

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 13th June, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

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

WELCOME TO RECENTLY ELECTED EALA MEMBERS – KENYA CHAPTER

First, I wish to introduce to you and welcome this afternoon the recently elected Members of the East African Legislative Assembly (EALA), Kenya Chapter, who are seated at the Speaker's Row. They are as follows:-

1. The Hon. Joseph Kiangoi Ombasa - Chairperson, EALA Kenya Chapter
2. The Hon. Judith Pareno - Secretary of the Chapter
3. The Hon. Sarah Talaso Godana - Treasurer of the Chapter
4. The Hon. Peter Mutuku Mathuki - the Chapter Whip
5. The Hon. Mumbi Ng'aru
6. The Hon. Saoli ole Nkanae
7. The Hon. Nancy Abisai
8. The Hon. Zein Abubakar

Hon. Members, the team is on an official orientation programme to Parliament between today 13th June 2012 and next week Thursday, 21st June, 2012. You will recall that this team is a product of a very rigorous process undertaken by this House, which culminated in their election on 31st May 2012.

On behalf of the House and on my own behalf, I wish the team a fruitful orientation in our Parliament and success in their new assignment.

Hon. Members, please, in our tradition manner, let us welcome those Members.

(Applause)

DELAYED TABLING OF ESTIMATES OF REVENUE/EXPENDITURE FOR 2012/2013 FINANCIAL YEAR

Second, hon. Members, is a Communication relating to the Budget process. I will pause for a minute to allow the hon. Member for Kaloleni and others to walk in.

(Mr. Speaker paused as hon. Members entered the Chamber)

Hon. Members, you will recall that I promised to give directions in relation to a point of order raised by the hon. Member for Gwassi, alleging a failure by the Minister for Finance to table Estimates of Revenue and expenditure for the Financial Year 2012/2013 in compliance with Article 221 of the Constitution. The issues which arise from Mr. Mbadi's point of order and supplemented by a number of other hon. Members, including Mr. Imanyara, Dr. Khalwale and Mr. Mungatana are, as briefly as follows:-

(i) That the document tabled by the Minister for Finance on 26th April, 2012 was titled "Draft Financial Statement and Budget Framework" and was not the Estimates of Revenue and Expenditure of the National Government as contemplated in Article 221 of the Constitution.

(ii) That being titled "Draft" as the document was, the Minister in effect did not present a formal document that can be said to meet the requirements of the Constitution and that such a document ought not to have been accepted by the House.

(iii) The document tabled by the Minister for Finance was not compliant with the Constitution generally on account of its failure to give a detailed and itemized breakdown of the various Vote Heads or other such particulars as would enable this House to be properly informed of the Estimates of Revenue and Expenditure for the National Government.

(iv) That the Constitutional provisions at Article 221 of the Constitution should not be subordinated to legal and other processes outside the Constitution and the laws of Kenya.

Hon. Members will recall that I accorded an opportunity to the Minister for Finance to respond to the issues raised and that he did so on Thursday, 7th June, 2012. In his response, he argued that he did submit on 26th April, 2012 the Estimates of Expenditure for 2012/2013 together with the Draft Financial Statement and Budget Framework for the same year. He urged me to find that the Draft Financial Statement not only contained the Estimates of Revenue for the Financial Year 2012/2013, but also other resources to finance the estimates of revenue and that he had, therefore, fully complied with Article 221 of the Constitution. The Minister explained that the documents were marked as "draft" because the detailed Estimates of Revenue in the form in which hon. Members are used which are printed Estimates of Revenue will only be available taking into account import duties and other taxation measures that are agreed upon jointly under the East African Pre-Budget consultations and also the consultations under the Sectoral Council on Finance and Economic Affairs Framework. He informed the House that it is only after consultations with the other East African Community partner States on proposed taxation measures that firm Estimates of Revenue can be availed. He, therefore, undertook to deliver the Estimates of Revenue books on Thursday 14th June, 2012 when reading to the House the Budget Statement for the Financial Year 2012/2013.

This explanation did not appear to satisfy some Members of this House who wondered whether he was subjecting the mandatory provisions of Article 221 of the Constitution to consultations with other East African Community member States. This, he denied, arguing that the use of the word "draft" was administrative so as to distinguish the estimates tabled from estimates as they would stand after the consultations with the East African Community partner States. He, therefore, urged the House to ignore the word "draft" and to consider the draft estimates tabled in the House as the estimates required to be tabled under Article 221 of the Constitution.

Hon. Members, the issues which arise from this matter are important because they are precedent setting and have the potential to define the meaning to be attached to the requirements

of Article 221 of the Constitution and the manner in which these key aspects of the Budget cycle will be implemented. Before I give directions on this matter, it is appropriate that we consider carefully the wording of Article 221 of the Constitution. The Article requires that the Annual Estimates of Revenue and Expenditure of the national Government are tabled in the National Assembly, which Assembly then considers them together with those of the Parliamentary Service Commission and the judiciary.

The National Assembly is required to seek the representations of the public and to take account of their recommendations when considering the estimates. Upon approval, the estimates are to be included in an Appropriation Bill which is introduced into the National Assembly to authorize the withdrawal from the Consolidated Fund of the money needed for the expenditure and for the appropriation of that money for purposes mentioned in the Bill. I think that this entire process needs to be contextualized in order to properly deal with the issues.

Hon. Members, I will pause for a moment to allow those at the entrance to come in.

(Mr. Speaker paused as hon. Members at the entrance entered the Chamber)

On the question on whether the document tabled by the Minister on 26th April, 2012 was the Estimates of Revenue and Expenditure contemplated by Article 221 of the Constitution despite its being titled “draft”, I think it is crucial to emphasize the importance of fidelity to the letter and spirit of the Constitution. Article 259 of the Constitution, I must reiterate, enjoins us to interpret the Constitution in a manner “that promotes its purposes, values and principles, advances the rule of law, permits the development of the law and contributes to good governance.”

The clear intention of the mandate vested on the Cabinet Secretary for Finance to submit estimates of revenue and expenditure as evidenced by the processes thereafter is that documents are presented that can properly inform and benefit those processes. Words mean something. Every word has a meaning and I have to agree that when a document required by the Constitution to be tabled in this House is titled as “draft” a legitimate anxiety is created as to whether or not this is the document required to be tabled by the Constitution, or if a subsequent one shall be availed that will answer to the constitutional requirement. It is a legitimate question whether such a document is the formal document required under the Constitution. It must follow then that whatever may be the antecedent administrative processes in the Ministry of Finance and whatever may be the according system, the House expects and shall in terms of the Constitution, receive estimates of the revenue and expenditure of the national Government for the next financial year. For the avoidance of any doubt, a document intended to meet the requirements of Article 221 should be clearly so titled and labelled. It will not do for the Minister to ask the House to ignore certain words or make presumption.

Hon. Members, following on the observations I have already made about the need to give meaning to the letter and spirit of the Constitution, it is clear that the estimates required to be tabled to the House under Article 221 should provide such adequate detail as to inform the House and the public of the financial plans of the national Government and enable them to interact with, interrogate and make informed proposals for change. These requirements can hardly be said to be met when global figures are presented without the benefit of detailed breakdown and itemization. This is what I have previously called, and I quote “minimalist approach to constitutional interpretation that should be discouraged.”

It should be noted, however, as hon. Boni Khalwale observed, that Article 222(2)(b) of the Constitution provides that the Estimates of Revenue and Expenditure to be tabled in the House, shall be in the form and according to the procedure prescribed by an Act of Parliament. Hon. Khalwale aptly noted that no obligation has been enacted by the House, setting out the form in which the Estimates must be presented and the procedure for doing so and invited the House to avail itself of this opportunity to enact legislation, clearly setting out the form and level of detail in which the Annual Estimates of Revenue and Expenditure shall be presented. The conclusion must be drawn that until such time, while the Minister needs to be guided by good precedence from the past and by the requirements of Article 259 of the Constitution, it cannot be said that the Annual Estimates presented shall be disallowed for the reason only that the figures presented are not adequately itemized.

Hon. Members, the point that was made by hon. Mbadi and emphasized by hon. Imanyara, whose effect is that the mandatory constitutional provisions cannot be subordinated to or postponed on account of our countries' international or regional obligations, is an important one. As I observed in the directions that I gave on 7th June, 2011, the need to harmonize our Budget circle with those of our partners in the East African Community (EAC) is desirable and even prudent, but it cannot stand in the way of existing constitutional dictates. I said then and emphasize now that in my estimation, Article 2(6) of the Constitution does not subordinate the provisions in the Constitution of Kenya and our laws to our Treaty obligations. What that Article requires is that our Treaty obligations form part of our law under our Constitution. The effect of this is to make it the obligation of the State to ensure that we not only meet our Treaty obligations, including those under the Treaty for the establishment of the EAC, but that also we do so without violation of our own Constitution. What this means in the present context is that the Treasury must make any requisite consultations with our partner States without prejudice to its obligation to submit Estimates of Revenue and Expenditure, under Article 221 of the Constitution. Such consultations will not be permitted to be the reason for delay in presentation or for presentation of the Estimates in an unacceptable manner.

Hon. Members will note that there has been significant improvement in the budgeting process this year, in departure from the same time last year, when the Treasury failed altogether to submit the Estimates of Revenue and Expenditure to the House, at least, two months before the end of the Financial Year. This time around, subject to the observations and directions as I have given herein, the Estimates can be said to have been submitted in time. However, as has become apparent from my analysis of the issues that had been raised, there is still plenty of room for improvement in relation to the form in which the Estimates should be presented, in order to give full expression to the letter and spirit of Article 221 of the Constitution, and generally, the provisions of the Constitution as a whole. The Minister will do well to carefully consider all the issues raised on this matter on this occasion, so as to ensure that next year and subsequently, he tables Estimates of Revenue and Expenditure, fully compliant with the requirements of the Constitution.

Thank you.

(Applause)

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I have Papers here to lay on the Table. But before I do that, I beg to give my apologies to the Chair and the House for what transpired last week on Wednesday, during the morning Sitting.

PAPERS LAID

The following Papers were laid on the Table:-

Financial Statements of the Olkejuado Water and Sewage Company Limited for the two year period ended 30th June, 2007 and certificate thereon by the Auditor General.

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

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

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

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

Financial Statements of the County Council of Trans Mara for the two year period ended 30th June, 2009 and the certificate thereon by the Auditor General.

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

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

Financial Statements of the County of Siaya for the two year period ended 30th June, 2009 and the certificate thereon by the Auditor General.

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

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

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

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

ORAL ANSWERS TO QUESTIONS

Question No.1544

RETURN OF KIBULLINE DISPENSARY FUNDS TO TREASURY

Mr. Ruteere: Mr. Speaker, Sir, before I ask my Question I want a correction done in part “c” of the Question. The words “out of the out of the Kshs.20 million meant for the Health Centre, only” should be deleted so that it makes sense.

Mr. Ruteere asked the Minister for Public Health and Sanitation:-

(a) why Kshs1,749,776.90 which was meant to pay the contractor of the Kibuline dispensary under the Economic Stimulus Programme project, was

returned to the Ministry on 25th January, 2012 and, subsequently, to Treasury and yet the project was ongoing;

(b) when Treasury will disburse the funds for use in the intended activity; and,

(c) whether she is aware that Kshs3.9 million was left with the Ministry to purchase equipment and, if so, when the equipment will be supplied or the amount released to the MOH to procure the equipment, considering that the facility is now complete.

Mr. Speaker: Mr. Assistant Minister, with that amendment made to the Question, are you still competent and able to answer?

The Assistant Minister for Medical Services (Mr. Kambi): Yes, Mr. Speaker, Sir. It has not changed much.

Mr. Speaker: Proceed, then.

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, I beg to reply.

(a) A sum of Kshs1,749,776.90 which was meant to pay the contractor of Kibuline Dispensary, under the Economic Stimulus Programme Project was returned to the Treasury on 25th January, 2012 for re-voting, in line with the Government financial regulations.

(b) Mr. Speaker, Sir, my Ministry has already released funds to the District Medical Officer of Health, Imenti North, amounting to Kshs1,749,776.90 for completion of Kibuline Model Health Centre.

(c) My Ministry has already procured equipment through the Kenya Medical Supplies Agency (KEMSA) for distribution to all the model health centres in the country which have attained over 80 per cent completion rate including Kibuline Model Health Center.

Mr. Ruteere: Mr. Speaker, Sir, I thank the Assistant Minister for his answer. I can confirm that the Kshs1.9 million was given back to Kibuline. However, this health facility has been completed for the last six months but equipment is lacking. How soon shall the health centre get the equipment that has been procured because keeping it in stores does not help anybody?

Mr. Kambi: Mr. Speaker, Sir, we procured the equipment recently. We have started distribution and I am sure that by next month, this facility will have all these equipment.

Mr. Wambugu: Thank you, Mr. Speaker, Sir. The problem that is in hon. Ruteere's Constituency still persists in Mathira. Could the Assistant Minister confirm that all the dispensaries built under the Economic Stimulus Programme (ESP) will be operational by next month, now that he has already procured the equipment that is required?

Mr. Kambi: Mr. Speaker, Sir, I thank the hon. Member for that question. As I said earlier on, we have started distribution and by the end of this month we will have either 90 per cent or 100 per cent equipment distribution.

Mr. Letimalo: Mr. Speaker, Sir, I am aware that the Government has started releasing funds for completion of health facilities under the ESP. However, my concern now is that the funds are being released when we are just coming to the end of the financial year. We know the process of disbursement of funds at district treasuries. What guarantee will the Assistant Minister give that these funds will not be returned to the Treasury upon the end of the financial year?

Mr. Kambi: Mr. Speaker, Sir, I am not aware that we will be given extra funds to distribute to these facilities because as I have reported here, the last batch we were given was for the procurement of equipment and we have done that. We realize that the ESP was started in

early 2010. The last batch we were given was for the equipment. We have already procured the equipment and distribution is in the process.

Mr. Muriithi: Thank you very much, Mr. Speaker, Sir. I would like to commend the Ministry for the confirmation of the distribution of the equipment. But the tragedy is that most of these health centres are complete but they lack human resources to handle the equipment. So, what has the Assistant Minister done to make sure that he is not take the equipment to an empty health centre where there is no personnel to handle them?

Mr. Kambi: Mr. Speaker, Sir that is also a very good question. As we are all aware, this equipment needs specialized staff and we are experiencing this problem as a Ministry. However, we had budgeted for the recruitment of new staff so that they can be trained, so that the equipment does not stay idle.

Mr. Olago: Mr. Speaker, Sir, the cost of each of these projects, Ojola Dispensary in Kisumu included, was originally meant to be Kshs25 million. It was then scaled down to Kshs20 million so that the extra Kshs5 million could be used to purchase equipment for the health centres. Can the Assistant Minister confirm to the House that, indeed, Kshs5 million is kept aside and that the equipment is at KEMSA awaiting distribution so that the issue of money being returned to the Treasury does not arise?

Mr. Kambi: Indeed, Mr. Speaker, Sir, that is what happened and that is how we managed to procure all the equipment for all the 210 facilities in this country.

Eng. Maina: Mr. Speaker, Sir, in some areas, like my area in Mathira, communities have come up health centres some of which have much better infrastructure than what the Assistant Minister has done. As a way of helping the community and encouraging them, could the Assistant Minister confirm that he will supply equipment to these facilities which communities have contributed to set up and assisted in terms of development?

Mr. Kambi: Mr. Speaker, Sir, it is the tradition of this Parliament that for anything to be spent, it must be approved by this House and the Ministry of Finance. So, we will bring this proposal to the relevant authority which is the Ministry of Finance and if they give us money, yes, we can buy the equipment.

