

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 9th January, 2013

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PETITION

Mr. Speaker: Member for Naivasha, please, proceed!

Mr. Mututho: Mr. Speaker, Sir, I beg to lay on the Table of the House a Report on the joint Departmental Committee---

Mr. Speaker: Order, Member for Naivasha! We are not yet there. You put your request at Order No.3! That will be erroneous. We cannot take Order No.4 at Order No.3.

Mr. Mututho: Most obliged, Mr. Speaker, Sir.

Mr. Speaker: Very well. Next Order!

PAPERS LAID

The following Papers were laid on the Table of the House:-

Joint Departmental Committee Report for the Committee on Agriculture, Livestock and Cooperatives and Committee on Lands and Natural Resources on the petition on illegal acquisition of the land in Busia County known as Buhayo/Nasewa 1,500 by Mumias Sugar Company Ltd.

(By Mr. Mututho)

Report of the Constitution Implementation Oversight Committee (CIOC) on the appointments to Commissions, Independent Offices and the Judiciary.

(By Mr. Abdikadir)

Annual Report and Financial Statements for the National Crime Research Centre for the year ended 30th June, 2011

The Ethics and Anti-Corruption Commission's third quarterly Report for the year 2012 covering the period 1st July, 2012 to 30th September, 2012.

(By the Attorney-General)

Report of the Committee on Implementation on Charterhouse Bank Ltd.

(By Dr. Laboso)

Report of the Departmental Committee on Administration and National Security on the consideration of the case of assault of a Kenyan employee by the Managing Director of Shelter Afrique.

(By Mr. Kapondi)

Report of the Departmental Committee on Lands and Natural Resources on the Inspection of Ontulili and Lower Imenti forests, ownership of National Irrigation Board (NIB), Mushuarata and Mwea Trustland in Meru, Kirinyaga and Embu counties.

(By Mr. Musyimi)

Mr. Speaker: Next Order!

NOTICES OF MOTION

ADOPTION OF REPORT ON IMPLEMENTATION ON CHARTERHOUSE BANK LTD

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

THAT, this House adopts the Report of the Committee of the Implementation on Charterhouse Bank Ltd. laid on the Table of the House today, Wednesday 9th January, 2013.

ADOPTION OF REPORT ON INSPECTION OF ONTULILI AND LOWER IMENTI FORESTS

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

THAT, this House adopts the Report of the Departmental Committee on the inspection of Ontulili and Lower Imenti forests, ownership of National Irrigation Board (NIB), Mushuarata and Mwea Trust Land in Meru, Kirinyaga and Embu counties laid on the Table of the House today Wednesday January 9th, 2013.

ADOPTION OF THE REPORT ON ILLEGAL ACQUISITION OF BUHAYO/NASEWA LAND BY MUMIAS SUGAR COMPANY

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

THAT, this House adopts the Report of the Joint Departmental Committees on Agriculture, Livestock and Cooperatives and the Departmental Committee on Lands and Natural Resources on petition of illegal acquisition of land in Busia County known as Buhayo/Nasewa 1,500 by Mumias Sugar Company Ltd.

ADOPTION OF REPORT ON THE CONSIDERATION OF A CASE OF
ASSAULT ON A KENYAN EMPLOYEE BY MD, SHELTER AFRIQUE

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

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the consideration of the case of assault of a Kenyan employee by the Managing Director of Shelter Afrique.

Mr. Speaker: Next Order!

QUESTION BY PRIVATE NOTICE

STATUS OF SPECIAL INVESTIGATIONS ON CHARTERHOUSE
BANK FOR ECONOMIC CRIMES BY BFI DEPARTMENT

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

(a) In the light of the answer given by the Minister for Finance on Thursday 27th December, 2012, could the Minister clarify whether it is true or not that the Banking Fraud and Investigations Department between the years 2004 and 2007 conducted a special investigation of Charterhouse Bank with the main focus being on economic crimes, money laundering and violations of the Banking Act and if this is true, the Minister to provide copies of the investigations reports and full details of the crimes, offences or violations established as having been committed by Charterhouse Bank?

(b) Whether the Banking Fraud and Investigations Department has ever been directed to undertake similar investigations against other banks and, if so, provide a list of the banks and copies of the reports indicating the violations including any action taken?

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

(a) I wish to confirm that the Banking Fraud and Investigations Department has been conducting investigations on Charterhouse Bank on allegations of violation of Banking Act. This was occasioned by a complaint by Ms. Rose Ndethu of the Central Bank of Kenya (CBK), Supervision Department to Banking Fraud and Investigation Unit in December 2006.

In her complaint, she alleged that the bank had on several occasions contravened the Banking Act and CBK prudential guidelines. An inquiry file No.53/2007 was opened pursuant to that complaint which was later forwarded to the Attorney-General's Director of Public Prosecutions (DPP) office then for perusal and advice.

Mr. Speaker, Sir, the file was later returned to the Banking Fraud and Investigations Unit with instructions to arrest and charge the suspects with various offences under the Banking Act, Cap 488 Laws of Kenya.

However, the Attorney-General further stated that before the arrest and arraignment in court a draft charge sheet be forwarded to him for approval and that the Registrar of Companies be requested to confirm the actual directors of the bank.

Pursuant to that advice, a request was sent to the Registrar of Companies on 26th February, 2008 vide a letter CID/BF1/Section/2/1/11/Vol.2/ (126) requesting for names of directors of Charterhouse Bank. The Registrar did not respond to the request and a reminder was

sent on 7th October, 2010 vide letter CID/BF1/SEC/2/1/11/Vol13/ (269). Unfortunately, the Registrar of Companies is unable to provide the directors since documents to that effect cannot be traced.

Mr. Speaker, Sir, I have a letter here which is not even five days old; it is dated 4th January, 2013. It is from the Registrar of Companies. The indications are that the file and documents relating to the bank cannot be traced. As a matter of fact, she says:-

“The above reference company or business name does not appear on our computer database of registered companies or business names”.

Mr. Speaker, Sir, subsequently, a draft charge sheet was forwarded to the office of the Attorney-General along with duplicate case file. However, owing to lack of cooperation from the Office of the Registrar of Companies the investigating officers have been unable to complete the investigations and, therefore, cannot charge the suspects in court.

With the foregoing, therefore, releasing a copy of the charge sheet and investigation report as had been requested by the hon. Member has been declined as it is noted it will jeopardize the ongoing investigations.

In the circumstances, the investigations report and a copy of charge sheet cannot be availed.

(b) According to records held by the unit, it has not conducted investigations on similar cases. However, it cannot be ruled out that similar investigations may have been carried out by Central Bank of Kenya (CBK) Supervision Department, which has the mandate to supervise, inspect and regulate all commercial banks.

Thank you, Mr. Speaker, Sir.

Mr. Mwau: Thank you, Mr. Speaker, Sir. I thank the Assistant Minister for his good answer. However, this Question arose out of the answer given by the Minister for Finance. The Assistant Minister was required to confirm whether from 2004 to 2007, a special investigation team focusing on economic crimes, money laundering and violation of the Banking Act, was constituted. He should also confirm whether the Banking Fraud Investigations Unit (BFIU) investigated money laundering and economic crimes from 2004 to 2007. Further, he should confirm whether the banking violations found were actual. Could he state the sections which were violated?

Further to part (b) of the Question, I would like him to confirm that it is now true that the BFIU has never been directed to undertake similar investigations against any other bank in Kenya to date.

Mr. Khang’ati: Mr. Speaker, Sir, indeed, I confirm that the CBK instructed the BFIU to carry out specific investigations of Charterhouse Bank. Specific violations were listed and I have them here. If the hon. Member so desires, I can furnish him with the information. These are violations relating to Banking Act, Section 10 and CBK/Prudential Guidelines 07 Section 3(1) to do with lending money to companies, lending money to inciters, the directors and management conducting affairs of the bank outside the laid down guidelines; issues to do with foreign exchange *et cetera*. These are issues that were being investigated.

