused the death of the young Britton got away with murder; if you look at the punitive measures in the Traffic Act you will see that they are actually laughable. You cause the death of a young person and you get a way of a reprimand or, at most, a sentence of three months. This discretion should be taken away from the magistrate and we should provide for minimum sentences. We should be using the words, "not less than ten years" instead of "a maximum of ten years".

I would also want to indicate that I want to thank Mr. Midiwo for providing that licenses should be denied to persons who have been found to be guilty. In many countries this is done. So in this country we should do it. I know in places like the United States of America (USA) people cannot even park in the wrong place. However, in Kenya you see a place marked for persons

with disability and you go there and park. In the USA when you come back in two minutes, your car will not be clamped but you will pay such a hefty penalty that you will never repeat it. We make laws so that we follow them.

One other thing I would want to add under clause 6 is that Mr. Midiwo should consider bringing an amendment that prohibits not just driving within petrol stations and pavements, but also prohibits driving on the wrong side of the road. There are a lot of times that we see people driving on the wrong side of the road.

Mr. Deputy Speaker, Sir, I also want to applaud Mr. Midiwo for providing, under clause 9, for prescription of speed limits. This is especially good for school going children. We have seen so many times young children killed on their way to school because somebody was over-speeding at a place where there should be a speed limit. Road signs should be displayed very prominently outside school gates and places where children frequent.

I would also want to indicate that it is important that the highways authority as provided for in clause 10 must give notice of closure of roads. I would want to also add that the other thing that they should give notice of is when they are doing road very heavy repairs. There was a day I was traveling from Kisumu to Lwanda Kotieno in Eng. Gumbo's constituency then suddenly we just saw vehicles driving from the opposite direction with blaring horns and people running; then suddenly there was a major blast. Because we had raised a Motion in this Parliament when I had forgotten the name of the President of Uganda, I actually thought that the President was coming for some of us because we come from around that neighbourhood. There was such a big blast. When we reached there, it was a blast of a level that could cause deaths, yet there was absolutely no notice. If we were driving at a very high speed--- I thought actually we were being bombed. Signs are something which people who repair roads must provide.

Many of us should know because we are doing a lot of infrastructure development now. You could be driving and there is a diversion that is going to take away two hours from your journey and you come upon it suddenly; you have no notice in the newspapers or anywhere else. We must learn to save our time if we want this country to move forward.

One of the things I have been told by motorcyclists, especially in Mbita Town, is that they are being harassed by the police on the issue of insurance of motorcycles and the clothing that they wear. I want to laud Mr. Midiwo again, for providing it legally that there must be specific uniforms that people wear for motorcycles. Many of people have lost their lives as a consequence of motorcycle accidents. This is because many people in the rural areas prefer them as the fast and quickest means of transport. Nonetheless, the catch is that most of these people do not have money. They cannot afford to get the licenses, insurance and so on. Therefore, this has been an area for the police to extort money from young people who cannot even afford driving licenses because they learn the driving on the job.

Therefore, while I applaud what is being suggested, I also want to request for a subsequent amendment to the CDF Act; that provision be made for provision of money under the bursary for these young motorcyclists to be given money to go to driving schools. We also need to find a way of dealing with licenses and insurances for these people because they cannot afford it. So, I do not know whether this affects other areas of the country, but in Mbita, almost every day I am called upon to bail out a young man who has been thrown in the cells because they did not have a licence or insurance or the right gadget. It is laudable, but given the poverty levels, let us also look at realistic ways to deal with this issue.

Finally, I congratulate Mr. Midiwo and urge that we should even enhance the sentences further. This is because in this country we think that when people do wrong we really should be

humoring them and praying for them and asking God to save them. Let the Lord save you after we have also punished you by the law.

With those few remarks, I beg to support.

Mr. Kathuri: Mr. Deputy Speaker, Sir, before I make my contribution, let me first of all declare my interest. From when I was a toddler to the time I became a Member of Parliament, I have survived on the income of public service vehicles. This is from my parents to me, and now my children.

Mr. Deputy Speaker, Sir, let me start by saying that while I applaud Mr. Midiwo for bringing this Bill on the Floor, I have a lot of misgivings that make me unable to support it. It is not a bad idea, but I think it requires a lot of amendments which will amount to a complete overhaul again. In that case, I oppose this Bill.

When I look at the amendments that are included, you are transferring rules that were raised by the late hon. Michuki to an Act of Parliament. This will make it very difficult to make any amendments in future because it has to go through the rigorous process of making any small adjustment. With regard to uniforms, in Mt. Kenya region, for example, somebody can put on a coat and he is comfortable, but when you go to Garissa, a coat is completely irrelevant. In fact, I do not know whether they wear them. If you go to Mombasa, you will only be comfortable in a very light shirt. If all these are embraced in the Act, it will become very difficult to make any changes should there be need.

When I also look at the way the Bill is crafted, it vests too much power on PSV vehicles. It is true they cause a significant percentage of the accidents on our roads just because of their numbers, but there are those other vehicles that cause accidents, including Government and or police vehicles which carry a big share of the blame. Maybe in accidents involving public service vehicles, the cause of the accident could have been a private vehicle.

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir.