Mr. Chachu: Mr. Speaker, Sir, I want the Assistant Minister to inform us when these health centres in the entire Republic will be operational. For some of us, this is the only semblance of a hospital that we have in our constituency to the level that the conditions that we were given under the CDF this year was that Kshs17.2 million was invested in that health centre so that we can build a theatre and make it operational. This would also mean that the medical personnel posted to North Horr can go to that health centre and start assisting the people of North Horr. Mr. Speaker, Sir, I want the Assistant Minister to tell us the plan that they have that will make this health centre operational in terms of human resource as well as the equipment.

Mr. Kambi: Mr. Speaker, Sir, we have already started operationalizing some of these facilities. I said earlier on that we have opened those facilities which have been completed. In fact, I have personally opened about five. If the hon. Member is ready with his facility, he can write to the Ministry and we can operationalize it.

Mr. Ruteere: Mr. Speaker, Sir, my last question is; when does the Assistant Ministry think we should open Kibuline Health Centre/Dispensary; after having supplied that equipment that he is keeping in the stores?

Mr. Kambi: Mr. Speaker, Sir, as soon as the equipment is supplied the hon. Member should write to us so that we can operationalize the health centre because we want to minimize the suffering of our people.

Thank you.

Question No.1363

FACILITATION OF HAWKERS IN NAIROBI

Mrs. Shebesh asked the Minister for Local Government what plans the Ministry has to ensure that hawkers in Nairobi are facilitated to have a structured system to sell their wares in view of the rapid urbanization in the city.

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

The City Council of Nairobi and the central Government have been grappling with the idea of proper management of hawking and other related informal commercial activities in the city. The number of hawkers in the city has increased steadily due to the slow economic growth which does not create conditions for the supply of labour force and partly due to lack of preparedness to accommodate the informal activities in the city.

Mr. Speaker, Sir, the Ministry, in conjunction with the City Council of Nairobi, intends to undertake measures in order to address the hawking challenges in Nairobi. To this end, the following sites are being proposed for upgrading and expansion in order to accommodate as many hawkers as possible. The areas include Uhuru, City Market, Mwariro, Westlands, Karandini, Dandora, Jericho, Umoja, Makadara, Shauri Moyo and Eastleigh. The available sites cover a total area of 13.5 acres of land and if properly utilized, can accommodate 12,000 stalls.

The other measure is to free the CBD as much as possible from adverse effects of disorganized hawking activities. We need to employ measures that promote security in the designated areas for hawking activities in order to make the sector attractive and vibrant, ensure that the designated sites are not only accessible, but are also provided with adequate or necessary supporting infrastructure and ancillary facilities and services. We also need to establish licensing procedures that are simple and flexible for the sector to ensure maximum use of the facilities and ensure that due consideration is given to the disabled in the designated trading areas.

Mr. Speaker, Sir, Muthurwa Market has already been constructed, and hawkers are already using it to sell their wares. It is also used as a bus terminus for public service vehicles plying the Eastlands route, thereby helping reduce congestion of traffic in the city centre. Refurbished kiosks have also been constructed in various suitable locations since 2008 to address the informal sector challenges. In addition, we remain open to new ideas that can help increase self employment activities and opportunities within the city.

Mrs. Shebesh: Mr. Speaker, Sir, I want to thank the Assistant Minister for his answer. However, does his answer emanate from “the Nairobi we Want Blue Print” that was done with the highest level of consultation by the former mayor, “Magic” Mwangi? One of his recommendations was to close certain roads within Nairobi during certain times to allow for hawking. As you are aware, there is no point of taking hawkers to areas where there are no customers. Is the Assistant Minister following that plan which suggested closure of the road that starts from the International Life House? It would serve as a hawking street for Nairobi residents on Mondays and Tuesdays, or Wednesdays? This is done in other countries.

Mr. Nguyai: Mr. Speaker, Sir, “the Nairobi we Want Blue Print” has been superseded by quite a number of other visions, including the Vision 2030 and the Nairobi Metropolis Vision. So, we are using the latest plans for that matter.

Mr. Kiuna: Mr. Speaker, Sir, I concur with the Assistant Minister’s answer. However, these hawkers are entrepreneurs and they create employment for the many youths. Does the Ministry have specific plans to expand this programme to other major towns like Nakuru and others? This should not happen only in Nairobi.

Mr. Nguyai: Mr. Speaker, Sir, under the Kenya Municipal Reform Programme there are other cities, particularly the major ones that are being considered. There are plans to accommodate hawkers there. Since this Question was specific to Nairobi, I only dwelt on Nairobi.

Mr. Imanyara: Mr. Speaker, Sir, we are asking for specifics. The practice where you would close, on weekends, certain short sections of roads and markets and make them available for hawking at reduced rates was the original plan for Nairobi; it was to affect Mama Ngina Street, which used to be called Queensway Street, and other areas around the CBD. What specific plans has the Ministry taken to implement that project, which was designed to help the poorest of Nairobi residents? That is what we want to know rather than his generalized statements about one programme having been overtaken by another one.

Mr. Nguyai: Mr. Speaker, Sir, as far as the issue of closing certain streets is concerned and specifically over the weekends in order to accommodate additional informal activities and trade, I think that is a substantially different Question and I would want to address it as such.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I am not too sure whether the question that has been asked is substantially different from the one in the Order Paper. This is because it arises generally from the same issue. What are they considering doing so that you actually consider timelines when people can hawk? This is done in other cities. We are dealing with a very simple issue as if it is a matter of rocket science. Why can he not just provide specific times when people can hawk even on major streets?

Mr. Nguyai: Mr. Speaker, Sir, as far as ensuring that we have spaces over the weekend, I will instruct the Council to provide me with specific guidelines. Most importantly, if they have not done anything to provide for this in their Council minutes, I will need to address that issue.

Mrs. Shebesh: Mr. Speaker, Sir, the model we are asking for is the one already being used at the Maasai Market; they move from one area to another, say ten times in a week. It is that kind of arrangement that I am hoping the Assistant Minister can tell us about; does it exist to allow for hawking? Our population in Nairobi is about four million during the day and about three million during the night. This means that about one million people come from outside Nairobi to do business and many of them are hawkers. Does the Ministry have a plan, or they do not have one so that we can work together to provide it?

Mr. Nguyai: Mr. Speaker, Sir, the whole budget for the construction of additional markets is Kshs2 billion. On this particular issue, we will provide additional information as soon as we get it.

Question No.1041

MEASURES TO CURB DRUGS/
ALCOHOL CONSUMPTION

Mr. Speaker: Member for Marakwet West. He is not present? The Question is, therefore, dropped.

(Question dropped)

Question No.1526

NON-PAYMENT OF BENEFITS TO ALICE WAMBUI KABUGI

Mr. Kabogo asked the Minister for Education:-

(a) if he is aware that Ms Alice Wambui Kabugi, a retired primary school teacher (TSC No. 73615) has been following up on her benefits since June 2007, without any success; and,

(b) when she will be paid.

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, you will recall that this is the third time we are addressing this matter to do with the pension of one Alice Wambui Kabugi, who is a retired teacher. The latest information I have from the Pensions Department is that Alice Wambui Kabugi's pension is now being processed. There is this document here which is an assurance. I had to get it this afternoon from the Director of Pensions. That was the bit that was left to ensure that Alice is paid her pension.

Mr. Kabogo: Mr. Speaker, Sir, you have heard the Assistant Minister telling you that this Question has been on the Order Paper three times, which is true. Every time the Question appeared on the Order Paper, the Ministers sought time to go and find out when this pensioner would be paid her money. The first one was Minister Mutula Kilonzo on 10th May, 2012. He sought two weeks which he was given. On 22nd May, 2012 and 23rd May, 2012, more time was sought. I am not sure whether the Assistant Minister is satisfied with what he has told the House, that the process to pay this pensioner has started. The Question that was deferred was: When will she be paid? He has now come to tell the House that the "process---" I do not know what that "process" is. The Question was "when she would be paid".

Mr. Speaker: Order, hon. Kabogo! Avoid repetition. Assistant Minister, when will she be paid?

Mr. Mwatela: Mr. Speaker, Sir, I beg to explain the circumstances that led to the withholding of the pension for Alice. There was an overpayment of Kshs1 million to her account and as such, upon discovery of that anomaly, the Anti-Banking Fraud Unit at the Central Bank of Kenya (CBK) closed her account. I made it clear here that even if there was an over-payment, that should not interfere with the payment of the pension to Alice. So, I can only go by the undertaking that I have from the Director of Pensions that they are now processing the pension of Alice. I do not think there is much I can say.

Mr. Speaker: Order, hon. Members! This matter has actually been transacted severally as indeed hon. Kabogo acknowledges but I see from what the Assistant Minister has tabled that the Director of Pensions, one, Anne Mugo, has undertaken that the pension for Alice Wambui is being processed. Assistant Minister, will it be in order and will you undertake to monitor the Pensions Department and in particular the Director of Pensions who has given this undertaking to pay this pension not later than the end of July this year? Confirm that undertaking and follow up?

Mr. Mwatela: Mr. Speaker, Sir, I will undertake to follow up that issue and follow your directive to the letter so that payment is made by the very latest, end of July.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Given that the Pensions Department is another department of Government, could he also, as he gives that undertaking assure and undertake to this House that he will not come back here and say that the matter is now in another Ministry which is handling it and that, in fact, that money will be paid because we know what happens? They will come and say that they are now a department of Government in the Treasury and their hands are tied. Can he give that undertaking that that will not be the answer he will give here when the matter comes up?

Mr. Speaker: Order, hon. Imanyara! I know you have a genuine concern but the Assistant Minister has been made to give an undertaking to the House. I do not believe that undertakings are given lightly. If the payment is not effected by the end of July, we surely will deal with this Assistant Minister. An undertaking is a serious matter, hon. Imanyara and we know it.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. Now that he has given that undertaking, would I be in order to request that you direct that it be on the Order Paper on the first week after that July so that we monitor if it has been done?

Mr. Speaker: For the moment, I am satisfied by that undertaking as given by the Assistant Minister. We will definitely take action if no payment is effected by the end of July.

Mr. Kabogo: Mr. Speaker, Sir, I agree with you but Standing Order No.82 requires a hon. Member to give information to the House that is accurate and you have heard the Assistant Minister say that the reasons why there was delay was because this lady was overpaid and it is on the HANSARD. So, could he table that information when he comes next in July because there is nothing like that? There was no overpayment into this lady's account. I have gone with her to Kiambu. So, really, the Assistant Minister gave information knowingly to this House that was not actually factually correct. I ask for evidence, in addition.

Mr. Speaker: That is genuine. Mr. Assistant Minister, did you say that she had been overpaid?

Mr. Mwatela: Mr. Speaker, Sir, in the answer that I gave initially, I said that she was awarded a commuted pension gratuity of Kshs823,530 and a monthly pension of Kshs10,294. However, upon processing of the payment voucher and release of her dues to her account No.005000736100 at Metropolitan Teachers Society Limited, Kiambu earlier known as Yambu Teachers Sacco, it was soon after discovered that Ms. Alice Wambui Kabugi had been paid a committed pension gratuity of Kshs1,823,530 which amounted to an overpayment of Kshs1 million. That is what I said.

Mr. Speaker: Order, Assistant Minister! You have heard the directions that I have made and you have in turn given your undertaking that this matter will be satisfactorily disposed of not later than the end of July this year. If you fail to do so, we will of course enforce sanctions on you which are for the moment nondescript but can be very severe and bear in mind that you want to be re-elected at the next elections. So, what we may do to you may affect your re-election.

(Laughter)

Mr. Mwatela: Mr. Speaker, Sir, you know that in the past I have kept my undertakings.

Mr. Speaker: Next Question by hon. Koech!

Question No.1476

PAYMENT OF SHARE CONTRIBUTION/
BENEFITS TO FORMER TELKOM KENYA EMPLOYEES

Mr. Koech asked the Minister for Co-operative Development and Marketing:-

(a) whether he is aware that Messrs. Abraham Korir (PF No. 72410), Christopher Chepkwony (PF No. 45261), Mark Ngeny (PF No. 88606) and Jacob Mutuka (PF No. 46444), former employees of Telkom Kenya who were retrenched in 2008, were members of Mawasiliano Co-operative Society Ltd;

(b) whether he is also aware that the former employees have not been paid their share contributions and other benefits; and,

(c) what measures he will take to ensure that they are paid and when they will be paid.

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo):
Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Messrs Abraham Korir of Personal File No.72410, Christopher Chepkwony, Personal File No.45261, Mark Ngeny, Personal File No.88606 and Jacob Mutuka, Personal File No.46444 were members of Mawasiliano Sacco.

(b) Yes, I am aware that the said members have not been paid their share contributions and other benefits.

(c) Yes, Telkom Kenya Limited embarked on massive staff retrenchment between the year 2006 and 2008. In the process, 397 employees who were *bona fide* members of Mawasiliano Sacco were affected and became defaulters in offsetting loans owed to the Sacco. Their total indebtedness to the Sacco stood at Kshs51, 062,660. As a result, the Sacco had liquidity problems that could not enable it pay off its obligations including deposit refunds and other benefits to the members. Efforts to have the monies due recovered from the retrenched benefits failed thereby prompting the Sacco to file a suit as follows:-

(1) The Sacco filed a suit with the Co-operative Tribunal (Case No.213 of 2006), seeking to block any payments to the retrenched by Telkom Kenya Limited. The Tribunal considered the application and made a ruling in favour of Telkom Kenya Limited, thereby dismissing the suit with costs to Telkom Kenya Limited.

(2) When the case was thrown out, the Sacco went to the High Court (Case HCCC No.868 of 2010), seeking orders from the High Court to commit Telkom Kenya Limited to the debt. The matter is pending before court.

Mr. Speaker, Sir, this scenario does not allow the Minister for Co-operative Development to take any action since doing so will prejudice the case that is pending before the court. However, the society has in the past made considerable progress in refunding to its former members their dues through the concerted efforts of the Ministry and the management committee of the Sacco. A total of Kshs46 million has been paid up on first come, first served basis.

As I promised last week when I asked for more time, I was to table before this House a list of all the employees, and not just the four former employees mentioned in the hon. Member's Question, so that hon. Members can peruse it and avoid bringing more Questions on this matter.

May I table the list, Mr. Speaker, Sir?

Mr. Speaker: Yes, you may.

(Mrs. Kilimo laid the document on the Table)

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Mr. Speaker, Sir, the second document is a list of the 397 members of *Mawasiliano Sacco*, who were retrenched, and who owe the Sacco Kshs51,062,660.

May I table the list, Mr. Speaker, Sir?

Mr. Speaker: Proceed.

(Mrs. Kilimo laid the document on the Table)

The Assistant Minister for Co-operatives Development (Mrs. Kilimo): Mr. Speaker, Sir, I conclude.

Mr. Speaker: Very well.

Yes, hon. Koech.

Mr. Koech: Mr. Speaker, Sir, the Assistant Minister's answer shows very clearly that it might take a long time before these three frustrated Kenyans get paid. The three have been out of service for the last four years. As indicated by the Assistant Minister, the reason for this is the defaulters. Looking at the efforts made by *Mawasiliano Sacco*, it is like they went to court, first, seeking that Telkom Kenya Limited does not pay the defaulters.

Secondly, the Sacco sought that Telkom Kenya Limited pays the loans that were taken by the defaulters. What is the Ministry doing to ensure that *Mawasiliano Sacco Limited* actually reaches out to the defaulters to pay back the money, so that the legitimate shareholders of the Sacco can be paid? By when will these three Kenyans be paid?