As I have just said, after investigations, a special file was compiled with the observations that were noted. This file has been sent to the Director of Public Prosecutions (DPP) and it is awaiting prosecution. The only hindrance to that prosecution is that we cannot establish as it is now who the directors of Charterhouse Bank were. You cannot just prosecute Charterhouse Bank, but you prosecute its directors. That is the problem we have.

Regarding the second issue as to whether similar investigations have been conducted---

Mr. Speaker: What is it, the Member for Kilome? I have seen you want to intervene on a point of order.

Mr. Mwau: Thank you, Mr. Speaker, Sir. Is it in order for the Assistant Minister not to answer the question? The Minister for Finance said that the special investigations were focusing on economic crimes and money laundering. So, I asked him to confirm whether the BFIU investigated Charterhouse Bank on money laundering and economic crimes between 2004 and 2007. It is just that simple.

Mr. Khang'ati: Mr. Speaker, Sir, I have already confirmed that Charterhouse Bank was investigated within that period.

Mr. Speaker: Within 2004 and 2007?

Mr. Khang'ati: Between 2004 and 2005. The results of the investigations are there. A file is already there pending prosecution. I have done that as much. I am even ready to be a little bit specific if you give me time.

Mr. Speaker: Order! The hon. Member was pressing for confirmation as to whether or not the CBK investigated two specific areas over a given period, and you have answered that. So, you have to stop there.

Yes, the Member for Lari.

Mr. Njuguna: Thank you, Mr. Speaker, Sir. The Assistant Minister has repeatedly informed this House that the Office of the Registrar of Companies has not been co-operative in terms of supplying the required information. What action is the Ministry instituting against this non-compliant office?

Mr. Khang'ati: Mr. Speaker, Sir, you will recall that I cited a letter dated 4th January from the Office of the Registrar-General of Companies addressed to the BFIU. In the letter, they said they are unable to trace the business file and any other details that could help them determine who the directors are. This letter is very recent and it reached me today. I was hoping that I would bring the matter to the attention of the Attorney-General and, maybe, with his assistance, he could make his officers comply and go a little bit further to provide this information.

Mr. Speaker: Hon. Mwau, do you want to rise on a point of order?

Mr. Mwau: Yes, Mr. Speaker, Sir. Thank you very much, but my question is: Would it be in order for the Assistant Minister not to respond to part (a) of my Question, before I go to part (b) where I am asking whether the focus of that investigation was on money laundering and economic crimes? Did the BFIU investigate money laundering and economic crimes against Charterhouse Bank in that year?

Mr. Speaker: Hon. Mwau, let us try and move systematically. First, you are raising a point of order, asking if the Assistant Minister would be right in failing to answer the first part of your Question. Just be specific. What part of part (a) has he not answered?

Mr. Mwau: Thank you, Mr. Speaker, Sir. the Question says:-

“In light of the answer given by the Minister for Finance on Thursday 27th December, 2012, could the Minister confirm whether it is true or not that the Banking Fraud and Investigations Department between 2004 and 2007 conducted a special investigation of Charterhouse Bank with the main focus being on economic crimes and money laundering---

That is the part I want him to answer.

Mr. Speaker: Mr. Assistant Minister, do you want to have another go at it?

Mr. Khang'ati: Mr. Speaker, Sir, regarding the first issue, I answered “yes, we carried out a specific inspection between 2004 and 2007. Regarding---

Mr. Speaker: Order, Mr. Assistant Minister! All of you are using different words. Let us just be clear and be calm about this. The hon. Member for Kilome is asking whether the CBK “investigated” and you are using the word “inspected.” So, let us see where we are.

Mr. Khang’ati: My apology, Mr. Speaker, Sir. Both words are there, but the correct position is “investigation.”

Mr. Speaker: So, you confirm that investigations were conducted?

Mr. Khang’ati: Mr. Speaker, Sir, we carried out investigations. I have with me what was specifically being investigated and the section of the Banking Act was being violated. If the hon. Member wants me to indicate to him, for example, that one of the areas which was being investigated and which touches on money laundering has to do with violation of foreign exchange guidelines, Section 4. It was reported that a number of foreign exchange transactions above US\$ 50,000 had no supporting documentation and were not reported to the CBK as per requirements. That, in many cases, the bank colluded with its clients to split receipts and payments to US\$10,000 or the equivalent in other foreign currencies to circumvent the CBK reporting requirements. That, also, Foreign Exchange Guideline Section 5.2 where the bank purported to lend one Mr. Paulo Santanino’s company, Tradex of Italy US\$60,000 without appropriate documentation, security declaration of the source of the repayments as required *et cetera*. So, all these things are listed and I cannot read all of them. These are the violations which are there. With your permission, I can table them.

Mr. Speaker: You may proceed, Mr. Assistant Minister.

(Mr. Khang’ati laid the documents on the Table)

The Member for Kilome, you had a second point of order. You can now take the Floor. You will still have an opportunity to ask the final question, but you caught my eye for point of order.

Mr. Mwau: Thank you, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead the House that between 2004 and 2007, the BFIU of the CID investigated money laundering while this House is aware that money laundering legislation was enacted and came into force by June, 2010. Would it be in order for him to mislead the House?

Mr. Speaker: Mr. Assistant Minister, that would be valid if you did so.

Mr. Khang’ati: Mr. Speaker, Sir, it is true that the specific law on money laundering was enacted just the other day. However, according to banking prudential guidelines and the Banking Act on the issue, there were specific guidelines on reporting of foreign exchange earned and foreign exchange that is leaving. These were not complied with and it was deemed to amount to money laundering.

Mr. Mututho: Mr. Speaker, Sir, what is this crime that Charterhouse Bank has done so grave and so big that it is beyond remedy by Government, given that one of the reasons that the Assistant Minister has given - money laundering of US\$60,000? We have tabled reports in this House where another commercial bank has done the same. We have shown that they did US\$772,000, which is equivalent to about Kshs2.8 billion. Yet no such action was taken against the bank. What is this? We need to know this so that, at least, as we break, we can go knowing that they did an immortal sin which is beyond remedy by this Government or any future Government.

Mr. Khang’ati: Mr. Speaker, Sir, I find it very difficult to respond to the question by hon. Mututho because it becomes personal. I do not think the Government, in any way, is against

Charterhouse Bank. The Government is only dealing with issues. There might have been other banks that flouted the Banking Act regulations. But in this reference, we are talking about specific omissions and commissions, which have been investigated.

Mr. Speaker: What is it, the Member for Naivasha? You want to rise on a point of order?

Mr. Mututho: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House that there were specific issues that were found in Charterhouse Bank and yet, the same issues have been found with other banks and they have not been closed? Is he in order?

Mr. Khang'ati: Mr. Speaker, Sir, I believe that question can best be directed to the Central Bank of Kenya (CBK) and the Minister for Finance. I am dealing with an issue where the Banking Fraud Police who belong to my department were asked to investigate Charterhouse Bank and the fraud that was going on therein.

Mr. Mwau: Mr. Speaker, Sir, in response to part (b) of my Question, I would like him to confirm that Banking Fraud Investigations Unit (BFIU) has never been directed to carry similar investigations since its inception.

Mr. Khang'ati: Mr. Speaker, Sir, I have already answered that. I am not aware of any other case where the BFIU has been directed by CBK to conduct investigations. But you see the mandate of the CBK is to carry out investigations and I believe that is it.

ORAL ANSWERS TO QUESTIONS

Question No.1872

DELAYED COMPENSATION TO FAMILY OF THE LATE ZADOCK OMONDI

Mrs. Odhiambo-Mabona asked the Minister for Forestry and Wildlife:-

(a) whether he is aware that Master Zadock Omondi, a pupil at Dr. Williams Primary School, in Rusinga Island was killed by a hippopotamus on 14th February, 2012;

(b) what steps the Government is taking to ensure that the family of the deceased is compensated; and,

(c) what measures have been put in place to address human-wildlife conflict.