I rise on a point order to ask the hon. Member opposing the Bill to declare his interest. This is an opportunity for him to make concrete proposals, so that we can stop the trend of mayhem and deaths on our roads. His contributions need to be a bit more constructive and suggestive on the way forward.

Mr. Kathuri: Mr. Deputy Speaker, Sir, I appreciate the comments by my colleague. I am only creating a basis on how we can handle the matter better. I started by declaring my interest and said that I applaud him. However, the way the Bill has been drafted, it will require a complete overhaul. So, I was trying to create a basis. It is important for me to continue and tell him and others that when you look at the number of accidents involving the Passenger Service Vehicle (PSVs), it is significant, but Government vehicles, including police vehicles, are also involved. If we pass this Bill against PSVs, it will mean that private vehicles will get away with it. When we are on the road, we are equal and punishment should be meted on all without discrimination. It should be drafted in such a manner that it cuts across the board without discrimination. I think it is very important for us to note to that.

Mr. Deputy Speaker, Sir, when we talk of an identification plate, is it referring to registration plate? Will a PSV carry two plates? If so, is this going to only be on vehicles or also on motor cycles? It is very important for us to come out clearly and say what we mean by "identification plates". When you look at this Bill, the motor cycles do not appear to have PSV insurance and yet, they will carry passengers. It is important for us to come out clearly because, at the end of the day, all of us are doing PSV business. It is important for everybody to be accommodated without necessarily being biased.

Mr. Deputy Speaker, Sir, it is very important for us to know that when the law becomes harsh and excessive, it brings in corruption. Can you subject a driver who has caused an accident to a death penalty just because he has hit a pedestrian? Yes, it is bad morally to cause death, but equally when you subject a driver to a death penalty---

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. The hon. Member has said that the Bill does not prescribe for motor cycles to carry insurance. Vehicles do not carry two insurances. They just carry insurance; whether it is PSV or not, it is still insurance. It includes all motor cycles that carry passengers.

Mr. Kathuri: Mr. Deputy Speaker, Sir, I declared my interest by saying that from the time I was a toddler, I have been in this sector. There are four categories of insurances; there is motor vehicles insurance, commercial vehicle insurance, private car insurance and PSV insurance. When you do not state whether it will be PSV insurance, somebody can just walk to the shop or to an insurance office, buy insurance and it will only be for private use. When it is for private use, it is not for PSV. PSV is specifically stated on the sticker as "This is PSV insurance." If we are concerned about those who have maimed or lost their limbs, it is important for us to appreciate the fact that if we want to be seen to be concerned and acting in a manner to solve that problem, it is important for us to also ensure that it is PSV insurance and it should cut across the board.

Mr. Deputy Speaker, Sir, when a law becomes harsh and excessive, it becomes a good ground to breed corruption. When you impose penalties in the range of Kshs500,000, the value of a car, and only on PSVs, this is biased. This is going to create a very good short-cut for an officer to demand a bribe of Kshs10,000 and get away with it. Will we have sorted out our problems? It is good for us to also set realistic fines, not very low, but also not very high. When they are very high, they will be a very fertile ground for breeding corruption.

While on the issue of the fines, some of them are realistic, but I want to state very clearly some of the issues hon. Midiwo commented about. We will introduce amendments in terms of a schedule of fines as proposed by the sector. They are also concerned. They do not want impunity on our roads. There is no single PSV owner who does not agonize when he hears that his vehicle has been grounded in a police station either because of an accident or it has rolled. He is left with a loan to repay, the driver is maimed and maybe the conductor was a relative. Most of these workers at times are related to the vehicle owner or it is the owner who is admitted in hospital. Nobody can celebrate over that. So, it is very important for us to also realize that we need to put in place an amendment that will take care of a standard procedure of how we can come up with fines as it was proposed in the 2009 Budget, namely, instant ticketing. We would want to see that incorporated in the Bill.

The issue of the Traffic Police officers reporting to the Traffic Commandant or the Police Commissioner, I think something should be done. We have the Railways Police under the Kenya Railways which has a lot of connection with the Ministry of Transport. We also have the Airport Police. We also should have the Traffic Police not reporting to the police departments, but to the Minister or to the Permanent Secretary in charge of transport, so that when they formulate policies, they can enforce them when there is a clear connection. It should not be a question of the Traffic Department being completely delinked from the Ministry of Transport yet the Ministry is expected to come up with the policies and rules to be enforced by the police.

It is also important for us to appreciate the fact that there should also be a link between the traffic police, the local authorities and the Ministry of Transport. Without that, whatever you are trying to achieve will come to nought. The late Minister, hon. Michuki, had come up with

very good proposals, but they were abused. They were abused because when he was doing it at the Ministry of Transport, the Police Department was not involved. When he went to the Ministry of State for Provincial Administration and Internal Security, the Ministry of Transport was left out. When the local authorities were expected to implement what he was proposing, they felt that they had been left out. I even remember hon. Kombo was complaining that he had been left out.

Mr. Deputy Speaker: Hon. Members, the House now stands adjourned until today, 13th June, 2012 at 2.30 p.m.

ADJOURNMENT

Mr. Deputy Speaker: Member of Parliament for Manyatta, hon. Kathuri, will have 18 more minutes when the debate resumes.

The House rose at 12.30 p.m.