Mrs. Kilimo: Mr. Speaker, Sir, as I had earlier indicated, this matter is in court. However, there is a Section in the Pensions Act which prohibits an employer from taking an employee's pension to recover loans. So, in this case, *Mawasiliano Sacco Limited* could not take the dues that were paid to these employees as terminal benefits when they were retrenched by Telkom Kenya Limited.

As to when the three will be paid, it will depend on the ruling of the High Court. If the High Court rules in favour of *Mawasiliano Sacco Limited*, they might get instructions to get a debt collector to collect the money from the retrenched employees. As for now, I cannot give a timeframe since that is a matter which is in the jurisdiction of the High Court.

Mr. Imanyara: Mr. Speaker, Sir, I have an interest in this matter because my own sister-in-law was affected by this retrenchment. I know that before the former employees of Telkom Kenya Limited were sent home on retrenchment, an agreement was reached, and part of that agreement was that Telkom Kenya Limited would actually make a payment equivalent to the Kshs51 million that the Assistant Minister has referred to, to cushion the retrenched from losing any of their benefits. Why did Telkom Kenya Limited not deposit this money as per the agreement they had reached with those who were affected by the retrenchment?

Mrs. Kilimo: Mr. Speaker, Sir, if this money was paid, it was paid to the retrenched. If I may advise the hon. Member on this case, it is *Mawasiliano Sacco Limited* which has not been re-paid the loans it gave out to the 397 members who were retrenched by Telkom Kenya Limited. If the retrenched reached an agreement with Telkom Kenya Limited, then the money went to the

retrenchees. In this case, it is *Mawasiliano* Sacco Limited which was not given the money by Telkom Kenya Limited, so that the Sacco can refund the contributions to its former members.

Mr. Speaker: Last question, Member for Mosop.

Mr. Koech: Mr. Speaker, Sir, the three former members of *Mawasiliano* Sacco Limited are really crying and seeking for a direct and clear help from the Ministry of Co-operatives Development and Marketing. The Assistant Minister has indicated that so far, *Mawasiliano* Sacco Limited has been able to pay up to the tune of Kshs46 million on first-come, first-served basis. How sure is she that the payments have actually been made on first-come, first-served basis? Is she involved in ensuring that when money becomes available for the next payment, the three former members of the Sacco benefit? I have been going to her office on the same. Could she confirm to this House that once the Sacco gets money for the next payment, the three former members will actually be paid?

Mrs. Kilimo: Mr. Speaker, Sir, I have tabled before this House a list of former employees of Telkom Kenya Limited who have not been paid their dues. I do not know where these three former members fall – whether they are among the first ones or the last ones on the list. The former members of the Sacco are being paid on first-come, first-served basis.

Mr. Speaker: Very well, Assistant Minister.

Member for Mosop, the information is available. Kindly, take time to peruse those documents.

Next Question, Member for Makueni.

Question No.1338

LACK OF DELIVERY ROOM AT
KAVUTHU HEALTH CENTRE

Mr. Kiilu asked the Minister for Public Health and Sanitation:-

(a) whether she is aware that there is no delivery room in Kavuthu Health Centre in Mbitini Division, Nzau District, and that expectant mothers have to be referred to Makindu District Hospital, over 60kms away;

(b) what urgent measures she is taking to solve the problem.

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) My Ministry started offering maternity services at the new delivery room situated at the facility with effect from 1st November, 2011.

Mr. Kiilu: Mr. Speaker, Sir, I would like to thank the Assistant Minister. He is one of the few Ministers who give straightforward answers to Questions. However, this facility stayed for a long time without offering maternity services merely because the hospital lacked a maternity bed but I understand that a donor has since donated a maternity bed and that is why services have resumed. Is the Ministry now prepared to provide the essential equipment that goes hand-in-hand with the maternity bed, so that efficient delivery services can be offered at that facility? I have already supplied the Assistant Minister with a list of the equipment that goes hand-in-hand with the maternity bed to enhance service delivery at the facility.

Mr. Kambi: Mr. Speaker, Sir, we have received the request of the equipment. We are going to consider it with a view to supplying the equipment, so that there can be smooth delivery of services at the facility.

Mr. Kiilu: Mr. Speaker, Sir, once again, I want to thank the Assistant Minister for that assurance. However, the facility cannot offer services for 24 hours because it lacks electricity. The health centre is at a market centre where there is electricity. Could he consider having this facility connected to the National Grid, so that electricity can be supplied to it 24 hours a day?

Mr. Kambi: Mr. Speaker, Sir, I will look into that request. However, I would like to ask the hon. Member if he could share costs with us through the Constituency Development Fund (CDF). There is also the Rural Electrification Project through the CDF.

Question No.1251

STALLED WORKS AT SMALL POWER
PLANT IN NORTH HORR TOWN

Mr. Chachu asked the Minister for Energy:-

- (a) whether he is aware that the works at the small power plant being constructed in North Horr, Marsabit County has stalled;
- (b) what the reasons for stalling of the project are; and,
- (c) when the construction works will recommence and be completed to enable the residents of North Horr have access to electricity.

The Assistant Minister for Energy (Mr. Magerer): Mr. Speaker, Sir, I beg to reply.

(a) The construction works at the small power plant in North Horr Town has not stalled but it has delayed.

(b) The delay in the implementation of this project was caused by a procurement challenge. The tendering process was concluded in early 2009/2010 but annuled by the Public Procurement Oversight Authority (PPOA) after an appeal by one unsuccessful bidder.

(c) The tender was then re-advertised on May, 2010, and awarded in November, 2010. To date, work is in progress. It is expected, however, that the commissioning of these works will be done by 31st July, 2012.

Mr. Chachu: Mr. Speaker, Sir, I want to thank the Assistant Minister for the response and for stating clearly that they are to be commissioned by 31st July, this year. This is the first power plant in the entire constituency. For two years we have been very anxious as the people of North Horr Constituency that, at least, one of our towns will have one form of power.

Could the Assistant Minister guarantee that the project will be commissioned on 31st July? I was in the office two weeks ago and I was given a different date, earlier than this. I want a firm commitment.

Mr. Magerer: Mr. Speaker, Sir, I want the hon. Member who is a very good friend of mine to trust me. I want to give reasons why the date that I have given him is correct. We have a process that we have to follow to ensure that the job is done once and for all. Of course, I want to apologise for the delay. You know very well in the Ministry of Energy we do not want to preside over inefficiencies. I will not defend our people on the ground who were supposed to implement this project. But because of the reasons that I have given, and I have now taken responsibility, hon. Chachu should not have any worry or doubt. I want to assure him personally that I will be there to commission the project on the said date.

Mr. Lekuton: Mr. Speaker, Sir, by the time the station in North Horr was started, the one in Laisamis and many other stations in this country also commenced. What is the fate of stations in Laisamis, Mandera and other places which were started at the same time - two and a half years ago? We want an answer from the Assistant Minister because we need electricity badly.

Mr. Magerer: Mr. Speaker, Sir, my colleague from Laisamis is suffering almost a similar fate. This job was awarded to one contractor who works in that area. I think the challenges that we have faced have been addressed. I want to assure the hon. Member that in his case, the transformer got destroyed when it was being mounted and I think there was a problem. We did not think it was fit for us to put for him a faulty transformer. We have now procured a new transformer and I want to assure the hon. Member that his case might be completed earlier or specifically on the same date since I will be in the area to ensure that the people of the entire area of Marsabit and North Horr are able to enjoy electricity like other Kenyans.

Mr. Washiali: Mr. Speaker, Sir, the current Constitution emphasizes a lot on fair distribution of resources. Electricity is one of the resources that need to be shared equally. You will find that there are some areas that have high connectivity while others like Marsabit and Mumias have very low connectivity. What has the Assistant Minister done in his Ministry to make sure there is fairness in the distribution of power?

Mr. Magerer: Mr. Speaker, Sir, the concerns of the hon. Member are genuine. However, you will recall that this House gives the opportunity to Members of Parliament to prioritize projects within their constituencies. So, it can be very difficult for me if hon. Members do not prioritize some of the areas that they feel require access to electricity. I will undertake an affirmative action to ensure that some of the areas like North Horr which are vast are given slightly more funding than others. That does not mean that we have to distribute every single resource in this country in a proportion that is equal.

Hon. Members have to appreciate the fact that some areas are sparsely populated and distances between urban centres or villages and others are quite big. In the area that we are talking about, we have spent about Kshs136 million but we have not been able to do as much if we would have spent Kshs136 million in Mumias. So, I want hon. Members to understand me and help me when they have their constituency allocation to be able to do the correct prioritization.

Mr. Chachu: Mr. Speaker, Sir, God willing, I will wait for the Assistant Minister on 31st in North Horr. I have no further question.

Mr. Magerer: I will be there, Mr. Speaker, Sir.

Question No.1551

PURCHASE OF BOOKS ON SOCIAL ISSUES IN SCHOOLS

Mr. Odhiambo asked the Minister for Education:-

(a) what the Government is doing to ensure that books and instructional materials for primary and secondary education that parents buy address social issues such as gender, environment, HIV/AIDS, children rights, human rights, computers, drug abuse, school safety, peace education, among others, and;

(b) whether there are plans to have regional and decentralized centres for the production of such books and instructional materials.

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, I beg to reply.

(a) The Ministry, in consultation with education stakeholders continuously reviews curriculum for both primary and secondary schools and ensures that emerging issues are captured and incorporated as topics or new subjects. In some cases the issues become cross-cutting throughout the whole curriculum, for example, HIV/AIDS.

The Kenya Institute of Education approves school books and other instructional materials carrying the KIE logo. Parents are, therefore, requested to ensure that the books they buy are KIE-approved.

(b) It is definitely ideal to have the centres set up or decentralized for production of school books and other instructional materials. The Ministry has published the Kenya Institute of Curriculum Development Bill, 2012, and it is awaiting enactment into law by Parliament.

The hon. Member is, therefore, requested to give his input towards actualization of this idea of decentralizing the functions of the KIE.

Mr. Odhiambo: Mr. Speaker, Sir, I want to thank the Assistant Minister for his answer. In his answer he has failed to address totally the issues that I have mentioned as emerging issues. I have mentioned nine of them and he has simply touched on one. His answer says that these emerging issues are reviewed according to the needs and in consultation with stakeholders. What has the Assistant Minister done to ensure that there is a timeline which in itself tells us when the other emerging issues that he has avoided to address will be incorporated into our school curriculum at both primary and secondary school levels?

Thank you, Mr. Speaker, Sir.

Mr. Mwatela: Mr. Speaker, Sir, I thought I was going to be reasonably brief but if the Member wants me to be detailed, I could attempt to do so. I know the emerging issues that have been raised are social issues such as gender, environment, HIV/AIDS, children rights, human rights, computers, drug abuse, school safety and peace education among others.

I want to assure the Member that curriculum development--- When I answered and said that emerging issues are captured and incorporated as topics I meant exactly that. These issues are factored in when you are writing or developing a geography curriculum you will touch on issues that have to do with environment; when writing or developing curriculum in history you will touch on human rights. I wanted to be brief but it does not mean that I ignored anything. We are definitely making sure that all these issues are factored in, in the development of curriculum. I am speaking authoritatively as a curriculum developer.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I also want to thank my namesake, Mr. Odhiambo, for bringing this very important Question.

I want to indicate that when I worked in the civil society I worked with seven Ministries of the Government of Kenya, including the Ministry of Education, in a programme called “mainstreaming in action” that was supported by development partners, including the Swedish International Development Agency (SIDA), which sought to mainstream what you call cross-cutting issues and which are what Mr. Odhiambo wants put in curriculum.

Mr. Speaker, Sir, it was not an accidental process the way the Minister is saying. Is there a policy that has been developed to mainstream these cross-cutting issues in curriculum development? These are issues of environment, human rights, children’s rights, protection from violence against women and men and peace.

Mr. Mwatela: Mr. Speaker, Sir, I do not have the policy with me, but there is. I will gladly table the policy.

Mr. Lekuton: Mr. Speaker, Sir, the Assistant Minister has clearly said that these new issues like HIV/AIDS, children's rights, drug abuse, among others, are emerging issues in this society. These emerging issues need serious consideration. Having a curriculum that does not provide a basis for professionals who teach is very serious. I want the Assistant Minister to undertake to this House, and this country, that these issues need psychologists and counselors who would lead this process in order to cure them in our society. Could the Assistant Minister assure this House that they will employ enough of them or train them?

Mr. Mwatela: I fully concur with the hon. Member. There is need to employ people who are versed in different issues that are emerging to make sure that these things are captured properly in our education system as we try to implement Vision 2030. We definitely need to get the correct personnel. I fully agree with the Member and we will try as much as possible to make sure that we hire enough personnel to address those issues.

Mr. Speaker: Last question, Mr. Odhiambo.

Mr. Odhiambo: Mr. Speaker, Sir, in the second part of the Question, I have addressed myself to the fact that the Ministry should be thinking about decentralizing the functions of the Kenya Institute of Education (KIE) which develops the curriculum in accordance with the new Constitution. We are devolving our systems to the counties. Here, you are not addressing that as such. What are you doing about it so that we can decentralize these services as per our new Constitution?

Mr. Mwatela: Mr. Speaker, Sir, I think I said that there is a Bill that has been published. Maybe I should table the Bill for the hon. Member's sake, and so that he can give his input. I fully concur with the hon. Member that we need to decentralize. We have a new Constitution that recognizes devolved Government, and these institutions need to get to the grassroots. I think we have made an attempt and his input will be graciously received.

Mr. Speaker: Order, hon. Members! That brings us to the end of Order No.6.

Next order.

Hon. Members, unlike in the past when we would take Statements which are due for delivery first, there is an urgent matter that we will make exception to and take the Member for one of the Immentis, Mr. M'Mithiaru.

POINT OF ORDER

ATTACK ON NDOLERI DIVISION RESIDENTS

Mr. M'Mithiaru: Mr. Speaker, Sir, I stand to seek a Ministerial Statement from the Leader of Government Business with regard to the massacre that rocked Ndoleri Division of Igembe North District on the morning of Friday 8th of June, 2002.

Mr. Speaker, Sir, noting that these attacks were unleashed on the people of Ndoleri while a sleep by the raiders who are believed to have come from the Kina area in Isiolo South District, the Leader of Government Business should explain the cause of the brutal act that left seven people dead on the spot and another succumbed to gun injuries on 12th of June.

I would want the Minister to confirm that these raiders, who did not carry anything with them, also killed four head of cattle. I would also wish the Minister to explain the action the Government is taking to track and apprehend the killers.

Mr. Speaker, Sir, in the Statement I would also want the Minister to explain the actions taken by the Government to avert a recurrence of similar attacks and\ or avert any possible retaliatory attacks.

I would also want the Minister to consider establishing a security camp at Kinandubaa area to enhance security in the region, and to confirm that the Government will extend some assistance to carter for the burial and other related expenses to the families of the bereaved.

Mr. Speaker, Sir, I would also want the Minister to confirm that the Government will recruit Kenya Police Reservists (KPR) in the community to enhance security.

When giving the response, I would wish that the Minister takes cognizance of the fact that I had talked to the late Minister of State for Provincial Administration and Internal Security; I quickly rush to join the rest of the Members and the rest of Kenyans to mourn the Minister. He had promised to visit that area in my constituency today, 13th of June. He was to address these issues.

Therefore, the Minister in his response should reassure my constituents that he will actually take up this issue the way the late Minister had planned to do.

Thank you.

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

Mr. Speaker: Order, you will have to supplement that because I know that that area is around you.