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

(a) Indeed, when this Question was filed early last year, this particular case of Master Zadock Omondi had not reached us. But I am privy to information that the case reached our office late last year.

(b) The processing has begun all the way from the Homa Bay District. We hope that within the third quarter of this financial year, this compensation will be processed and dispensed with.

(c) The Government is concerned about the rising cases of human/wildlife conflict and through the concerned institution - that is Kenya Wildlife Service (KWS) - we have implemented a variety of mitigation measures, including fencing of protected and non-protected wildlife areas, use of geographical information system (GIS), embedded animals collars to monitor problematic animal species such as elephants and lions, public awareness *barazas* on the importance of wildlife conservation, community support through community projects funded by wildlife

income, functional human/wildlife conflict database collection to monitor and develop appropriate mitigation measures and translocation of problematic animal species.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, it is now one year since Master Zadock Omondi was killed by a hippopotamus in Rusinga Island. Why does it take the Ministry so long to process compensation? He was a very young boy whose life was cut short and the family has gone through a very distressful time. Such cases are very common in that area. What can he do to hasten compensation? Just for information, the incident was reported in Mbita?

Mr. Nanok: Mr. Speaker, Sir, this is an unfortunate delay and I regret that it took that long. However, we are trying to fast track it, so that before the end of this third quarter, we can process the compensation and send it down to his family.

Mr. Mwangi: Mr. Speaker, Sir, while the Assistant Minister was answering the Question, he said that it has taken one year to consider that case. So many cases have been reported in this House where wild animals, especially the hippopotamus, are killing people around Thika and other parts of this country. Crocodiles have been killing people along River Tana and yet nothing has improved. I have a case in my area in Kiharu where baboons are eating all the mangoes that are being grown by the small scale farmers. The hippos are eating everything along Tana River. What policy does this Ministry have concerning such cases? Could he authorize us to eat those animals? What policy does the Ministry have to safeguard the lives and crops of our farmers?

Mr. Nanok: Mr. Speaker, Sir, indeed, it has been a challenge. The human/wildlife conflict has been on the increase on all sectors, particularly outside the protected areas. Some of the constraints that we have faced within the Government and in this House are in terms of resources and capacity. We are trying to address them now. We are asking the Treasury that in the coming financial year, they may need to allocate us additional resources so that we can recruit - in the next two years - about 1,000 wildlife rangers. The capacity that is there now is a bit limiting. Small arms are also the other biggest challenge. You may have noted an incident that occurred two days ago where 11 elephants were poached in a protected area. That is basically because of the capacity that we have. But we are doing all the best we can with the limited resources to try and support. Sometimes, some cases of compensation take long because there are certain documentations that are demanded to accompany the claims which, more or less, include a police report and a death certificate.

The processing is done through a committee in the district chaired by the DC. That process, sometimes, takes about three months. But because of the red tape within the Government, sometimes it takes a bit longer. Reports are not sent to our Ministry on time. However, I want to regret this particular case. As I gave the assurance, within this third quarter of this financial year, I will follow it up personally to make sure that the compensation reaches the next of kin.

Mr. Pesa: Mr. Speaker, Sir, I wonder why the Assistant Minister is telling us that the investigations started at Homa Bay. I know that Mbita has an identify and should have its district headquarters at Mbita, unless he wants to further delay the process.

Mr. Nanok: Mr. Speaker, Sir, I understand. But we only have an office in Homa Bay Town. We have a KWS office. That is normally the first point of filling up the forms. However, it is the committee that is in Mbita that sits with the officer from Homa Bay. He or she is the secretary of that committee. It is supposed to recommend the compensation. It is then forwarded to the Ministry's compensation committee. I regret that. It is a problem because we may not have

enough personnel to put in every district. That is why we have structured them to cover certain conservation areas.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, indeed, the Assistant Minister is correct that the first point of report is Mbita. But the ultimate office that the matter was taken to is in Homa Bay. I am grateful him because he has said that he will take up this matter personally. It is now one year since that happened. Therefore, I would like to ask whether the Assistant Minister could give me an indication as to when he thinks this matter will be finalized, so that the family can relax.

Mr. Nanok: Mr. Speaker, Sir, I hope that within early February, 2013, we will have finalized this matter. This matter has not yet reached the Wildlife Compensation Committee at the Ministry level. Immediately after this, I am going to follow up this matter and make sure that it is fast-tracked. Please, bear with me. If you have any problems, call me. I think I will still be an Assistant Minister even after the House has come to an end. I will be in a position to assist you so that the next kin of that boy are compensated.

Question No.1875

DELAYED PAYMENT OF DUES TO MR. JEREMIAH OBWOMA

Dr. Monda asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that Mr. Jeremiah Obwoma (P/No.82108957), a Chief from Kiogoro Location in Kisii Central District, was retired in public interest and, subsequently, reinstated after he successfully appealed the decision;

(b) whether he is also aware that the said officer has not been paid his dues for the period the appeal was being considered; and

(c) when he will be paid his dues and if he could confirm that the dues will include interest for the period they remained unpaid.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, yesterday, we partially dealt with this matter. I informed the hon. Member that consultations were being made. The legal opinion from the Attorney-General was required. Today, in the morning, I whipped my officers both in the Legal Department and the Human Resource Department and they got in touch with the Attorney-General's Office and also the Public Service Commission. The answer they came up with is that a salary is something that is earned. It is not something that can be paid out for any other reason.

The advice I want to offer is that our channel has been exhausted. There is nothing more we can say about the payment. We, therefore, advise Mr. Obwoma to seek redress from courts.

Dr. Monda: Mr. Speaker, Sir, as the Assistant Minister closes the channels at his disposal, records held in his office show that Mr. Jeremiah Obwoma was working all the way until his case was determined. It is the same Ministry that reinstated him to work after they found him not guilty of any offence that would have him removed from the Civil Service. Could he indicate to the House what channels have been exhausted and yet, it is the same office which wrote a letter to the chief asking him to show cause why he should not be retired? It is the same office that reinstated him and let him continue serving and yet, it cannot pay him for the period of six years that he served.

Mr. Khang'ati: Mr. Speaker, Sir, I think we are going backwards. Mr. Jeremiah Obwoma was retired in public interest. For six years, he remained retired. He made the first appeal to the PSC for reinstatement and it declined. He made the second appeal and on the basis of it, he was reinstated. The period under contention is the period when Mr. Obwoma was not in active service; when he was retired.

For any other period prior to that and all the time Mr. Obwoma has served the public, he has been paid. As much as the hon. Member would like Mr. Obwoma to be paid, there are also rules and regulations that have to be followed. It will be very difficult for the Government to process a payment that has been advised to be illegal.

Mr. Speaker: Dr. Monda, you want to rise on a point of order. But from that answer given, I think the matter really ought to settle. However, let me hear you.

Dr. Monda: Mr. Speaker, Sir, is the Assistant Minister in order to purport to have retired Mr. Obwoma and yet, Mr. Obwoma was asked to show cause why he should not be retired? That was not a retirement; it was a show-cause letter. When the appeal was made, it meant that Mr. Obwoma had not been retired. Is she in order to mislead the House and hand over this matter that is within his docket to the courts?

Mr. Speaker: Mr. Khang'ati, maybe, you want to make some reaction to that. Otherwise, I understand your position from the Chair.

Mr. Khang'ati: Mr. Speaker, Sir, with all due respect, the hon. Member is not aware of how the Government operates. It engages and fires its people. We have a code of regulations. When you are given a show-cause letter, either you are suspended or interdicted. In such circumstances, you are paid half salary. However, when you are retired in public interest as Mr. Obwoma was and, as the records indicate, then you are not paid any salary.

Mr. Speaker, Sir, in any case, this House is not the only avenue available for people who feel aggrieved to get some settlement. I believe what has been recommended is the best alternative. Let him go to court and, surely, he will get justice there.

Question No.1815

LACK OF SCHEME OF SERVICE FOR VILLAGE ELDERS/HEADMEN

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

(a) whether he is aware that the Government does not have a scheme of service to engage, recognize and appreciate the work performed by village elders/headmen, in provision of basic administrative services at the grassroots countywide and why is that so; and,

(b) whether he could consider developing a scheme that would remunerate and recognize their work and service to the community.

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

(a) Yes, I am aware that there is no scheme of service, but the Government appreciates and recognizes the work performed by village elders in support of chiefs and assistant chiefs at the grassroots level countrywide. Indeed, village elders or headmen, as they are popularly known, provide an essential link in service delivery for the chiefs and assistant chiefs and, by extension, the Government at large. Parliament passed an amendment to the Chiefs Act in 2010

to provide for appointment of village elders and their remuneration as may be determined by the Minister. Those amendments came in the face of ongoing restructuring of the Provincial Administration as envisaged in Section 17 of the Sixth Schedule of the Constitution, 2010. In this connection, the position of village elders will be considered in the process of restructuring.

(b) The restructuring will include a comprehensive scheme of service for all persons appointed under the proposed National Government Co-ordination Act. We have proposed amendments to the Act to provide for appointment and remuneration of the village elders as would be deemed appropriate.

Mr. Kiilu: Mr. Speaker, Sir, I am encouraged by the answer by the Assistant Minister that the Government appreciates the services rendered by the village elders for as long as the Provincial Administration has been in existence, without any form of compensation. In the envisaged restructuring, could he indicate the criteria that he will use in appointing the village elders?

Mr. Lesrima: Mr. Speaker, Sir, I am not able to indicate the criteria as of now because we are still in the middle of passing this law and we require the co-operation of all hon. Members. We have proposed an amendment that will provide for the opportunity for the Cabinet Secretary to consider the services of these village elders. So, at that time when the law is passed and the Cabinet Secretary is in place under the new Constitution, then conditions for operation and remuneration may be worked out. You will realize that these people are not on a permanent basis like other civil servants, but are called upon as and when they are required to resolve conflicts and provide solutions that will assist chiefs at the village level.

Mr. Gitari: Mr. Speaker, Sir, as long as I have known, the village elders have been in existence. So, how are they supposed to survive when they have no remuneration? Are they supposed to go looking for money from people and yet, they are respectable people in the community?

Mr. Lesrima: Mr. Speaker, Sir, it is true that we have not been very fair to the village elders and village ladies. It is also true that it is the chiefs who have been supporting these people with the communities that they operate within. Sometimes this has not been happening. It is also true that consideration is now going to be given and a budget be put in place so that they get some allowances.

Mr. Yakub: Mr. Speaker, Sir, my concern is on the naming; for example, are the village elders the same as those in towns who are called *wazee wa mtaa*? Are they going to be equally included in the new law which we are waiting for?

Mr. Lesrima: Yes, Mr. Speaker, Sir. *Wazee wa mitaa* will also be considered.

Mr. Speaker: Is Mr. Nyamai not here yet? That Question is dropped.

Question No.1869

STALLING OF WORKS ON NTHONGONI DISPENSARY

(Question dropped)

Question No.1501

INCREASING SCHOLARSHIPS TO IRE STUDENTS
AT KAGUMO/KIBABII TEACHERS COLLEGE

Mr. Yakub asked the Minister for Education:-

(a) whether he is aware that there is a shortage of Islamic Religious Education (IRE) teachers in both primary and secondary schools in the country and, if so, what measures he has taken to alleviate the shortage; and,

(b) whether the Government could consider increasing the number of scholarships to prospective students for the training of IRE teachers both at Kagumo and Kibabii Teachers College.

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

(a) I am aware that there is a shortage of Islamic Religious Education teachers in both primary and secondary schools in the country. The Ministry has put the following measures in place to alleviate the national shortage of teachers in general, including Islamic Religious Education:-

(i) continue to employ teachers in proportion with the existing teachers shortage as funds become available;

(ii) sensitize and encourage the youth on Islamic Religious Education and training opportunities in colleges to ensure adequate teachers are available;

(iii) liaise with Islamic Religious Association to sponsor many students in the colleges.

(b) There are no scholarships for students in the diploma teachers training colleges. The Islamic Religious Education subject has not been attracting applicants for training as teachers due to subject combination technicalities.

Mr. Yakub: Mr. Speaker, Sir, I would like to thank the Assistant Minister for his answer. I would also like to inform him that we do have enough Islamic Religious Education teachers, but the problem is that the teachers are not employed by the Teachers Service Commission (TSC) and almost 95 per cent of them are being paid by the Parents-Teachers Association (PTA). How can he assist the same teachers so that they can be employed by the TSC?

Prof. Olweny: Mr. Speaker, Sir, there is no discrimination in the hiring of teachers in any way whether they are going to teach Islamic Religious Education, Christian Religious Education or any subject. The problem we have applies to all subjects, that is, inadequate funds to employ teachers across the board. Once there is money, we will employ them across the board proportionately.

Mr. Njuguna: Mr. Speaker, Sir, the Minister has said that the Ministry is intending to employ teachers to alleviate the current shortage. When is the Ministry going to employ those teachers?

Prof. Olweny: Mr. Speaker, Sir, this financial year we employed teachers using the resources that the Government availed to the Ministry. Should the Government avail resources, once more or anytime, these resources will be used to employ more teachers.

Mr. Yakub: Mr. Speaker, Sir, on part (b), the Assistant Minister said that there are no scholarships for students in the diploma teachers training colleges. He said that the Islamic Religious Education has not been attracting applicants for training as teachers. Is he trying to tell us that if the applicants become more is he going to issue scholarships?

Prof. Olweny: Mr. Speaker, Sir, we have two diploma colleges. However, we have no scholarships for students training in those colleges. They sponsor themselves. I just want to illustrate to the hon. Member the issue of inadequate applications from those intending to train in Islamic Religious Education: During the 2012 admission to Kibabii, we had 15 vacancies, but only five were taken up despite being advertised in the local media. In Kagumo, we have five

vacancies and only one was filled. All the same, we went through the Islamic Religious Organization which helped us source a few more trainees who later joined during the replacement intake of that year.

Mr. Speaker: The next Question is by Mr. Kiptanui!
Is Mr. Kiptanui not here yet? Question dropped.

Question No.1842

LIST OF PROJECTS FUNDED BY LATF
MONEY IN KEIYO COUNTY COUNCIL

(Question dropped)

Question No.1858

BUDGETARY ALLOCATION FOR PEOPLE WITH
DISABILITIES IN 2012/2013 FINANCIAL YEAR

Mr. Oyugi asked the Minister Gender, Children and Social Development:-

(a) to inform the House, how much money has been allocated to support people with disability in the 2012/2013 financial year; and,

(b) whether he intends to enhance the allocations and what criteria will inform such review.

The Assistant Minister for Gender, Children Affairs and Social Development (Mr. Keya): Mr. Speaker, Sir, I beg to reply.

(a) The money allocated to support with severe disabilities in the financial year 2012/2013 is Kshs385 million.

(b) Cash transfer for persons with severe disabilities got an allocation of Kshs385 million for the Financial Year 2011/2012. This is the same amount of money that was received in 2012/2013. Therefore, there will be no increase in the number of beneficiaries in the current financial year.

Mr. Oyugi: Thank you, Mr. Speaker, Sir. Kenyans passed a Constitution that anticipates affirmative action for persons with disabilities and people who are minorities. Why would the amount allocated to these categories of persons be the same for two years consequent on the back drop of a new Constitution?

Mr. Keya: Mr. Speaker, Sir, this is due to inadequate budgetary allocations from the Treasury.