Mr. Imanyara: Indeed, Mr. Speaker, Sir. Whoever it is from the Government who rises to give that Ministerial Statement, given that the burial for these unfortunate Kenyans is scheduled for Monday, if it can be given tomorrow and the Government can undertake to meet the expenses of the funeral that is going to take place on Monday rather than wait for the Statement to come after the funeral because these are poor people who have been affected by this massacre. Since the funeral is for Monday, there should be an assurance that the Government will take responsibility for all the expenses relating to the burial on Monday.

Mr. Speaker: Order! Hon. Members, you will notice that that Statement was approved to be raised to the Leader of Government Business because of the urgency of it and the fact that the situation which has arisen in that area needs to very quickly be brought under control, if not contained. So, Deputy Leader of Government Business, can you give certain assurances because the security of Kenyans is paramount and it must be kept all the time?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, on behalf of the Government and I believe all of us, let me start by passing our condolences to the families that were affected in this very unfortunate incident and to ask the people within that area to just stay calm as we carry on the investigations that will lead to the sorting out of not just that incident but avoid a recurrence of any similar incidents in that area or indeed in any other section of this country. I would also want to assure the House and Kenyans that the security personnel are alert to these incidences and are doing whatever they can to avert similar issues.

In terms of a more comprehensive Statement of what happened, that may well have to come next week. However, in terms of the issue of the expenses being on Monday, let me undertake to consult and we can see what can be done between now and Monday within the normal administrative structures with or without a Statement to Parliament. I believe that is the fairest thing so that we get a comprehensive Statement next week and then in terms of the funeral, I will undertake to consult with the Office of the President and we see what can be done to assist the situation.

Mr. Speaker: Yes, except this: That given the urgency of the matter and the anxiety which has been created in that area, can you reconfirm the promise by the late Minister of State for Provincial Administration and Internal Security that the visitation which he had undertaken to make will still be made?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I am sorry, I forgot about that. We will also make arrangements at some point for the visit either from that Ministry whenever the appointments are made or before, that we will liaise with my Leader of Government Business to see what level of representation would be necessary to go and provide the political solution. This is because it is the political solution to the issue. The technical matters are already ongoing but that would be to provide a political solution to the matter. We can work on who of the Ministers will facilitate that.

Mr. Speaker: Minister, ensure that you are on top of the matter and that a Statement is ready to be delivered in the House on Wednesday next week in the afternoon. It may be you or your colleague, the Vice-President and Minister for Home Affairs but that Statement surely must come.

The Minister for Transport (Mr. Kimunya): Obligated, Mr. Speaker, Sir.

Mr. Speaker: Very well! Mr. Imanyara.

(Mr. George Nyamweya stood up in his place)

Order, Mr. George Nyamweya! We are moving on. That particular matter raised by Mr. M'Mithiaru is closed.

EXECUTIVE INTERFERENCE IN CONSTITUTIONAL PRINCIPLE OF SEPARATION OF POWER

Mr. Imanyara: Thank you, Mr. Speaker, Sir, for this opportunity for me to seek a Ministerial Statement from the Attorney-General regarding what I see as a very dangerous emerging trend of interference by the Executive on the constitutional principle of separation of powers. This arises directly out of the unfortunate incident in which two of our colleagues died under yet unexplained circumstances. The first part relates to the summoning of Members of Parliament to what was essentially an Executive function through the Permanent Secretary in the Office of the President who is also the Acting Head of Public Service through an SMS addressed to hon. Members.

It is established that when the Government wishes to relate with the Legislative arm of Government, it should come through your Office and through the Clerk and we should never be summoned to meetings of the Executive as Members of Parliament.

Secondly, at that meeting, His Excellency the President indicated that there would be a thorough, fair and impartial investigation of the circumstances that led to the death of our two colleagues. Immediately thereafter, the Minister for Transport purported to make an announcement under which he appointed a member of the Executive to sit in an investigation of the incident contrary to the provisions and constitutional practice and also the principle set out in the law regarding the setting up of commissions of inquiry.

In that Statement, we need to be explained the basis upon which the Executive would purport to directly interfere with the Judiciary by appointing a serving member of the Judiciary to a committee that is not a judicial commission of inquiry and that has not followed the law

relating to public inquests. This is important as we move towards implementing the new Constitution. It is very important and as we go to the General Elections that each arm of Government recognizes their areas of competence and desist from either interfering or appearing to interfere with the constitutionally mandated areas of jurisdiction.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order! It appears that there are further interests to raise an issue that perhaps you will consider even as you come with the Statement.

Ms. Karua: Mr. Speaker, Sir, I wish to support that point of order, especially the part that relates to appointment of a serving member of the Judiciary without perhaps consulting the Chief Justice. When you respect separation of powers, the Executive does not choose for itself which judicial member will be a member of the committee. They request the Judiciary and the Judiciary gives a person but this handpicking by the Executive is not good for separation of powers. It is not even good for the confidence of the public. The Minister needs to make a serious explanation as to this and, to me, it is part of a continuing sabotage of the reforms that we are implementing. So it needs an explanation.

(Mr. Duale stood up in his place)

Mr. Speaker: Yes, Mr. Duale, and refrain yourself from going outside where we are.

(Laughter)

Mr. Duale: Mr. Speaker, Sir, I will follow your directions. On the last bit by Mr. Imanyara, we want the Minister to give the nation what parameters he used when forming commission of inquiry.

Further, these are two colleagues of this august House and very important leaders. Prof. Saitoti was a very important leader among the pastoral community. We will be very happy if the Minister in his answer could tell us whether the families of Prof. Saitoti and hon. Ojode were consulted. What role and at what point will they participate? Even the others, what will be their role in this inquiry?

Mr. Speaker: Mr. Minister, when will the Statement come?

The Minister for Transport (Mr. Kimuya): Mr. Speaker, Sir, I can respond to those issues now because I have all the facts.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. I was very clear at whom I was directing my request. It is the Attorney-General as the legal advisor of the Government because there are constitutional issues involved and this Minister is an interested party. My request was very specific and he cannot purport to speak on behalf of the Attorney-General on such an important issue.

Mr. Speaker: Order, Member for Central Imenti! Your point is made. If the Member wants the Statement to come from the Attorney-General, then it has to be so, Leader of Government Business. So, what you will need to do is convey the information to the Attorney-General.

The Minister for Transport (Mr. Kimuya): Mr. Speaker, Sir, I will be happy to convey the information, but because of the matter being raised and that might have some bearing on the credibility of the team between now and the time the Statement is given, I just wanted to clarify some things on this matter.

Mr. Speaker: Order, Minister! Because you now see the matter as urgent, can we then do it tomorrow afternoon at 2.30 p.m.? Ask the Attorney-General to come with all the information and supply whatever you have to him.

The Minister for Transport (Mr. Kimuya): Mr. Speaker, Sir, we will be happy to give this information tomorrow. The Statement can be made tomorrow in the afternoon, the earliest, by the Attorney-General.

Mr. Speaker: Order! In parliamentary terms, it will still be tomorrow anyway. We interpret that by our rules. So, Minister, please, bear in mind the urgency of the matter. Please, ensure that the Attorney-General addresses himself to all the issues raised because it is bigger than just transport. The Member for Central Imeni has addressed the area of summoning Members of Parliament to a meeting, for instance. I am not so sure you will have been prepared to address that immediately. So, let us have it tomorrow at 2.30 p.m.

LIONS ATTACK ON LAIKIPIA RESIDENTS

Ms. Karua: Mr. Speaker, Sir, last week, I stood here and requested for a Ministerial Statement from the Ministry of Forestry and Wildlife. They undertook to give that Statement last Thursday, 7th June, and which they failed to do. I raised the issue and the Leader of Government Business who was present in the House, I do not know whether it is my colleague or my late colleague, *Serikali*, undertook to inform the Ministry. That Statement has still not been delivered and I do not see anybody from that Ministry. I am seeking your directions as to when this Ministerial Statement may be given. It is related to two ladies who were mauled down by a lion from a private farm in Laikipia.

Mr. Speaker: Yes, Member for Gichugu, in fact, I have confirmed that you raised that matter on 30th May and there was an undertaking that the Statement would be delivered on 7th June, now passed. So, Minister of State for Public Services! Or you want the Leader of Government Business to deal with that?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, when it is here, it is within his mandate and indeed, duty to make this undertaking, but I will do this one and follow up on the Statement.

Ms. Karua: Mr. Speaker, Sir, I have a duty to disclose because I have just been informed by my colleague that indeed, the Minister was here in the morning and requested to give the Statement later because I was not in. So, may I request that it be given on Tuesday next week?

Mr. Speaker: It is so directed! Thank you for your transparency over this matter.

MINISTERIAL STATEMENT

CLOSURE OF ALCOHOLIC DRINKING POINTS AROUND 300 METRES OF SCHOOLS

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, first, may I thank you for giving me this opportunity which otherwise would have been lost. The matter in question arises out of Question No.1041 by hon. Kaino, who is not in the House. This issue was addressed except that we were asked to bring to the House, as a Ministry, the action taken as regards the closure of alcoholic drinking points within a radius of 300 metres of learning institutions as the law stands.

I beg to table two documents. One is a letter from my Permanent Secretary to the Permanent Secretary, Ministry of State for Provincial Administration and Internal Security on the matter, requesting that the law be complied with and close down those bars. The second one is a circular to the County Directors of Education on the same matter to ensure that there are no bars whatsoever within 300 metres of schools.

(Mr. Mwatela laid the documents on the Table)

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. As the Chairperson of the Parliamentary Caucus on Children and this issue touches on education and the lives of the young people in schools, could we be given a chance to peruse the documents that have been laid on the table and the matter come up again on Tuesday, so that we can interrogate it further? I would also be requesting the House that once in a while, we can be allowed to know the schools that are in the House because I have been looking at the school curiously which is wearing a brown uniform and it looks like Limuru Girls, which is my former school. If they are the ones, I am very proud. They are wearing chocolate uniform with chocolate socks. I do not know if they are the ones because uniforms are similar.

Mr. Speaker: Very well. We will consider that if we can make it part of our Communication, but the best I can say now is that we are going to consider that proposal. If you are talking about Limuru Girls High School, I have also associated with it as a parent.

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, I have no objection to the request. Actually, if we had enough time, the documents are not too lengthy and you could have read them, so that it is known to the whole country.

Mr. Speaker: Order, Assistant Minister! Just give the gist of the document. What is the gist of the document? What is the document calling on the Permanent Secretary, Ministry of State for Provincial Administration and Internal Security to do?

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, I will read one paragraph from the letter to the Permanent Secretary. It reads that:-

“This is to request your urgent action to co-operate for closing all bars and alcoholic drinking points around schools as directed by Parliament and submitting the implementation status report to Parliament”.

Mr. Speaker: Very well. That is good enough. So, it is now in the public domain that the organs in charge of administration will close all bars within 300 metres of any school within the next two weeks or so. Let them know and take action immediately. The next is a Statement by the Chief Whip.

POINT OF ORDER

UPDATE ON FUNERAL ARRANGEMENTS FOR VICTIMS

OF SUNDAY HELICOPTER CRASH

Mr. Midiwo: Mr. Speaker, Sir, this is a statement on the status of the funeral arrangements for the victims of the Sunday helicopter crash.

Mr. Speaker, Sir, let me take another opportunity to express my deepest and sincere condolences to the families of our departed colleagues, and the officers who perished with them. I wish to update the House on the ongoing funeral arrangements for the late Hon. Prof. George Saitoti, EGH, MP, Minister for State for Provincial Administration and Internal Security, his Assistant Minister, the late hon. Joshua Orwa Ojode, MP and other four Kenyans who perished following the Sunday helicopter crash in Ngong.

Mr. Speaker, Sir, we seconded Members of Parliament to the Committee in charge of the arrangements. The Committee is composed of Members of Parliament, Cabinet Ministers and Government officials. But from Parliament, the Sub-committee that I Chair comprise of the following people:-

1. Hon. Jakoyo Midiwo, MP – Chairman.
2. Hon. Johnson Muthama, MP.
3. Hon. Maj-Gen. (Rtd) Joseph Nkaisserry, MP.
4. Hon. Gedion Konchella, EGH, MP.
5. Hon. Martin Ogindo, MP.
6. Hon. Dr. Wilfred Machage, MP.
7. Hon. James Orengo, EGH, MP.
8. Hon. Dr. Naomi Shaban, EGH, MP.
9. Hon. Wavinya Ndeti, MP.
10. Hon. Maina Kamau, MP.
11. Hon. Edwin Yinda, MP; and lastly,
12. Mr. Patrick G. Gichohi, CBS, Clerk of the National Assembly.

*(Messrs. Dalmas Otieno and
Kimunya consulted in loud tones)*

Not in the Parliamentary sub-committee---

Mr. Speaker: Order, Chief Whip! Address the House. Do not listen to hon. Dalmas Otieno or Amos for that matter.

Mr. Midiwo: Mr. Speaker, Sir, I am sorry. Thank you for protecting me.

Mr. Speaker, Sir, a requiem mass for the late hon. Professor Saitoti will be held on Friday, 15th June, 2012 at 2.30 p.m. at the Holy Family Basilica. The late Minister will be laid to rest at his rural home in Kitengela on Saturday, 16th June, 2012 at 10.00 a.m.

There will be prayers for the late hon. Joshua Orwa Ojode on Thursday - that is tomorrow - 14th June, 2012 at 8.00 a.m. at the SDA Maxwell Church in Milimani, opposite the CID offices. The late Assistant Minister will be laid to rest at his rural home in Ndhiwa on Sunday, 17th, June, 2012. The funeral service will begin at 10.00 a.m.

Mr. Speaker, Sir, there will be an inter-denominational prayers for the two pilots and two security officers on Monday, 18th, June at 10.00 a.m. at the Holy Family Basilica. That is on Monday at 10.00 a.m. It is for the officers who perished with our colleagues. The late Supt. Nancy Gituanja and Sergeant Thomas Murimi will be laid to rest on Tuesday, 19th June, 2012 in their rural homes in Kandara and Kuria, respectively. The late Inspector Joshua Tonkei will be

laid to rest in Narok on Wednesday, 20th June, 2012, while Supt. Luke Oyugi will be buried in Alego Usonga on Thursday, 21st June, 2012.

Mr. Speaker, Sir, we expect hon. Members to find their way to Kitengela since it is not far from Nairobi on Saturday. But we have a challenge that Ndhiwa is very far from Nairobi and, therefore, we want to give the following advice to hon. Members. We are saying that Members who wish to travel to Ndhiwa are requested to register with the Clerk's Office. We expect that Members shall self-drive to Ndhiwa. I will give the reasons.

Mr. Speaker, Sir, one option open to us would have been to fly Members to Kisumu and make transport arrangements. From Kisumu to Ndhiwa, it is not particularly very near. So, arising from the sentiments of hon. Members here yesterday - about flying too many Members in one vehicle - it makes us not to recommend the option of flying Members to Kisumu in a group. We are saying that while the wounds are still fresh, the best way would be for Members of Parliament to drive themselves to Ndhiwa. The other option would be to fly military caravans to Homa Bay Airstrip. However, there are issues with that mode of transport. The maintenance of those vehicles run by Government has not been audited and Members spoke as much. So, we are saying that the Office of the Clerk needs to register Members wishing to go to Ndhiwa. We shall facilitate them. We want them to tell us whether they plan to sleep there and, if so, when they need to go. We are sending officers of Parliament to Ndhiwa tomorrow, first thing in the morning to aid Members and make it as successful as we possibly could, during that arrangement. So, we will also ask Members to tell us if they need hotel arrangements so that they can drive either on Saturday night or Sunday morning, but be back by Monday for those other arrangements.