Mrs. Odhiambo-Mabona: Thank you, Mr. Speaker, Sir. Could the Assistant Minister indicate whether they have mapped out the country for persons with disabilities and, there is a criterion that they are using, particularly in Mbita?

Mr. Keya: Mr. Speaker, Sir, we have not so far mapped the country to identify exactly where all the beneficiaries would be. However, they are all in the 210 constituencies and increasing the number of beneficiaries is dependent on the increase in the amount of allocation that the Ministry expects to get from the medium-term expenditure projections.

Mrs. Noor: Thank you, Mr. Speaker, Sir. You have heard the Assistant Minister say that they have not mapped out the country to know where people with severe disabilities are in this

country. I wonder how they distributed these resources if they did not do any mapping exercise in the country. Who are these beneficiaries and how did he get them? Is it that he just chose? He discriminated against and he is giving people in his constituency or how was he doing it? If he has not mapped the country, then he is not doing the right thing.

Mr. Keya: Mr. Speaker, Sir, this is not about the issue of mapping. These are people within the population. They are not just concentrated in one place or another. The cash transfer for persons with severe disabilities was started on a pilot project in 2010/2011 Financial Year in all the 210 constituencies with each constituency being awarded a quarter of ten beneficiaries then. In the 2011/2012 Financial Year, the number of beneficiaries was increased from ten to 70 in all the 210 constituencies. So, these people are all over the country. They are not in a particular area.

Mr. Mwangi: Mr. Speaker, Sir, it is shocking that the Assistant Minister can get funds from the Treasury without any data or mapping out the country. From his presentation, it appears as if there is no policy. How does he continue requesting for funds and getting support from this Parliament when he has no data, policy or anything? Could he tell us whether he will come up with a policy because the disabled people are all over the country?

Mr. Keya: Mr. Speaker, Sir, it is not true that we do not have data. As per the Population Census of 2009 the country had about 1,000,400 people with disabilities.

Mr. Ogindo: Thank you, Mr. Speaker, Sir. This Ministry is becoming notorious. This is the Ministry that handles the elderly's stipend. This is the Ministry that handles the orphans and widows. This is the Ministry that also handles people with disabilities.

Recently, we passed a Bill that required that everybody be incorporated in these programmes, but the Assistant Minister says now that he does not have data. Could he clarify to this House how many out of the one million persons he has talked about are from Ndhiwa Constituency and Homa Bay County, for that matter?

Mr. Keya: Mr. Speaker, Sir, with regard to how many are in Ndhiwa and Homa Bay, I may not answer because I was not prepared. I do not have that now. But if I went back to the office, I will come back with that information.

Mr. Oyugi: Thank you, Mr. Speaker, Sir. The Assistant Minister has stated that the reason they are giving this allocation is because of the amount of money that is made available by the Treasury, whereas this is a constitutional indication in terms of how progressively these people should be supported. However, that is not the question I want to ask him.

He has said that there were about 1,000 people with disabilities who were considered in a particular pilot project. However, he does not state how many of these people have severe disability. His answer indicates that the money was allocated to some people with severe disabilities. So, how many people with severe disabilities got compensation?

Mr. Keya: Mr. Speaker, Sir, the money we are talking about is all about people with severe disabilities and not just any other person. If a person has a cut finger, you would say that he has disability. Those are not the ones we are talking about, but people with severe disabilities.

Question No.1876

REVOCATION OF LR.NO.KABARE/NYANGATI/703

Mr. Gitari asked the Minister for Lands:-

(a) whether he is aware that Kutus Secondary School cannot access CDF funds to extend classrooms since Mr. Peter Gachoki, the son of the late Mr. Mburia Ngaragari, is claiming back the parcel of land LR No. Kabare/ Nyangati/703 where the school is located;

(b) whether he is also aware that the late Mburia Ngaragari was given land parcel LR No. Marurumo Adj Sec/165 by Kerugoya Kutus Urban Council as compensation for Kabare/Nyangati/703 but the title deed was not surrendered; and,

(c) what measures he will take to ensure that the title deed for LR No. Kabare/Nyangati/703 is revoked.

Mr. Speaker: Where is the Minister for Lands? Hon. Chris Obure, will you hold brief for your colleague? I can see hon. Members are yearning for sanctions.

The Minister for Public Works (Mr. Obure): Mr. Speaker, Sir, I am not quite able to explain this. I know that the Minister for Lands is a very serious man who takes the business of this House very seriously. I believe that there must be a strong reason he is not here. We will have to find out.

Mr. Gitari: Mr. Speaker, Sir, as much as I do not want to contravene the Standing Orders of this House by anticipating Debate, on today's Order Paper, we have the Adjournment Motion. As we speak, this school cannot continue with operations because part of its land has been grabbed. If we were to break before the Minister gives us an answer that would mean that the school waits until the end of next term before it continues operation. My request is that we put enough sanctions against the Minister because the school cannot continue operating.

Mr. Balala: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister, Chris Obure, to over emphasise the praise for the Minister for Lands on his absence in addressing this issue of the school which is fundamental before the closure of the House?

The Minister for Public Works (Mr. Obure): Mr. Speaker, Sir, I appreciate the gravity of the situation in respect to Kutus Secondary School. However, we know that the Minister for Lands is one of the most active Members of this House. He has been in the forefront advocating for the House to be respected at all times. The fact that he is not here right now, I believe, there must be a strong reason he is not here. I seriously appeal to hon. Members to---

Mr. Speaker: It is possible that the Minister has an explanation. I will want to give him the benefit of doubt.

With regard as to whether or not the House will adjourn, the Member for Kirinyaga Central, you have the answer, yourself. If you invoke the provisions of the Standing Orders, you will be anticipating Debate. I do not think I want to go that way. I will, instead, direct that the Minister furnishes the Member for Kirinyaga Central with an answer and that he also supplies that answer to the Speaker of the National Assembly within the next five days. Notwithstanding the fate that befalls the House, the institution will continue. The Member for Kirinyaga Central, that is to ensure that you have an answer and that there is a remedy in place.

Hon. Obure, please, convey this information to him. In the meantime, we hope that before we close business for today, he will be here and, perhaps, will proffer an acceptable explanation, including a possible answer at whatever point he may come in.

The Minister for Public Works (Mr. Obure): Yes, Mr. Speaker, Sir. That is a fair ruling.

Mr. Speaker: We come to the end of Order No.6 and we will now from that point be guided by the first supplementary Order Paper which has been circulated and before we take the next order, hon. Members will recollect that yesterday I made directions with respect to conduct

of business and I said that once an order is transacted, we will not revisit it because it is bad practice. I want to re-emphasise those directions but yet again I have been prevailed over to make an exception because there is a matter which really must be transacted in the event that perhaps this House is unable to deal with business for any reason whatsoever. So, I will allow us to go back to Order No.4 because of those exceptional circumstances.

PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Education, Research and Technology on the Consideration of the Nomination of Chairperson and Members of the Teachers Service Commission.

(By Mr. Koech)

Mr. Speaker: Consequently, can we go back also to Order No.5?

NOTICE OF MOTION

ADOPTION OF REPORT ON NOMINATION OF CHAIRPERSON/MEMBERS OF TSC

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

THAT, this House adopts the report of the Departmental Committee on Education, Research and Technology on the Consideration of the Nomination of the Chairperson and Members of the Teachers Service Commission (TSC) laid on the Table of the House today, Wednesday, 9th January, 2013.

Mr. Speaker: Fair enough. Next Order!

STATEMENTS

Mr. Speaker: Do we have any Ministerial Statements which are due for delivery ready this afternoon? It will appear none. We will then move on to take requests for Ministerial Statements.

POINT OF ORDER

IRREGULAR OPERATIONS OF OMOREMI SACCO SOCIETY

Mr. Nyambati: Mr. Speaker, Sir, I rise to request for a Ministerial Statement from the Minister for Co-operative Development and Marketing on the irregular operations of Omoremi SACCO Society based in Keroka in Nyamira County.