Mr. Speaker, Sir, lastly, we have decided, as a Committee, that the departed are our colleagues and public servants. In the spirit of condoling with them, we are asking each Member to contribute Kshs30,000 - all Members without fear or favour, or without discrimination. That will be done by the Office of the Clerk and we shall divide that money amongst all the six families without discrimination.

I thank you.

Mr. Speaker: Very well. Order, hon. Members! It is that clear. We shall facilitate Members who want to travel to Ndhiwa in the usual manner within our regulations. We will not go out of the regulations. So, please, note.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE CANCER PREVENTION AND CONTROL BILL

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, we are now in the Committee of the Whole House in order to look at The Cancer Prevention and Control Bill (Bill No. 47 of 2011).

Clause 2

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

THAT, Clause 2 of the Bill be amended-

(a) in sub clause (1) in the definition of “Institute” by deleting the words “Cancer Prevention and Control Institute” and substituting therefor the words “National Cancer Institute of Kenya”;

(b) in sub clause (2) by inserting the words “and reference to a Principal Secretary shall be deemed to be a reference to a Permanent Secretary” at the end thereof.

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

Clause 3

The Temporary Deputy Chairman (Mr. Imanyara): Once again, there are two proposed amendments, I think by the Mover and also by the Minister. Mover, would you move your proposed amendment?

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

THAT, Clause 3 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (d)-

(e) promote access to quality and affordable diagnostic and treatment services for persons with cancer;

(f) ensure sustainable capacity for the prevention and control of cancer.

The Temporary Deputy Chairman (Mr. Imanyara): Because there are two amendments being proposed, just give a summary of what that entails.

Dr. Monda: Mr. Temporary Deputy Chairman, Sir, the amendment proposed by the Minister is the same as my amendment.

The Temporary Deputy Chairman (Mr. Imanyara): Therefore, I get it that the Minister will be withdrawing his amendment in the event that this is carried.

Dr. Monda: Yes, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Imanyara): Is that so, Minister?

The Minister for Medical Services (Prof. Anyang'Nyong'o): Mr. Temporary Deputy Chairman, Sir, I think the amendments are the same. I concur with the Mover and I wish to withdraw my proposed amendment to clause.

*(Proposed amendment to Clause 3
by the Minister withdrawn)*

(Question of the amendment proposed)

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

(Clause 3 as amended agreed to)

Clause 4

The Temporary Deputy Chairman (Mr. Imanyara): Minister, your proposed amendment is similar to the one by the Mover. Have you agreed on which one is being moved?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Chairman, Sir, the proposed amendments are the same.

The Temporary Deputy Chairman (Mr. Imanyara): If the proposed amendments are the same, I understand from the Mover that, in that event, he is withdrawing his proposed amendments and that we may proceed with the proposal by the Minister only. Just confirm.

Dr. Monda: Mr. Temporary Deputy Chairman, Sir, the proposed amendments for both of us are the same.

The Temporary Deputy Chairman (Mr. Imanyara): So, Dr. Monda, you are actually withdrawing your proposal.

(Proposed amendment by Dr. Monda withdrawn)

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause—

(1) There is established a body to be known as the National Cancer Institute of Kenya.

(Question of the amendment proposed)

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

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

(Clause 4 as amended agreed to)

Clause 5

The Temporary Deputy Chairman (Mr. Imanyara): Once again, I see that there are two proposed amendments which are similar. Minister and Mover, have you agreed on which one is to proceed, because they are similar?

Dr. Monda: Mr. Temporary Deputy Chairman, Sir, the difference in the two proposals is simply the numbering, otherwise the content of the proposed amendments are the same.

The Temporary Deputy Chairman (Mr. Imanyara): So, Minister, do I take it that your proposed amendment is withdrawn, so that we can deal with the one by the Mover?

The Minister for Medical Services (Prof. Anyang'Nyong'o): Mr. Temporary Deputy Chairman, Sir, I think we can dispose of it now and say that we accept the Mover's so that when we come to it, we do not repeat.

The Temporary Deputy Chairman (Mr. Imanyara): But you have to move formally. You have to withdraw, so that the Mover can formally move.

The Minister for Medical Services (Prof. Anyang'Nyong'o): Mr. Temporary Deputy Chairman, Sir, why do you not just confirm it now so that we do not do it again and so that we just confirm Clause 5 as proposed by me, because they are the same so that we do not repeat?

(Proposed amendment by the Minister to Clause 5 withdrawn)

Dr. Monda: That is agreed, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Imanyara): Very well! We can now hear the Mover.

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

THAT, Clause 5 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (m)-

(n) encourage and participate in provision of training on cancer prevention and control;

(Question of the amendment proposed)

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

(Clause 5 as amended agreed to)

Clause 6

The Temporary Deputy Chairman (Mr. Imanyara): Once again, I notice that the Minister and the Mover have similar proposals. Have you been able to synchronize them?

Dr. Monda: Mr. Temporary Deputy Chairman, Sir, part "a" of the proposed amendment does not appear in the Minister's proposed amendment, but part "b" is the same as the Minister's except for a variation in the number of years in the last sentence.

The Temporary Deputy Chairman (Mr. Imanyara): What I would like to hear is whether you have agreed, because the difference appears to be only the number of years. If the two of you are able to agree, then we can deal with the proposal as one.

Dr. Monda: Mr. Temporary Deputy Chairman, Sir, I have indicated that part “a” of the amendment appears in my amendment, but it does not appear on the proposed amendment by the Minister. Part “b” of his proposed amendment is similar to my proposal.

The Temporary Deputy Chairman (Mr. Imanyara): Therefore, if we carry yours, it will incorporate the Minister’s proposal?

Dr. Monda: Definitely, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Imanyara): Minister, if that is the case, may we allow him to move the amendment?

The Minister for Medical Services (Prof. Anyang’Nyong’o): That is okay, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Imanyara): So, your proposed amendment is withdrawn.

*(Proposed amendment by the
Minister to Clause 6 withdrawn)*

Dr. Monda, could you now then move your proposed amendment?

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

THAT, Clause 6 of the Bill be amended-

(a) in sub clause (2)-

(i) by deleting the word “Permanent Secretary “ appearing in paragraph (b) and substituting therefor the word “Principal Secretary”;

(ii) by deleting paragraph (c) and substituting therefor with the following new paragraph-

(c) the Principal Secretary for the time being responsible for matters relating to finance or his designated alternate not being below the level of Deputy Secretary.

(iii) by deleting paragraph (e) and substituting therefor with the following new paragraph-

(e) the Secretary of the National Council for Science and Technology or his designated alternate not being below the level of Deputy Secretary.

(iv) by deleting paragraph (f) and substituting therefor with the following new paragraph-

(f) one person nominated by Media Owners Association in such manner as may be prescribed.

(v) by deleting paragraph (g) and substituting therefor with the following new paragraph-

(g) one prominent philanthropist or industrialist of good standing;

(vi) by inserting the following new paragraph immediately after paragraph (h) as follows--

(h) one person nominated by institutions conducting medical research in such manner as may be prescribed.

(b) in sub clause (3) by deleting the words “an oncologist of not less than ten years experience” and substituting therefor the words “is a recognized medical specialist of not less than ten years experience in leadership at national institutional level”

(c) by inserting a new subclause immediately after subclause (4) as follows-

(5) No person shall be appointed as a member of the Board unless such person meets the requirements of Chapter Six of the Constitution.

(Question of the amendment proposed)

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

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

(Clause 6 as amended agreed to)

(Clause 7 agreed to)

Clause 8

The Temporary Deputy Chairman (Mr. Imanyara): Mover, you have a proposed amendment. Could you move it?

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

THAT, Clause 8 of the Bill be amended by inserting a new subclause immediately after subclause (2) as follows-

(3) Without prejudice to the generality of paragraph (f) of subsection (2), the Institute shall decentralize its services to all counties of the Republic.

(Question of the amendment proposed)

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

(Clause 8 as amended agreed to)

(Clause 9 agreed to)

Clause 10

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

THAT, Clause 10 of the Bill be amended in subsection (2)-

(a) by deleting the words “a university degree from a recognized university” appearing in paragraph (a) and substituting therefor the words “a masters degree in matters relating to cancer from a recognized university;

(b) by deleting the words “five years post qualification working experience” and substituting therefor the words “ten years post qualification managerial working experience”

(Question of the amendment proposed)

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

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

(Clause 10 as amended agreed to)

(Clauses 11, 12, 13 and 14 agreed to)

Clause 15

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 15 of the Bill be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (c)-

(d) such sums as may be appropriated by Parliament for that purpose.

(Question of the amendment proposed)

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

(Clause 15 as amended agreed to)

(Clauses 16, 17, 18 and 19 agreed to)

Clause 20

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

THAT, Clause 20 of the Bill be amended-

(a) in sub-clause (1) by deleting the words “cancer register” and substituting therefor the words “national cancer registry”;

(b) in sub-clause (2)-

(i) by deleting the word “frequency” appearing in paragraph (a) and substituting therefor the words “incidence, preference, trends”;

(ii) by deleting the word “Government and local authorities” appearing in paragraph (b) and substituting therefor the words “national and county governments”.

(Question of the amendment proposed)

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

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

(Clause 20 as amended agreed to)

Clause 21

The Temporary Deputy Chairman (Mr. Imanyara): I notice that both Dr. Monda and the hon. Minister have similar proposals for amendment. Have you been able to synchronize so that we know which one we are proceeding with?

The Minister for Medical Services (Prof. Anyang’-Nyong’o): Mr. Temporary Deputy Chairman, Sir, we will proceed with the proposer’s amendment.

The Temporary Deputy Chairman (Mr. Imanyara): Therefore, we take it that the proposal for amendment by the Minister is withdrawn.

(Proposed amendment by the Minister withdrawn)

Hon. Member, you may now move your amendment to Clause 21.

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

THAT, Clause 21 of the Bill be amended in subsection (2)-

(a) by inserting the words “person with” immediately after the word “of” appearing in paragraph (b);

(b) by deleting the word “fourteen” appearing in paragraph (d) and substituting therefor the word “sixty”

(Question of the amendment proposed)

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

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

(Clause 21 as amended agreed to)

(Clauses 22, 23, 24, 25,26, 27 and 28 agreed to)

Clause 29

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

THAT, Clause 29 of the Bill be amended by inserting the words “in collaboration with the institute” immediately before the word “shall” appearing in subsection (1).

(Question of the amendment proposed)

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

(Clause 29 as amended agreed to)

(Clauses 30, 31, 32, 33, 34 and 35 agreed to)

Clause 36

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

THAT, Clause 36 of the Bill be amended by inserting a new sub-clause immediately after sub-clause (2) as follows-

(3) For purposes of the first appointment of members of the Board under section 6, the Cabinet Secretary shall prescribe the procedures specified under that section notwithstanding the absence of the Institute but subsequent procedures shall be prescribed in accordance with subsection (1) of this section.

(Question of the amendment proposed)

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

(Clause 36 as amended agreed to)

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

Dr. Monda: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Cancer Prevention and Control Bill and its approval thereof with amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE CANCER PREVENTION AND CONTROL BILL

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Cancer Prevention and Control Bill and approved the same with amendments.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

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

(Question proposed)

(Question put and agreed to)

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, I beg to move that The Cancer Prevention and Control Bill be now read the Third Time.

The Minister for Higher Education, Science and Technology (Prof. Kamar) seconded.

(Question proposed)

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I wish to congratulate the Mover of this Bill, Dr. Monda, and note that it is very strong on prevention and weak on treatment. Dr. Monda had done his bit and it is now up to the Ministry concerned to come up with a comprehensive plan on how to relieve cancer patients of their pain of lack of treatment by having a comprehensive plan.

Mr. Temporary Deputy Speaker, Sir, this is a very noble initiative and I wish, once again, to congratulate Dr. Monda and the House for passing this Bill.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I would like to add my voice in congratulating the Chairman of the Departmental Committee on Health who has worked very closely with our people in both our Ministries; the Ministry of Medical Services and the Ministry of Public Health and Sanitation to make this Bill a

reality. As hon. Martha Karua has said, cancer has become an extremely voracious disease and ailment in our country.

Previously, it was assumed to be a lifestyle disease of the elites. Lifestyles have changed across social classes. So, all types of cancers are in our nation. Close to 82,000 persons are identified with one cancer or the other in Kenya and yet we do not have adequate facilities for cancer treatment, adequate diagnostic facilities for cancer detection and the awareness in the country is extremely low. We have a gargantuan task to deal with cancer and this Bill will go a long way to lay the legal framework for the major initiatives that this nation must take very rapidly to ensure that we deal with the cancer menace. Let me assure you that our Ministry is up to the task. All cancer arrangements are being done at the moment - funds allowing - for major initiatives to be taken as a result of this Bill.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Midiwo: Thank you, Mr. Temporary Deputy Speaker, Sir. Let me add my voice in congratulating Dr. Monda for doing what he has done. Cancer is now the usual killer. I want to urge the Minister, the case being that both Ministers concerned with issues of health are victims of cancer, to do everything within their power including sourcing for funding from outside this country so that we can, at least, try to reverse the deadly trend of cancer.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. May I join my colleagues in congratulating hon. Monda for the Bill we have just passed. While congratulating the hon. Member, I would like to mention that many of us have been indirect victims of this. I lost my father through cancer and this Bill should help us save other people from losing their lives through this disease which is preventable. I would like to encourage the Ministries to utilize the available avenues. In particular, I would like to remind them of the link we have with the International Atomic Energy Agency (IAEA) which deals with the treatment of cancer. Kenya is a signatory as well as a beneficiary in training in oncology and other areas. I would like to encourage the Ministry to utilize those services because they are useful. We know that cancer is preventable.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Madam Minister! This is Third Reading! I think you have put your case.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Thank you, Mr. Temporary Deputy Speaker, Sir.

I support.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Shakeel, last one.

(Prof. Anyang-Nyonggo consulted with Mr. Kosgey)

Mr. Shakeel: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to congratulate Dr. Monda and the House for passing this Bill. Cancer is seen as a sickness for the rich. Actually, it is not. It is very much for the poor and I hope that the Minister is listening because he is not listening.

Mr. Temporary Deputy Speaker, Sir, could you ask the Minister to give his ears?

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Shakeel! In fact, the Minister is listening because he has given you his entire ears.

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, actually, the Minister is not listening but I am saying that cancer is a disease which should have been for the poor. The very fact that the Minister himself had to go out of the country to seek very expensive treatment, the two Ministers must know that the poor cannot do that. I will be waiting to see when the Jaramogi Oginga Odinga Memorial General Hospital will get equipment for cancer treatment. By the Minister going abroad has made people aware of cancer but they are saying that it is for the rich and not for the poor. I want that to be changed.

Thank you very much, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): I said Mr. Shakeel will be the last one, but let the Mover have the last word.

Dr. Monda: Thank you, Mr. Temporary Deputy Speaker, Sir. Allow me to start by thanking the Members of the Departmental Committee on Health who have worked hand in hand with me together with the Clerks of Parliament and all the staff of Parliament who made this Bill go through the Committee of the Whole House. I want to thank the two Ministries of Health and all their staff who participated in making sure that this Bill goes through this stage. We want to look forward to whether Kenya will surely address itself with a law in place to address issues that affect the population with regard to cancer.

Thank you, Mr. Temporary Deputy Speaker, Sir.

(Question put and agreed to)

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

MOTION

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

Mr. Ngugi: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

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

You will recall that on 29th May, you informed the House that the Clerk had received a letter from His Excellency the President that nominated one Chairperson and nine Members. The letter had said that this had been done in consultation with the Prime Minister. You then committed the matter to my Committee to look and vet the nine nominees. This is clearly in accordance with our mandate which among other things gives us the right to vet persons coming under our authority.