Mr. Speaker, Sir, in the Ministerial Statement, I request the Minister to:

(a) indicate if he is aware that many small-scale farmers from Nyamira and Kisii counties have not been paid their bonuses from last year that were channeled through the said Sacco;

(b) also state the reason why the Sacco closed down immediately after receiving bonuses from the tea farmers in September, 2012;

(c) if the Minister can undertake to instruct the management of the Sacco and the Sacco itself to refund the farmers and finally,

(d) indicate the action the Government has taken against the officials and the Sacco itself.

Mr. Speaker, Sir, even as I request this, if for any reason the House does not deal with matter, could you kindly make a ruling so that we can have an answer to you and to me indicating all these answers.

Mr. Speaker: Where is the Minister for Co-operative Development and Marketing? Order, hon. Oyugi! I hope you are merely tweeting. I did not quite catch what you are doing but in the event that you are doing what I suspect, please refrain. We are close to the end. In our traditions they say: "A pot breaks at the door." Please, do not break your pot. Hon. Obure, could you hold brief for your colleague?

The Minister for Public Works (Mr. Obure): Yes, Mr. Speaker, Sir. Unfortunately, the Minister is not here but I will be prepared to convey any ruling you might wish to make on this.

Mr. Speaker: Please, just convey that there is a request for a Ministerial Statement and if you can call the Minister, it is possible that the House will be sitting well into the night and if he can have that Statement before we close the sitting today. It will be appropriate that he comes to deliver it. So, just call him and let him know.

That brings us then to the end of Order No.7.

Next Order!

PROCEDURAL MOTIONS

EXTENSION OF SITTING TIME

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, notwithstanding the provisions of Standing Order 20(2), this House orders that today's sitting be extended until conclusion of business appearing in the Order Paper.

In moving this Motion, I want to, first of all, thank hon. Members who have been staying long. I almost now know all of them by name and yesterday we had a record sitting up to close to midnight and we did very well. This morning we also did very well and I believe if we went on the same pace, we will be able to finish all the business appearing on the Order Paper well before it is too late. We could actually do it very early in the evening and then hon. Members can have an early evening and they join their families.

Mr. Speaker, Sir, I think hon. Members will appreciate that we need to close all the business of this House to allow for the printing of the Bills and their signing before our term comes to the end on Monday. I think today is really the best day for us to close all Bills that are due and scheduled and then we can make a decision later on when we move the Motion on whether we want to go home today or whether we want to stay here until Monday.

With those words, I beg to move and ask my colleague, hon. Chris Obure to second.

The Minister for Public Works (Mr. Obure): Mr. Speaker, Sir, in seconding this Motion, I want to say that we have done extremely well so far and it will be most appropriate if

we exercise some patience and understanding so that this House can get the full marks and nothing less.

I second.

(Question proposed)

(Question put and agreed to)

REDUCTION OF PUBLICATION PERIOD OF THE
SUPPLEMENTARY APPLICATION BILL

Mr. Speaker: Next Order.

Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order 107, this House orders that the publication period of the Supplementary Appropriation Bill (Bill No.92 of 2012) be reduced from 7 to 1 day.

Mr. Speaker, Sir, I just wanted to highlight to the House that I am moving this with a correction. On the Order Paper, it reads Bill No.92 of 2012, but, indeed, it is Bill No. 1 of 2013. This is really the first Bill of 2013. So, there is a minor correction. I would want to say that our Standing Orders do allow moving a Motion in an amended form. The Motion is for actually ordering that the publication period of Bill No.1 of 2013 be reduced. It reduces it from 7 days to 1 day, so that we can capture what we passed yesterday in the Motion to give it the force of law in the Supplementary Appropriation Bill, which the Minister for Finance will be presenting.

I want to take this opportunity to also thank the Members for their support so far of this and, indeed, for the passage of the earlier Motion allowing us much time to interact, so that we do not do things in a rush. We can now interrogate things with adequate time; we have already got ourselves up to midnight today.

Mr. Speaker, Sir, with those words, I beg to move and ask hon. Obure to second.

Mr. Speaker: Carry on, Member for Bobassi.

The Minister for Public Works (Mr. Obure): Mr. Speaker, Sir, this Procedural Motion is a prerequisite. I second it.

(Mr. Kapondi stood up in his place)

Mr. Speaker: Order, Member for Mt. Elgon. Just freeze!

(Question proposed)

Order, hon. Members! There is interest by the Member for Rangwe!

Mr. Ogindo: Mr. Speaker, Sir, I rise to support the Motion that in the interest of time, and for practical purposes, the days be reduced.

(Question put and agreed to)

BILLS

First Reading

THE SUPPLEMENTARY APPROPRIATION BILL

*(Order for First Reading Read - Read First Time –
ordered to be read the Second Time today)*

Second Reading

THE SUPPLEMENTARY APPROPRIATIONS BILL

Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I beg to move that the Supplementary Appropriation Bill, Bill No.1 of 2013, be now read a Second Time.

Mr. Speaker, Sir, I will be very brief. The main purpose of this Supplementary Appropriations Bill is basically to seek statutory approval from this august House for the expenditures contained in the Recurrent and Development Supplementary Estimates for the financial year, 2012/2013.

Mr. Speaker, Sir, let me take this opportunity to once again thank most sincerely all Members of this august House for the support and co-operation they have accorded to me during my time at the Treasury. I am also cognisant of the fact that most of our colleagues are actually in the constituencies campaigning, but because of the higher call of national duty, you have foregone your campaigns in order to perform this very important national duty. For that, I am grateful and I will remain grateful forever.

Mr. Speaker, Sir, yesterday we passed the Motion on Supplementary Budget, and in brief, we are giving--- If you recall the final Budget for the year 2012/2013 that was approved by this Parliament consisted of Kshs655.8 billion for Ministerial Recurrent Expenditure, Kshs432.2 billion for Development Expenditure, Kshs5 billion for the Civil Contingency Fund and Kshs346 billion for Consolidated Fund Services.

Mr. Speaker, Sir, since the commencement of the financial year, the Government has faced a number of challenges and emerging priorities, which were unforeseen that require additional funding. These include salaries and allowances for teachers, health workers, university staff, police and prison service, civil servants and teachers expenditures and other expenditures related to the forthcoming general election, the ongoing security operations in Somalia and more importantly the operationalization of county governments. I wish to assure hon. Members that despite these challenges, we have contained our expenditure within our available resources in order to maintain a stable micro-economic stability.

Specifically we have financed additional expenditure through the Civil Contingency Fund, through rationalization and scaling down of expenditures or slow moving projects and deferring projects not likely to commence within the remaining period of the financial year.

Mr. Speaker, Sir, with the approval of the Appropriations Bill, the Controller of Budget will then have the legal authority to approve withdrawals from the Consolidated Fund.

Mr. Speaker, Sir, I think the Bill is self-explanatory. I will not go into details because the amounts are there. The only thing I would like to state is that instead of doing across the board cut expenditure, I insisted that we interrogate each and every Vote head, each and every line so as, first of all, to understand whether those expenditures will be required or not. Therefore, we

have not done across the board cuts, as it used to happen before. We have gone to each individual Vote, so that we do not affect the operations of the Ministries.

Lastly, I would like to thank the staff of the Treasury led by the Permanent Secretary, the Director Budget, the Economic Secretary, the Financial Secretary and all their staff for a job well done. It will be of interest for Members to know that when Kenyans were celebrating Christmas and Boxing Day, we were in the office. When Kenyans were celebrating Jamhuri Day, we were in the office; when Kenyans were celebrating New Year, the Treasury staff including the Minister were in the office trying to come up with these Bills.

With those few words, I beg to move and ask hon. Obure to second.

The Minister for Public Works (Mr. Obure): Mr. Speaker, Sir, in supporting the Motion, I want to take the opportunity to thank the Minister for Finance and say that he has done a great job. He has been very pragmatic, down to earth, approachable and accommodative. We must appreciate the work he has done.

I also want to thank hon. Members, particularly those who are here at this particular time, for making great sacrifices to make sure that this important national assignment is completed. I want to point out the fact that even as we go to the general elections, the operations of the Government must continue. Even the elections themselves must be financed. Therefore, it is important for us to pass this Bill to ensure that we sustain our country and all the activities that we are engaged in.

Mr. Speaker, Sir, I am very pleased with the commitment shown by the Government in respect of the promises it made to teachers, the police and the citizens of this country. Those promises are being fulfilled. In this Supplementary Budget, there are provisions to ensure that those promises are fulfilled.

A very important aspect of this supplementary budget is that there is provision to operationalise the county system of government. I am very happy that money has been made available to make sure that as soon as the elections are over, the new system of government will come into operation. Kenyans are looking forward to this new arrangement because we believe that it will enhance prosperity and that it will be for the benefit of everybody. It will reduce marginalisation and, therefore, we will have a better country.

With those few remarks, I second.

(Question proposed)

Mr. Speaker: Yes, Member for Rangwe.

Mr. Ogindo: Mr. Speaker, Sir, I want to rise on a point of order first and then contribute to the Bill.

Mr. Speaker, Sir, I want to, first of all, find out whether the Fiscal Bill is available. I have been running up and down frantically to get it but I have not seen it.

Mr. Speaker: Minister for Finance, maybe, you want to quickly respond to that one. It should not occupy us unnecessarily.

(Mr. Githae laid the Bill on the Table)

Mr. Speaker: Member for Rangwe, it is available. It has been tabled, if you did not have a copy. Can you now contribute?

Mr. Ogindo: Mr. Speaker, Sir, I want to start by saying that I support the Bill. I have the benefit of the background of it from yesterday's debate. From the debate of yesterday, it was evident that the Minister was seeking an extra Kshs57 billion. This comes after Treasury experienced a lot of challenges in revenue collection.

Hon. Members may recall that we started by a deficit of about Kshs106 billion. To date, we have a revenue shortfall of about Kshs45 billion. We also have an additional expenditure of about Kshs57 billion. Hon. Members will also appreciate that we need another extra Kshs9 billion for the county governments. While we were debating the Finance Bill, I called for a law to tax capital gains but my proposal failed.

Mr. Speaker, Sir, I see a situation where the Government will engage in a lot of borrowing. I can see the risk of inflationary tendencies creeping in. We are going for elections and there are tendencies for higher expenditures. I can see a big risk of inflation setting in. Be it as it may, I want to say that the Minister really needs to persuade this House to appreciate how he is going to deal with those threats, because I know that they are going to affect the fundamentals of the economy.

While the reality is that the expenditures outlined by the Minister are necessary, it is important that we guard the macro-economic framework, so that this country does not slip to where it was sometime in 2010/2011. We have always noticed that during election years, there tend to be inflationary tendencies. Therefore, as I support the Bill, I request the Minister to assure the country that we are not going to slide into inflationary environment.

With those remarks, I beg to support.

Mr. Speaker: Yes, hon. Mwatela.

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, I rise to support the Motion and share the sentiments of the previous speaker that we exercise caution, considering that we seem to be spending more than we can generate in terms of revenue collection.

At the same time, I would like to appreciate the fact that the creation of the devolved system of government will spur economic activities in this country. Most likely, the coming into place of the system will bring about more participation in economic activities by the people and, therefore, the economy will grow at a faster pace. Therefore, as much as this may appear to be a threat, we ought to appreciate that in the long run we will have moved into an era where we will spend more at a lower level, so that we can generate much more income.

With those remarks, I beg to support.

Mr. Speaker: Yes, Member for Kitutu Masaba.

Mr. Nyambati: Mr. Speaker, Sir, I also rise to, first of all, congratulate the Minister for Finance while I support this Motion for the good work that he has done. I think he is one of the best Ministers that we have had. He has been very co-operative and he has been working with this Parliament closely. We want to thank him for the good work that he has done.

Mr. Speaker, Sir, as we adjourn to go for elections, I want to request him to be vigilant in monetary issues, so that this nation can continue functioning. It is important to support this Motion because, as a country, we must operate. At the same time, the devolved governments in the counties must also be seen to operate, so that the new constitutional dispensation can come into fruition.

Even as I support this Motion, I want to request that we must now base our economy on the rural areas, so that we can create an economy which can benefit all the people of this country.

Every person in this country should be made to participate in the matters of the economy of this country.

I strongly support and assure you that this House will always support matters which are beneficial to it.

Thank you, Mr. Speaker, Sir.

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Speaker, Sir, I want to support this Motion and also join my colleagues in congratulating the Minister for Finance for the manner in which he has steered this critical docket. When my learned senior was appointed to this Ministry, there may have been concerns because of his professional background, but I believe that he has acquitted himself very well, especially at a time when the country has faced myriad financial challenges.

We have witnessed unprecedented industrial action all across the board, with the teachers, medical professionals, civil servants, all demanding better pay. The Treasury has, indeed, done its best to deal with all those challenges.

Mr. Speaker, Sir, as I support this Motion, I particularly want to draw the Treasury's attention to the critical importance of properly anchoring the county governments and the devolved structures of governance. This could well be the final bow that we are taking as the Tenth Parliament. Therefore, this House will not be in a position, perhaps, from tomorrow onwards to sit and watch the devolved units come into place after the next elections.

They will depend to a very large extent on the Treasury to show goodwill and provide sufficient support, especially for the preliminary structures required to anchor the devolved governments. I want to really urge my learned colleague, the Minister for Finance, and the Treasury generally, to go out of their way and make sure that all preparations required to ensure that we will be ready for county governments are put in place in terms of the physical infrastructure and all the software required to run them.

This is also a moment when we are taking the big leap constitutionally and politically. Again, the Treasury is right at the centre of facilitating all this. I have no doubt that the hon. Minister has faith in devolution. Therefore, while at the Treasury, let him rein in any fears and apprehension that may be there, that there may be individuals who have not yet taken the step of faith to believe in devolution, to support devolution fully and, therefore, make sure that we will be ready by the time we go to the polls to ensure that devolution does take root.

Mr. Speaker, Sir, I support.

Mr. Njuguna: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to these very important Supplementary Estimates. I will start by thanking the Minister and his entire staff for piloting the Treasury and the Ministry in the right direction. For the short time the Minister has been at the helm, we have seen a lot of growth and co-operation from that Ministry. Therefore, it is important that the Minister should continue working in that spirit.

Mr. Speaker, Sir, it is also important that the functions of the Government and services to the people must continue. It is the responsibility of the Government to make sure that services are rendered to wananchi in all corners of this country. Therefore, without funds, the Government will be crippled and growth in the country will be affected.

Mr. Speaker, Sir, I have noted that the highest allocation has gone to the Ministry of Education; we have a lot of confidence in the person of the Minister for Education, Mr. M. Kilonzo. He has really demonstrated very satisfactory dynamism at the Ministry. He has continued to assure this country that the quality and quantity of education will continue to

improve. The Ministry has been allocated Kshs18 billion and I hope that the Minister will be able now to employ the required number of teachers.

The Ministry of State for Provincial Administration and Internal Security has been allocated Kshs6.6 billion. Therefore, it is the responsibility of those charged with matters of discharging security in this country to make sure that security is improved in the stock theft prone areas where time and again there are flare-ups of fighting due to stock theft. This must be stopped completely.

Mr. Speaker, Sir, I have seen a very serious threat of animals in my constituency, Lari, where donkeys are stolen and slaughtered and the meat is sold in Nairobi. Therefore, I urge the Government to make sure that serious action is taken to control this menace.