The people who were nominated were:-

- | | | |
|--------------------------|---|--------------|
| 1. Mr. Kinuthia Wamwangi | - | Chairperson, |
| 2. Hongo Angeline | - | Member; |
| 3. Safia Abdi | - | Member; |
| 4. Mary Ndeto | - | Member; |
| 5. Jacqueline Mogeni | - | Member; |
| 6. Erastus Rweria | - | Member; |

7. Simeon Pkiyach - Member;
8. Bakari Omari Garise - Member;
9. Dr. Dabar Maalim - Member

Mr. Temporary Deputy Speaker, Sir, under Section 9 of the First Schedule of the Transition to Devolved Government Act, the National Assembly is required to vet these people within 21 days. You directed that their CVs, together with the Report from the selection panel, be forwarded to the Departmental Committee on Local Authorities. That was done; also pursuant to Article 118 of the Constitution and Standing Order No.180, which allows public access to Committee sittings, the Committee placed two advertisements in national dailies. One was on 31st May, 2012 and the other on 1st June, 2012. This was to invite members of the public to make any representations that they may have on the suitability or otherwise of the nominees to serve in the Transitional Authority. Eight memoranda were received in support of two members. None was received in opposition of any member.

The Committee went ahead to sit on 7th June, 2012 and interrogated all the members. It looked at the criteria that had been used in coming up with the eight names. We found that under Section 15 of the Sixth Schedule of the Constitution, Parliament was empowered to make legislation to provide for phased transfer of functions assigned to them under Article 185 of the Constitution over a period of not more than three years from the date of the first election of the county assemblies from the national Government to the county governments.

Following that, in February, 2012 this Parliament, pursuant to Section 15 of the Sixth Schedule, enacted the Transition to Devolved Government Act to provide for legal and institutional framework for a co-ordinated transition to the devolved Government system. The Act commenced on 9th March, 2012. The Transition Authority is, therefore, established in Section 4 of the Transition to Devolved Government Act.

This Authority will have enormous responsibilities. Among them is to facilitate the analysis and phased transfer of the functions provided under the Fourth Schedule of the Constitution to the national and county governments. It is also to determine the resource requirements of each of the functions.

This Authority will be the one to develop a framework for the comprehensive and effective transfer of functions as provided for under Section 15 of the Sixth Schedule of the Constitution. It will also co-ordinate the relevant State organs or public entities in order to facilitate the development of the budget for county governments during phase one of the transition period.

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

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

Madam Temporary Deputy Speaker, phase one starts from the day this Authority is set up to one day after the next general election. It will establish the status of ongoing reform processes, development programmes and projects and make recommendations on the co-ordinated management, reallocation or transfer to either level of government during the transition period. It will also ensure the successful transition to devolved system of government.

The Authority will prepare and validate an inventory of all the existing assets and liabilities of Government, other public entities and local authorities. It will make recommendations for the effective management of assets of the national and county governments. It will provide mechanisms for the transfer of assets, which may include vetting the transfer of assets during the transitional period.

This Authority will have many other responsibilities. Pursuant to Section 15(2)(b) of the Sixth Schedule of the Constitution, it will develop criteria which may be necessary to transfer the functions from the national to county governments, including such criteria as may be necessary to guide the shared assets, liabilities and staff of the Government and county authorities.

It will also carry out an audit of the existing human resources of the Government and local authorities. In addition, it will assess the capacity needs of national and county governments. This Authority will recommend the necessary measures required to ensure that the national and county governments have adequate capacity during the transition period to enable them undertake the assigned functions.

It will co-ordinate and facilitate the provision of support and assistance to national and county governments in building their capacity to govern and provide services effectively. It will advise on the effective and efficient rationalization and deployment of human resources to either level of Government. The Authority will submit monthly reports to the Commission for the Implementation of the Constitution (CIOC) and the Commission on Revenue Allocation (CRA) on the progress in the implementation of the transition to devolved system of Government. In addition, it will perform any other functions that may be assigned to it by national legislation. The reason I have read out all these functions is to demonstrate to the hon. Members the magnitude of the task that lies ahead of this Authority.

In addition to the nine members who were picked from the members of the public, there are several principal secretaries who will sit in this Authority, including the Principal Secretary to the Office of the President and Secretary to the Cabinet, the Principal Secretary in the State department responsible for matters relating to devolution, the Principal Secretary to the State department responsible for public service, the Principal Secretary to the State department responsible for finance, the Principal Secretary to the State department responsible for planning, the Principal Secretary to the State department responsible for justice, the Attorney-General who shall be an *ex-officio* member with no right to vote, and the secretary appointed under Section 9, who shall be an *ex-officio* member with no right to vote.

Section 6(2) of the Transition to Devolved Government Act also sets out the criteria for the appointment of the Chairperson of the Transition Authority. He must hold a Masters degree from a university recognized in Kenya; he must have a distinguished career in senior management position in either private or public sector; he must hold at least ten years' post-qualification professional experience, and, most critically, satisfy the requirements of Chapter six of the Constitution.

Madam Temporary Deputy Speaker, these are very high qualifications that were required to be looked at under this Act. This only goes to demonstrate the importance of this Authority in the matters of devolution. The First Schedule to the Transition to Devolved Government Act sets out even the procedure and timeliness of the appointment of the chairperson and members of the Authority beginning with the declaration of vacancies and the formation of the selection panel to select the suitable candidates. Madam Temporary Deputy Speaker, a report from the selection panel indicates that 17 applications were received for the position of chairperson out of which nine candidates were shortlisted. On the other hand, 230 applications were received for the

position of members, out of which 28 were shortlisted. The names of the shortlisted candidates were subsequently published in the print media on 3rd May 2012 and in the *Kenya Gazette*. Interviews were conducted on 10th and 12th, May 2012 for the post of the chairperson while those of the position of members were conducted on May 11th to 16th, 2012. Then pursuant to Section 7 of the First Schedule to the Transition to Devolved Government Act, a selection panel selected three persons qualified to be appointed as chairperson and 13 persons qualified to be members of the authority and forwarded the names together with the interview scorecards to the President.

Madam Temporary Deputy Speaker, in addition to the interview scores, the selection panel selected nominees based on the following criteria: Gender balance, regional balance, persons with disabilities, minorities and marginalised and clearance from the following bodies: Kenya Revenue Authority (KRA), Ethics and Anti-Corruption Commission (EACC), Criminal Investigation Department (CID), Higher Education Loans Board (HELB) and Credit Reference Bureau, East African Limited. This demonstrates that the Kenyans who have come through in this Authority are very qualified and very clean persons. It is on that basis that the names that I read were submitted to Parliament and you committed the names to my committee – the Local Authorities and Funds Accounts Committee (LAFAC).

Madam Temporary Deputy Speaker, as we were required to sit and interview and vet these persons, we did sit on 7th June and interviewed the nine persons and in conducting the vetting process, the committee examined the candidates against the criteria set out in the schedule to the Public Appointments/Parliamentary Approval Act criteria for vetting, otherwise known as the Mungatana Act for the appointment of public officers by Parliament. The criterion requires the nominees to disclose information on their personal and professional life including their political party affiliations, tax compliance and potential conflicts of interest.

At the conclusion of the vetting process exercise, the Committee made the following observations: On the nomination of the chairperson, Mr. Kinuthia Mwangi wa Mwangi as chairperson of the Transitional Authority, the Committee having considered the report of the selection panel and the curriculum vitae of Kinuthia wa Mwangi made the following observations on his nomination as the chairperson of the Transitional Authority: Mr. Kinuthia wa Mwangi is a Kenyan citizen from Nakuru County born on 1st June, 1950. He is an advocate of the High Court and a Certified Public Secretary. He has over 15 years experience in human resources management and local government, parastatal and private sector levels. In addition, he has over ten years experience in training students in human resource management at Kenya Institute Management (KIM) and is a visiting lecturer at African Nazarene University (ANU), Zimbabwe and Jomo Kenyatta University of Agriculture and Technology (JKUAT). He holds a Masters Degree in Law (LLM) from the University of Leicester, a Masters degree in human resources management from University of Leicester, a Bachelor of Laws degree from the University of Nairobi (UON) and a Diploma in Law from the Kenya School of Law. He is a member of the Institute of Human Resources and Institute of Public Secretaries at the KIM. He is currently the Managing Director and lead consultant of Happy Valley Educational Services Limited. He is a retired civil servant having served as the Town Clerk of Thika and Nyeri municipal councils. He later served at the National Social Security Fund (NSSF) as the personnel and administration manager. He has undertaken several consultancies on human resource management governance and devolution and decentralization. He has chaired and served in several welfare organizations and governing boards of schools. He has carried out numerous researches and published papers on different transition, devolution and local government matters

for the World Bank (WB), UN Habitat, Kenya Alliance and Residence Association (KARA), National Taxpayers Association (NTA) and the Federation of Canadian Municipalities. He has fully complied with his tax and other statutory obligations and has never been dismissed from the office for contravention of the provisions of Article 75 of the Constitution. He is not an official of any party and has never been charged in any court of law. Therefore, the Committee found the nominee qualified.

Madam Temporary Deputy Speaker, if I may just go quickly on the others, Mrs. Hongo Angelina Awino as a member of the Transitional Authority, this Kenyan is from Siaya and born on 15th August, 1960. She has training in commerce specialising in finance and accounting. She has over 20 years experience in public management having served in the office of the Controller and Auditor-General, Ministries of Co-operatives and Local Government in various capacities. She was part of the task force on devolved government where she served as a joint secretary. In addition, most of her work has centred on devolution and reforms within the local authorities. She holds a Masters of Business Administration (MBA) in Finance and a Bachelor of Commerce Accounting degree from the UoN and other several certified trainings. She is currently the deputy director and program co-ordinator of the Kenya Local Government Reform Programme and the Acting Director and Secretary to the Local Authority Transfer Fund (LATF), LASDAP advisory committees. She is very qualified and the Committee found her so.

Madam Temporary Deputy Speaker, Mrs. Sofia Abdi who is also a member of the Authority is a Kenyan from Isiolo County born in 1972. She has a distinguished career in community development and conflict management and has training in social sciences. She has over ten years experience in community development with local and international Non-Government Organisations (NGOs) especially in upper and northern Kenya. She holds a Masters of Arts in Rural Sociology and Community Development from the UoN, a Bachelor of Arts in Political Science and Philosophy degree from the UoN and a certificate in Conflict Management from the Catholic University. She is currently the Kenya country leader for a Regional Training and an Advocacy Programme (RETRAP) for dry lands consortium implemented in Kenya, Ethiopia and Uganda. This is another Kenyan who is equally very qualified and the Committee found her so.

Madam Temporary Deputy Speaker, the other Kenyan is Mrs. Mary Mwongeri Ndeto to be member. She is a Kenyan from Machakos born on 12th January, 1958. She is a distinguished human resources practitioner especially in public service. She also has over 20 years experience in human resources management having risen from a personnel manager in the Ministry of Health to head the recruitment and selection section in the Public Service Commission (PSC). She holds a Master of Science degree in Human Resources Management from the University of Manchester and Bachelor of Arts degree in Sociology, Geography and Government from the UoN). She is currently the Director, Institutional Capacity Building and Strategic Partnership in the Office of the Prime Minister. As you would see, even without reading out all her credentials, this is another Kenyan who is very qualified.

Madam Temporary Deputy Speaker, the other one is Jacqueline A. Mogeni, as a member. Mrs. Mogeni is a Kenyan citizen from Kakamega County. She was born on 1st May, 1969. She is an Advocate of the High Court with interest in human and child rights. She has over 15 years' experience in human rights and democratic governance advocacy. She has worked with both local and international NGOs fighting for the rights of children and women.

She holds a Master of Arts Degree in International Studies from the University of Nairobi, a Bachelor of Law Degree from the University of Nairobi and Diploma in Law from the

Kenya School of Law. She is currently the Human Rights Officer, United Nations Development Programme (UNDP) Democratic Governance Unit.

Without even reading out all her other credentials, we found that this is a very qualified Kenyan.

Mr. Temporary Deputy Speaker, the other nominee is Mr. Erastus Rweria, who was born on 24th December, 1950 in Tharaka Nithi District. He is a distinguished economist and consultant. He has over 20 years' experience in public service. He was the Chief Economist in the Cabinet Office. In fact, he also holds a Master of Arts Degree in Economics from Vanderbilt University, USA; a Bachelor of Philosophy Degree in Economics from the University of Nairobi, and a Bachelor of Arts Degree (Diploma Departments) in Development Economics from Vanderbilt University, USA. He has done several courses at Anti-Corruption and Fraud Unit. Mr. Rweira headed the Efficiency Monitoring Unit in the Office of the President.

Madam Temporary Deputy Speaker, again, hon. Members can see that this is another qualified Kenyan from a different part of the country.

Then there is Mr. Simeon P. Pkiyach, a Kenyan citizen from West Pokot who was born on 28th September, 1964. He has extensive knowledge in agriculture and livestock production, with a successful career in the Ministry of Livestock Development. He has over 20 years' experience in public service, having served as Livestock Officer in the Ministry of Agriculture and risen through the ranks from District Animal Production Officer to the Deputy National Co-ordinator, Pig Unit.

Mr. Pkiyach holds a Master of Science Degree in Pig Production from Aberdeen University, UK; a Bachelor of Science Degree in Animal Husbandry and a Diploma in Animal Husbandry from Egerton University. He has published articles and journals. As hon. Members can see, this is another Kenyan who is very qualified.

Madam Temporary Deputy Speaker, another Kenyan is Mr. Garise Bakari Omara. Mr. Omara is a Kenyan from Tana River County. He was born in 1963. He has had a distinguished career in education. He is a professional teacher. His experience spans over 20 years. He holds a Master of Business Administration Degree and a Bachelor of Education (Arts) Degree from Kenyatta University. He is currently the County Director of Education in Kwale County.

Without having to go through all his other credentials, hon. Members can see that this is another qualified Kenyan.

Madam Temporary Deputy Speaker, the last one was Dr. Dabar A. Maalim. This Kenyan hails from Garissa County and was born on 10th May, 1957. He is a very well educated practitioner, having begun from Diploma in Nursing and rising to PhD level.

Mrs. Shebesh: On a point of order, Madam Temporary Deputy Speaker. With due respect to the Chairman of the Committee, since we already have the Report, would I be in order to ask him to just read out the summary of the Report, so that we can go to the debate on the same?

Mr. Ngugi: Madam Temporary Deputy Speaker, the hon. Member may be having the Report but there are other hon. Members who do not have copies of this Report, and they need to understand how qualified these Kenyans are as well as the diversity of where they come from. Furthermore, I am approaching the end of the Report. I suppose the Standing Orders give me up to an hour to move debate.

The Temporary Deputy Speaker (Dr. Laboso): Yes, they do. I think that was just a request by the hon. Member, hon. Ngugi.

Mr. Ngugi: Madam Temporary Deputy Speaker, I am almost concluding. As I said, Dr. Dabar A. Maalim is a Kenyan citizen from Garissa County, born on 20th May, 1957. He holds a PhD from the University of Reading, UK; a Masters Degree in Nursing (County Health) from Wales College of Medicine; an Advanced Diploma in Nursing from the University of Nairobi; a Diploma in Psychiatric Nursing and a Diploma in General Nursing from the Kenya Medical Training College, Nairobi. We found these Kenyans very qualified.

Madam Temporary Deputy Speaker, having examined these people, in making its recommendations, the Committee was guided by Section 15 of the First Schedule of the Transition to Devolved Government Act, which states *inter alia*:-

“In selecting, nominating, approving or appointing the chairperson and members of the Authority, the selection panel, the National Assembly, the President and the Prime Minister shall

-

(a) ensure that the Authority reflects the regional and other diversities of the people of Kenya---”

Madam Temporary Deputy Speaker, that is exactly what these nine nominees represent.

As I conclude, I want to thank Members of my Committee, the Office of the Speaker, the Office of the Clerk of the National Assembly and the members of the public who responded to the advertisement that we placed in the newspapers. The Committee was unanimous in recommending the appointment of the following persons to the positions they have been nominated for:-

- (i) Mr. Kinuthia Wamwangi - Chairperson;
- (ii) Hongo Angeline - Member;
- (iii) Safia Abdi - Member;
- (iv) Mary Ndeto - Member;
- (v) Jacqueline Mogeni - Member;
- (vi) Erastus Rweria - Member;
- (vii) Simeon Pkiyach - Member;
- (viii) Bakari Omara Garise - Member;
- (ix) Dr. Dabar Maalim - Member.

Madam Temporary Deputy Speaker, I beg to move and ask hon. Magwanga to second the Motion.

An hon. Member: Put the Question!

The Temporary Deputy Speaker (Dr. Laboso): No, the Motion has not been seconded.

Mr. Magwanga: Madam Temporary Deputy Speaker, I rise to second the Motion.

Madam Temporary Deputy Speaker, these candidates appeared before the Committee. They are highly qualified and very experienced Kenyans. The principle of gender balance was observed. The composition of the candidates is very good for the Transition Authority. The principle of regional balance was also observed.

With those remarks, I beg to second.

(Question proposed)

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

Mr. Shakeel: I will speak very shortly. I support this Report. The Transition Authority is one of the mainstays of devolution. However, we are finding that although part of the transition Bills states that no local authority shall sell property, I was astounded to see the

Kisumu County Council advertising a property for sale. I raised the issue with the then Deputy Prime Minister and Minister for Local Government, Mr. Mudavadi and he seemed to have ignored our pleas. I have taken up the matter now with the Acting Minister who has now informed me that he has stopped that sale.

At the same time, I want to bring to the attention of the House that Mombasa, Eldoret, Nairobi and other local authorities are in the process of illegally transferring assets. Whether it is a 30-year lease or a one-year lease, it is illegal.

With those few remarks, I support the Motion.

Ms. Karua: Madam Temporary Deputy Speaker, I rise in support of the Motion. I want to congratulate the men and women appointed to serve on this Committee. I would like to remind them to strictly stick to the mandate given to them by the Act, and to note that although the Executive has largely been appointing people through cronyism rather than merit, whatever method has enabled these distinguished Kenyans to merit these appointments, once they are appointed they do not serve whatever godfathers they may have. They are required to serve the country. Their work is not to sabotage the incoming county governments, but to facilitate a smooth handover of the functions and assets to the county governments. It is also to facilitate, helping to configure the budgets of the incoming county governments.

It is sad that we are appointing these men and women after the Budget for the next financial year has already advanced. Therefore, they may not be able to make any meaningful contribution. Theirs will just be to observe and I would urge them if it is insisted that the elections are held in March, contrary to what the Constitution says that the elections should be in the fifth year, it will be their duty to ensure that the monies allocated for this financial year beginning July are not exhausted by the time the new county government come in, be it in January or March, next year. They must find a proportion of the Budget that is necessary to take them forward as they plan for the Budget of 2013/2014.

I am hoping that when these men and women applied for these jobs they actually knew the great responsibility that they were attracting onto themselves. Let them come in and act as the go-between the outgoing form of Government and the new incoming dispensation. Once they appreciate fully the trust Kenyans have bestowed on them, then they will embark on their jobs with gusto.

The last point I would like to make is that I am seeing one of the mandates is to assess the status of the ongoing reform process. Here they must remember they are not in competition with the Commission on Implementation of the Constitution which is the body mandated to help drive the reform process. They should seek to work with them hand in hand and with any other Government authority that they need to work with in order to ensure the proper transition from the current form of Government to the new dispensation.

With these many remarks, I beg to support.

Mr. Ruto: Thank you, Madam Temporary Deputy Speaker. I rise to support the presentations by the Chair of the Committee. I want to urge the appointees to understand the crucial nature of the assignment they have been given, the space and time they have occupied in the implementation process.

Currently, they are going to fill a void in which the Government has been attempting to babysit the devolution process in a lopsided manner. All departments of varied nature have been sending officers to the counties. I believe that the Transition Authority will have a say on this as we move on.

We have also had instances in which the Treasury has been sanctioning the sale of properties that have not been determined as to who the owners would be. I have an example in which the Minister for Co-operative Development and Marketing was going round the country with a view to selling KCC and yet it is very clear in the Constitution that co-operative societies are functions of counties. I thought all these things should be put on hold until the new governments are in place. Even the Transition Authority has no authority to sell. In fact, they are to determine which assets belong to where.

The Committee did not tell us much about these specific individuals; their disposition towards the spirit and intentions of the Constitution. I do not know whether they had something similar to the “passionmeter” which was used. You did not tell us about this “passionmeter” because we want them to have passion for the implementation; passion for devolution; passion for separation of powers and passion for a change in the way we have been running our systems. The Chairman did not tell us anything about that. Maybe the Chairman himself lacks the passion but I hope---

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

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

Mr. Ruto: Madam Temporary Deputy Speaker, I am already aware. I must withdraw. I have withdrawn because I cannot doubt *Mheshimiwa* Ngugi. He is a very passionate Governor of Nyandarua County.

Madam Temporary Deputy Speaker, I beg to support the approval of the names.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I rise to support this Report by the Committee. Let me take this early opportunity to congratulate the ladies and gentlemen who have been appointed and given this opportunity at this time of our transition of our country from the centralized to central plus devolved systems of Government. They have this unique responsibility of linking where we are with where we want to go.

Madam Temporary Deputy Speaker, as I am doing that I note that all these ladies and gentlemen responded to an advert. They went through a very thorough interview process. They also went through a very thorough vetting process by the Committee and their names have been brought to this House.

For people who have gone through that, it would be very unfortunate for us to then think of them as being products of cronyism as hon. Martha Karua seemed to suggest. I will not water down the efforts that have been put in by the candidates themselves; the efforts that have been put by the Committee itself; the effort being put by this House to actually bring out the men and women who we believe we will give this opportunity to move us because when we do these things we tend to create a sense of doubt as to whether these people were right for the job or were brought in for political expediency.

I would like to confirm that these people took themselves onto the interview panels, have made it this far and we should be congratulating them for being daring enough to have gone through those processes.

Madam Temporary Deputy Speaker, having said that---

Ms. Karua: On a point of order, Madam Temporary Deputy Speaker. Is my good friend, Minister Kimunya, in order to misrepresent what I said? I said whatever method was used they have found themselves on the list; whether merit, cronyism or manipulation, now that they are on the list they are serving Kenyans. Is he in order to misrepresent what I said? I cited all the options, including the merit.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, one of the past and very hilarious Members of this House, Mr. Kalembe Ndile, once told us that when a mother cooks food and does not want the children to partake of the food, she puts too much salt in it. The kids then can look at the food but will not eat it because it is too salty. I believe that when we use words such as “merit” “cronyism” and all that the sum total is to water down the merit on which these people found their way here. We should be emphasizing that they came on merit. We have no doubts as to why they were picked, and we need to start them off with the total confidence; that also gives confidence to the institutions created by this House. They have done their job and brought to us the names here. These people did not find themselves here by accident or through some political gerrymandering and are now not being forced down the throats of Members of Parliament to approve them. This is the point I want to make.

Madam Temporary Deputy Speaker, while I am at it, this is critical because it keeps coming up. I know we all participated in the passing of this Constitution; I was not there but some of us were privileged to be in the process of setting up the select committees. The matter of the dates of elections keeps on coming up and whether they should be held within five years; our own understanding is that in future elections will be every five years. However, the date of the first election is covered within the Transition Schedule. I believe that all of us who participated in the last elections are very clear that the first election will be after the dissolution of this House; this matter has now been ruled on by the courts.

I would like to urge my sister, Ms. Martha Karua, to stop putting our pressure levels up by suggesting a different date from the one we now know. We want to have our programmes very clear. We want to be in this House until the 15th of January and thereafter up to the 4th of March to organize our campaigns. On the 5th of March we will be serving Kenyans in different capacity that we will take up in the future---

Mr. Ruto: On a point of order, Madam Temporary Deputy Speaker. Is it in order for the Minister to mislead the House that, indeed, it will be obedience to the Constitution to continue working up to March when he knows the same Constitution provides for functions for this Parliament during that period, between January 15th and March 4th 2013 there will be no Parliament? There will be no Parliament to even interrogate the budgetary process. Is he in order to mislead the country? They are continuing to breach the Constitution! This is the Minister who keeps quoting the old Constitution instead of the new one.

The Temporary Deputy Speaker (Dr. Laboso): That is okay, but remember we are not on the matter of the date of elections. Mr. Kimunya, you introduced it; now you are starting to set off the Members.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I was only commenting on it because it sparks the issue of when devolution kicks in our Nyandarua County, and when the transition from the centralized to the dual-system will come in. It is a very important date for us to know. From the 5th of March, 2013, Nyandarua County will have its own system of government. We will cease being managed from Laikipia County, which is currently the situation.

The Temporary Deputy Speaker (Dr. Laboso): But can you stick to our nominees?

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, that is the relevance of the election date.

I just wish to say to poor Isaac Ruto I wish you were on the “Yes” when we were doing the campaign. We would have sorted out that matter of the dates with you. But that is a detail for another day.

Madam Temporary Deputy Speaker, I think the important thing for now is that we have an authority and we have---

(Ms. Karua stood up in her place)

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

Mr. Kimunya, have you concluded?

The Minister for Transport (Mr. Kimunya): I am just about to finish.

Ms. Karua: On a point of order, Madam Temporary Deputy Speaker. Is it in order for this Minister to suggest that Kenyans who voted “No” cannot comment or seek the implementation of the Constitution, whereas he knows very well that this Constitution is for the 40 million Kenyans irrespective of which way you voted? Is he in order to mislead and divide the nation?

The Temporary Deputy Speaker (Dr. Laboso): Mr. Kimunya, I have already mentioned that you are provoking the Back Bench.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I think I am up to the challenge. I never at any one time said that those who supported or did not support--- Their right to comment on the Constitution is not in any way affected by what they did in the past. What I was saying was that it would have benefited us earlier if the comments that are coming now from Mr. Ruto came then. This is because we would not have created the lacuna. I believe that is a matter of---

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

The Temporary Deputy Speaker (Dr. Laboso): Order, Mr. Isaac Ruto!

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, coming back to the subject matter, the important thing is that we now have a Transition Authority and we should all commit ourselves to giving these ladies and gentlemen the atmosphere and the time to work, so that we can move forward into what we want to do.

Issues keep on coming that the Government is not committed to devolution. I want to take this opportunity to say that we are doing everything possible and will continue to do everything possible to ensure that devolution takes root in this country. Indeed, if you even go eight years back when the Kibaki administration came into power, you will see that it started the first actions towards devolution through support for the CDF and all the other devolved funds that have been working; they have now been captured within the new devolution framework. Therefore, there has been consistency in terms of support for devolution, and that will continue. This Transition Authority, which is a creation of the Government through the Bill, will now help solidify devolution issues further.

Madam Temporary Deputy Speaker, I beg to support.

Mr. Mwadeghu: Madam Temporary Deputy Speaker, thank you for giving me this opportunity to contribute to the nomination of the Chairperson and members of the Transition Authority. I wish to commend the Committee under the stewardship of Mr. Ngugi, who, rumour has it, would like to be the next governor of Laikipia, and no wonder---

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

Mr. Mwadeghu: It is Kinangop. It is Nyandarua. I withdraw. It is Nyandarua.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Member, use proper parliamentary language.

Mr. Mwadeghu: I withdraw; no wonder he was very keen in seeing to it that the Transition Authority was in place on time.

In commending them, I wish to point out that this is broad-based and gender sensitive, but just as was pointed out last time by Mr. Mungatana, we are very disappointed that there are no chairpersons from Coast in all these commissions. We are noting and observing. Where are you taking this nation? I am not saying there ought to have been one in this Transition Authority. What I am saying is that we are observing and noting.

While commending them, I just want to bring their attention to a section of the of the Transition to Devolved Government Authority Act, which, *inter alia*, says this Transition Authority will carry out an audit of the existing human resource in the national government and local authorities. I hope the Chairman will listen.

Madam Temporary Deputy Speaker, as the Chairman of the Local Authorities and Funds Accounts Committee (LAFAC) we have gone round the country seeing what local authorities have. It is a pity that they have no accounts, they have not been submitting reports and the Local Authorities Transfer Fund (LATF) is poorly managed. You will realize that the composition of the Transition Authority is a summation of a number of local authorities. If these local authorities have no accounts, it is my sincere hope that this Authority will borrow heavily from the accounts in our domain to give them a start. Otherwise, they have no basis upon which they are going to have even a balance sheet of the local authorities.

Madam Temporary Deputy Speaker, on the same issue, we have seen the Government coming with the posting of certain officers purporting to be supporting the devolved governments. We have raised our concerns and our voices whether this has been done in consultation with the stakeholders. It is my feeling that this is the fastest way of killing devolution because the intentions are not noble. I wish to point out equally that there are local authorities as has been pointed out by one of the speakers, which are right now engaged in disposing of certain assets. There are authorities that right now are engaged in illegal processes of issuing out leases contrary to the law and I have in mind Taita Taveta County where right now certain investors are being given leases of up to 30 years contrary to the law.

We want this transition authority to take charge and to see to it that all these authorities are well managed. To conclude, as has been pointed out by Ms. Karua, this Authority is coming in place when the Estimates are over, which estimates are they going to manage? They were not on board, they have not been involved in giving their input in their estimates. This is an omission but we will try as much as possible to assist them.

May I take this opportunity while on the Floor to pass, on behalf of Wundanyi Constituency, my condolences to the families of the late Prof. Saitoti and Mr. Ojode. I rest my case.

Mrs. Noor: Madam Temporary Deputy Speaker, thank you for giving me this opportunity to add my voice in supporting the Departmental Committee's report. The Transitional Authority which is established under Section 4 of the Transition to Devolved Government Act is an Authority which is very important to us and particularly to people who felt that devolution will answer all their historical injustices. I feel that this is a body that I respect and it is a body that will carry a huge mandate to facilitate the transitional period and beyond. They have an important mandate that is to determine the resources required for each of the functions that they are going to undertake. Some of the functions that they are supposed to

oversee is to facilitate development of budgets for devolved governments during the phase-out of the transitional period. This is a very important and key responsibility and mandate because resource allocation is something that has given this country a problem. It has undermined development of this country and because we will have an authority that will have the face of this country--- Some of the people I know personally who are in this Authority are people I respect.

These are people I have worked with; people who have done a lot in this country and I want to take this chance to congratulate them for being nominated. I want to ask them as Kenyans who are responsible, who have been instructed to undertake this very important mandate that they stand tall and give the image and the responsibility they are given so that people can respect them. They should commit themselves and adhere to the mandate that they are given so that we do not always repeat and say that they are Kenyans who have been given responsibility and they abuse their offices. These are people that we respect and we want them to implement their responsibility and mandate to the letter.

Under their mandate, they are supposed to oversee the status of ongoing reforms. The ongoing reforms, as you know, are reforms that people have gone through very painfully and it will be very key for them to see that the Constitution is implemented to the letter; that the Constitution of Kenya that we have given to ourselves is implemented and all the reforms are in place according to what we have given to ourselves. They are also supposed to look at development projects. For them to be mandated to work on the development of programmes and projects in this country and particularly at the devolved units, it is a key role that people who are given that kind of responsibility must take very seriously and commit themselves. I know that there are very responsible and committed Kenyans and they can look into that and implement their mandate as we expect them to.

It is important that when we are saying that the Constitution should be implemented, we always see people who always violate that. There are many people who have given this House a lot of problems when we try to beat deadlines. We always stand here and cry that we want two thirds majority. Yesterday we voted for extension of time. We want these guys not to have that kind of problem and to implement their mandate according to the laws that are in place. They are supposed to coordinate and facilitate the provision and support activities at the county level. This is a very important responsibility and I would like to say that it is important for them to take their work in a very responsible and committed manner.

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

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

Mr. Temporary Deputy Speaker, Sir, while I am at it, I want to take this chance, on behalf of myself, the people of North Eastern and the women of this country to pass my condolences to the families of our colleagues who lost their lives and the four other Kenyans who lost their loved ones. May God grace them with peace.

The Minister of State for Development of Northern Kenya and other Arid Lands (Mr. I.E. Mohamed): Mr. Temporary Deputy Speaker, Sir, may I also on the outset support the report of the Committee and congratulate it for doing an excellent job. Let me also congratulate the new members of this Authority. This Authority as has been said by all the hon. Members and

as the law says is very important. I hope that we will facilitate them and that funds exist in the Budget for them to hit the ground running.

This Authority is critical if we are going to make any headway with our devolution. Kenyans are waiting to have devolution and this Authority is going to do that.

Eng. Rege: On a point of order, Mr. Temporary Deputy Speaker, Sir. Am I in order to request that you kindly call the Mover to reply? It looks like everybody here has contributed to the Motion.

The Temporary Deputy Speaker (Prof. Kaloki): We will consider that, but let the Minister proceed.

The Minister of State for Development of Northern Kenya and Other Arid Lands (Mr. I.E. Mohamed): Mr. Temporary Deputy Speaker, Sir, I do not usually talk for long and so, I will finish in a moment.

The Kenyans who have been chosen here are of high regard and competent. At least, I know two of them and they are the cream. One of them was my classmate and he was the cream of the class. I believe they will do an excellent job once they start work. Devolution is probably the most critical thing or the biggest benefit that Kenyans are getting out of this. I would urge the membership of the Authority to take their work seriously to ensure that Kenyans participate in these functions they were given as demanded by the Constitution.

With those many remarks, I support the report.

The Temporary Deputy Speaker (Prof. Kaloki): All right, there is no one willing to contribute and so, I will ask the Mover to just proceed and reply?

Mr. Ngugi: Mr. Temporary Deputy Speaker, Sir, I want to start by thanking the Members for their contributions and particularly for their support of the nine very qualified and excellent Kenyans who have succeeded in becoming the team to spearhead devolution. As you can see from the report, diversity, gender, marginalization and all the other factors that we should take into account any time we form an Authority or a Commission or any other team have been taken into account.

The only thing that I want to appeal to the Executive and particularly to the Minister for Finance is to facilitate this Authority effectively. This Authority had been allocated only Kshs200 million. It is through the Budget Committee that we increased that by Kshs100 million. Even Kshs300 million for the enormous task that is to be carried out by this Authority is not enough. We should be looking for Kshs2 billion or Kshs3 billion, so that the Authority can do the work that it is required to do.

With those few remarks, I congratulate the nine Kenyans who have been chosen and the Members who have contributed to the Motion. I want to assure hon. Ruto that these Kenyans have passion, equal to the passion I have of becoming the Governor for Nyandarua County. I beg to move.

(Question put and agreed to)

ADOPTION OF REPORT ON IRREGULARITIES AT CIVIL
SERVANTS OUTPATIENT MEDICAL INSURANCE SCHEME

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Health on alleged irregularities of the rolling out of the civil servants out-patient

medical insurance scheme, volumes I and II, laid on the Table of the House on Tuesday 5th June, 2012.

From the outset, allow me to mention that the Members of the Health Committee include myself as the Chair, and:-

1. Hon. (Dr. Nuh) - Vice Chair;
2. Hon. Sheikh Dor - Member;
3. Hon. Cyprian Omollo - Member;
4. Hon. Thomas M. Mwadeghu - Member;
5. Hon. (Dr.) Munyaka Kioko Victor - Member;
6. Hon. (Dr.) Eseli Simiyu - Member;
7. Hon. Joseph Oyugi Magwanga - Member;
8. Hon. Fredrick Outa - Member;
9. Hon. Joseph Lekuton - Member;

The Committee embarked on this report after doing investigations on the alleged irregularities at the National Hospital Insurance Fund (NHIF) in mid February, 2012. Throughout the entire period of investigation until the report was laid on the Table of this House, the Members were present. Finally, as we adopted the report, seven Members signed the report out of a total membership of ten Members. The Committee is composed of ten members.

As we all know, affordable quality universal health care to all the citizens of this country is a matter that we all yearn for. The momentum for health development and reforms in Kenya is proffered by the Constitution of Kenya, 2010, Chapter 4, Bill of Rights. We know that health service is a right to all Kenyans. So, it is clear from the Constitution that a person shall not be denied health services at the point of need. The matter of irregularities on the rolling out of the NHIF medical scheme for the civil servants and disciplined forces caught the attention of the Committee when we got reports that all was not well at the rolling out. We embarked on the investigations and I would want you to allow me to give the House a brief background on the medical insurance scheme for civil servants and members of the disciplined forces.

Prior to the roll out of the scheme on 1st January, 2012---

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. I heard the Member saying that he got some complaints. I have read through the report and he has not quoted any complainant. I wish he could table or indicate the identity of those who complained other than rumour mongering.

The Temporary Deputy Speaker (Prof. Kaloki): I think that is fair since you are moving the Motion.

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): Let us hear hon. Karua on the same.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, it is not on the same. This is a different point of order.

The Temporary Deputy Speaker (Prof. Kaloki): Proceed!

QUORUM

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is such an important Motion and looking around the House, I do not know whether you are satisfied that there is quorum for this very important Motion.

The Temporary Deputy Speaker (Prof. Kaloki): The Clerks-at-the-Table, please, ascertain whether we have the required quorum as raised by hon. Karua. All right, the Serjeant-at-Arms, ring the quorum bell, so that we can get more Members to the Chamber.

(The Division Bell was rung)

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, we now have quorum. Hon. Dr. Monda, proceed with your contribution to the Motion.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, I wanted to give the House a brief background on the medical insurance scheme for civil servants and members of the disciplined forces, as explained by various witnesses before the Committee.

Prior to January 1, 2012, when the scheme was scheduled to be rolled out, civil servants and disciplined forces in Job Groups “A” to “T” were drawing a monthly medical allowance ranging from Kshs375 to Kshs2,490. The Minister of State for Public Service reported to the Committee that civil servants at all levels constantly complained that the monthly medical allowance could not even cover the cost of medical prescriptions or a visit to a moderately priced healthcare facility. In trying to address those concerns, the Government commissioned an actuarial study in 2007/2008. The study recommended conversion of the existing medical benefits for civil servants into a comprehensive insurance scheme.

Mr. Temporary Deputy Speaker, Sir, the Government, through a Cabinet decision on June 2nd, 2011, approved conversion of the medical allowance, in-patient refunds and *ex-gratia* assistance budget amounting to Kshs2.83 billion in the Financial Year 2011/2012 to a medical insurance scheme. The Cabinet also directed the Treasury to avail additional funds amounting to Kshs1.078 billion to enable the Minister of State for Public Service to procure medical insurance cover for civil servants and disciplined forces. The total amount that was available for the cover then totalled to Kshs3.9 billion. Following that Cabinet approval, the Minister of State for Public Service in June, 2011, invited tenders for provision of medical insurance cover for civil servants, Kenya Police, Administration Police, Prison Service and National Youth Service. The scheme was to take effect from 1st August, 2011 for a period of three years, renewable subject to satisfactory performance.

Mr. Temporary Deputy Speaker, Sir, the Minister of State for Public Service invited tenders from consortia of not less than five private medical insurance underwriters. However, none of the consortia could be awarded the tender due to lack of capacity, incompetence and numerous exclusions provided by the consortia of private bidders according to a presentation by the Minister of State for Public Service. Consequently, the Minister of State for Public Service wrote to NHIF requesting for their involvement and assistance in the provision of that medical scheme for civil servants and disciplined forces.

After series of short meetings that were, indeed, hurriedly done or carried out, the Minister of State for Public Service signed a contract with NHIF for the provision of a medical insurance cover for 221,720 principal members---

The Minister of State for Public Service (Mr. Otieno): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Chairman to truncate a detailed report which I gave to the Committee? The important part is the initiation of the project which started by me being taken to the Industrial Court by the civil servants union. Then we rejected the first tender and re-tendered. You cannot truncate those two important developments in this process.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, if the Minister intended to give me information, then he should have stood up on a point of information. I do not want the Minister-- - I would like to ask the Chair to protect me as I present this report. That way, points of order that do not really address the matter at hand will not just come in to derail the presentation.

Mr. Temporary Deputy Speaker, Sir, the cover was for four aspects of---

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Dr. Monda. Just try to listen to what the Minister has said and try to make sure that, as you go through your report, you are objective and give information. That is because there will be an opportunity to debate it later. So, just proceed. You are protected.

Dr. Monda: I thank you, Mr. Temporary Deputy Speaker, Sir. As I continue, I will ask hon. Members to allow me to go through the report and if there are any issues that they want to raise, then they will come in at that point.

As I have indicated, Mr. Temporary Deputy Speaker, Sir, the cover was for four aspects, including in-patient and out-patient services; group life cover and last expense for the civil servants who were to be covered. The agreement was on a premium of Kshs4.32 billion per annum. The premium payable for the six months was Kshs2.1 billion; that is between January, 2012 to 30th June, 2012. The NHIF was supposed to roll out the outpatient programme commencing 1st of January, 2012.

Mr. Temporary Deputy Speaker, Sir, the House will recall that at the dawn or the beginning of the year, the local dailies carried headlines on the new year gift for civil servants. It was later to be established that the gift was not without problems. I will later on enumerate some of those problems which were discussed in the Committee.

Mr. Temporary Deputy Speaker, Sir, it needs to be clear that the out-patient scheme or comprehensive healthcare for civil servants and disciplined forces was a matter agitated upon by civil servants themselves. They wanted a comprehensive healthcare to be provided by the Government. This is what led the Cabinet to approve the rolling out of this scheme.

Mr. Temporary Deputy Speaker, Sir, I want to state from the outset that the Committee does not have a problem or did not have a problem with the scheme or with the health provision to civil servants. The matters before the Committee were that the scheme caters for principal members, one spouse and three dependent children below 18 years of age and up to 25 years so long as there is proof that these children are in formal education.

In summary, the scheme covers in-patient and out-patient costs; it also provides a group life cover and last expense. The Committee was informed that the NHIF was to identify appropriate service providers as per the contract.

Mr. Temporary Deputy Speaker, Sir, it is the process of rolling out the scheme, identification and contracting of the private and public service providers that the Committee sought to inquire into. We noted that there were objections from the intended beneficiaries. Amongst the concerns raised in the complaints, and this is what we were following in our inquiry, include:-

(1) The process of conceptualization of the scheme and the exercise of choice by the beneficiaries. There was a complaint that alleged the exercise was poorly conceived. That is the perception. That is the position. Civil servants were not allowed to choose their preferred facilities, but were forced to seek services from private and public facilities as per the list allocated. These lists that were allocated were to the effect that every civil servant was allocated a facility where their pay points were. For example, if I worked in Nairobi, I would be allocated a facility in Nairobi. If I worked in Mombasa, the same thing would happen. If I were in Busia,

that would be the same position. So, the freedom of choice which is really the basic principle in the capitation method was not provided.

Mr. Temporary Deputy Speaker, Sir, the principle of capitation is a choice by a family of a service provider for a given amount of money or a figure for a given period, but there must be freedom to choose. In this case, civil servants were not given that opportunity. They were allocated health facilities depending on where they worked. The questions that would arise are: If I were given a service provider in Nairobi where I work, and I happen to have my family in Kisii, how do I get out-patient services in Nairobi and give it to your family members who are in Kisii? Because once you have been allocated a facility, you live with that facility for a given period of three months before you can make any changes. This is on the grounds that in capitation which I have already defined, has payment done to the providers in advance, at the beginning of the quarter. So, the contract signed will be to the effect that you are paid before you provide the services.

(2) Lack of awareness is another issue we were following. Some intended beneficiaries did not even know about the roll out of the scheme or the facilities accredited to offer the services under the scheme.

(3) Geographical location of the residences was a concern to us. You could be living in Nairobi, but you are allocated a facility in Nakuru. You live in Nairobi, but you have a facility in Nakuru because your salary, your last or your current pay point is in Nakuru. That gives confusion to the beneficiaries. Cases were cited where a public officer would be allocated a facility in one location which is far from the place of residence, even where there was a better health facility in close proximity. You will be given a smaller facility in Nairobi, but you live in Nakuru. Therefore, you are forced to leave the Nakuru facilities which are superior and go to a facility near your place of work.

(4) The fourth issue we were following up was the existence of the service providers and the wording we used was “non-existent facilities.” As we inquired into this matter, it was disclosed, revealed and confirmed by the witnesses that came before us---

Eng. Rege: On a point of order, Mr. Temporary Deputy Speaker, Sir. My friend is talking about distances with regard to geographical locations of these health facilities. Today, we have Global Positioning System (GPS), electronics and Information and Communication Technology (ICT). So, you do not have to be in one place to be treated there.

(Applause)

So, could the Mover change his Motion or his statement with regard to the geographical location?

The Temporary Deputy Speaker (Prof. Kaloki): Order, Eng. Rege! Let us listen to hon. Monda. You will debate the Motion later.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, some of the private facilities indicated on the NHIF website, which was meant to assist beneficiaries to know where to seek their services and their locations did not exist on the ground. Some were said to be putting up new structures in the allocated centres during the period January to March, 2012, when they were supposed to be offering services.

Mr. Temporary Deputy Speaker, payment for the first quarter of this scheme was meant to be on 1st January to end of March. Within that period these facilities did not exist, yet they

were expected to be available to the beneficiaries to access services. Some of these facilities, as the report indicates, were still being constructed or renovated even as late as May, 2012.

Mr. Temporary Deputy Speaker, Sir, the capacity of some of the facilities was wanting. Some of the private facilities allocated to members lacked capacity to offer basic primary healthcare services to the members. This was in terms of equipment, personnel and inadequacy in infrastructure. Some of the facilities which were allocated or paid for were being painted under closed doors as late as February, but they had been identified to provide service early.

Mr. Temporary Deputy Speaker, Sir, lack of capacity is another one. I want to single out one. There are two very specific facilities that we followed because of the amount of money paid and the number of patients or beneficiaries allocated to them. Clinix, for instance, with principal contributors of 56,000, multiplied by five, that is about 280,000 people, who could be expected at any one time to come to the facility to receive services. As at the time we were doing this report, Clinix had six doctors for the 56 outlets. The capitation method---

The Temporary Deputy Speaker (Prof. Kaloki): Order! Hon. Monda, you will have 30 minutes to complete your submission when the business appears next.

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, it is now time to interrupt the business of the House. The House is, therefore, adjourned until tomorrow, Thursday, 14th June, 2012, at 2.30 p.m.

The House rose at 6.30 p.m.