The internal security of this country must be improved because we realize that there are terror threats and throwing of grenades has been the order of the day. This country will not be the hub of economic growth and tourist destination if security is not improved. Therefore, we are calling on the Government to make sure that the security forces are given the necessary equipment, vehicles are bought and released immediately.

Mr. Speaker, Sir, without hesitation, I commend these Supplementary Estimates to the House. I fully support.

Prof. Kaloki: Mr. Speaker, Sir, I also want to join my colleagues in supporting The Supplementary Appropriation Bill which has been tabled by the Minister for Finance.

Mr. Speaker, Sir, as I support this very important Bill, I would like to urge the Minister for Finance to consider some areas during this time of budgeting. He should consider the dual carriage way which will be constructed to link Mombasa to Nairobi and Malaba. That will reduce traffic congestion and increase investment along that road.

Mr. Speaker, Sir, I thank the Minister for allocating adequate funds to cater for the general election which will be held in March. I also thank him for funding other important segments of the economy, including the road network and water projects, especially in Ukambani. Let me also appreciate the Minister for Education, hon. M. Kilonzo. I hope that in these Supplementary Estimates, he will remember and include the allocation for Makindu Teachers Training College, where he laid the foundation stone. This college will provide the much needed education in Makueni County.

Mr. Speaker, Sir, I beg to support this Supplementary Estimates and wish the Minister, hon. Githae, well.

Mr. C. Onyancha: Mr. Speaker, Sir, I wish to support the Supplementary Appropriation Bill.

Mr. Speaker, Sir, first of all, I am happy that it includes county funding. We need to see successful devolution. We must not afford to have the funding starved of counties at any one time. We hope that this funding will be continuous and timely. As we also fund the elections through this Appropriation Bill, I hope that the Independent Electoral and Boundaries Commission (IEBC) will be able to use some of the funds for civic education because voting for six candidates can be quite a challenge, as I have seen even here in Parliament some of us having spoilt ballot papers when we are voting for just a few people to the East African Community Assembly.

Mr. Speaker, Sir, with regard to the budget for the Ministry of Education, the Ministry did promise last December that they would be hiring more teachers, but this did not come to pass. I hope that some of this funding will be utilized to hire more teachers because most of our schools are actually understaffed and as a result, the results of those schools are wanting.

Mr. Speaker, Sir, with regard to use of funds, when these funds are disbursed, we know that quite a bit of them go to waste through corruption and other means that are not legitimate or inefficiencies. I would urge that we realize value for money. We also hope that the Auditor-General will be able to put in place programmes that will ensure that all projects are sufficiently explained with regard to the expenditure related to them.

Mr. Speaker, Sir, I want to tell my colleagues who are worried about inflation that local domestic borrowing does not result in inflationary tendencies because we are mopping cash from the economy.

Mr. Speaker, Sir, lastly, I want to commend the Minister for Finance for a job well done, especially during the last few weeks where him and I have been working here up to midnight. I would encourage other hon. Members to stay with us, as we finish business.

Mr. Speaker, Sir, I beg to support.

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, thank you for the opportunity to speak and also congratulate my learned friend, the Minister for Finance, for the good job that he is doing in bringing to Parliament timely issues and adequately explaining and convincing the House and country that he is doing his work openly and to the satisfaction of many.

Mr. Speaker, Sir, as I support this Supplementary Appropriation Bill, I want to encourage that we remain steadfast and committed to devolution. I know that the Minister has indicated that there is Kshs10 billion allocated towards the devolved government system. It is not enough but it is a good start, so that immediately after elections, the devolved units can start their operations and give Kenyans what they have been waiting, which is, a government close to them, within their midst that will be literarily available to respond to their day to day needs.

Mr. Speaker, Sir, as we do so, you can see that we are having serious security challenges popping up here and there in the country. I have in mind the Tana River situation where from time to time, we are seeing reckless loss of lives that need not be lost. I want to urge the Ministry of State for Provincial Administration and Internal Security, because I see that the Minister has allocated them quite a substantial sum of money to pay attention to these flashpoints that we have witnessed in the recent times. We have Tana River, Baragoi and the resurgence of very ghastly road accidents that are claiming lives. We need more policing on the highways and strict enforcement of the new traffic laws, so that as we go to the elections and at all times, we can safeguard the sanctity of the lives of Kenyans.

Mr. Speaker, Sir, in the recent past, there is a resurgence of a very dangerous trend in our national parks. There is very deadly poaching going on. Elephants are being slaughtered in their tens and sometimes twenties and fifties. I want to urge the Ministry concerned that this should not just be left to the wildlife services. I think that the Ministry of State for Provincial Administration and Internal Security must take poaching as also a threat to internal security and liaise with the Ministry of Forestry and Wildlife to jointly battle this menace of poaching that is undermining and threatening our heritage. A large portion of our foreign exchange earnings and employment is dependent on tourism. Many tourists come to Kenya not just because of our beautiful beaches, but our wildlife which once put under threat, threatens the entire economic fabric of our country. As you know, once these poachers are through with the elephants, they will turn to other species. They will start shooting lions, buffaloes and other animals. So, we really need to have the Ministry of State for Provincial Administration and Internal Security going beyond its known mandate and get rid of these poachers. Indeed, I want to urge that a law be brought to this Parliament to deal with poachers, the same way we deal with homicide cases.

If somebody picks up a gun and goes on a frenzy of reckless slaughter of wildlife, he is not any different from the crooks who are throwing grenades in churches or social places like bars. We should tighten the law and deal with them exactly in the same way that we are dealing with cases of homicide.

Mr. Speaker, Sir, I see that the Minister has put some paltry allocation to the Ministry of Trade. I want to encourage both my learned friend and any successive Minister to realize the importance of trade in the growth of the economy. You have to promote trade internally and externally, within the region and sub-region, if we want our economy to grow. The little money allocated to the Ministry of Trade is barely enough to assist in the growth of our trade.

Mr. Speaker, Sir, 50 years down the line of our Independence, we still have too many Kenyans unable to access clean water. I would want to encourage the Minister that we must set a target, both through the Ministry of Finance and Ministry of Water and Irrigation, by which time we should have all Kenyan women and families enjoying clean water in whatever form; whether through pipes, deep wells, boreholes and so on. We still have many Kenyans drawing water by the roadside pools, not to mention the attendant diseases that come with this.

Mr. Speaker, Sir, I want to finish by encouraging that the reforms that are going on in the Judiciary – I can see there is some allocation of some money as well - continues. I want to caution - and I am sure my learned senior, Mr. M. Kilonzo, Mr. Namwamba and the Minister himself had agreed - that we have a dangerous trend in this country where a judge makes a decision and the next day, you have mobs shouting that such a judge should be frog marched before a vetting process. Judges have the right to make mistakes as long as those are honest mistakes. That is why we have appellate processes. If a judge at the High Court makes a decision a litigant or anybody does not agree with, there is the Court of Appeal. There is ultimately the Supreme Court. The intolerance that we are seeing from certain sections of our society of mobs calling for lynching of judges who make decisions they do not agree with is something very dangerous for the rule of law in this country and something - I believe my learned colleagues who sit here agree with - should be discouraged. We really end up not only undermining the rule of law but frightening judges to the extent that they will be looking over their shoulders to see which mob is standing behind them before they make decisions. That is the foundation of injustice in any country.

With those few remarks, I beg to support.

The Assistant Minister, Ministry of State for National Heritage and Culture (Ombui): Mr. Speaker, Sir, I am the Member for North Mugirango, Borabu but for the next election, I will be contesting a seat in North Mugirango. I stand to support this important Bill. It is a Bill which is more important for implementation in this period of 2013. It is a good practice once the Supplementary Budget has been passed, it is important to have the Appropriations Bill. The Supplementary Budget is a merely allocation and it will not have any meaning without this Bill. With that understanding, I thank the Minister in the Ministry of Finance for bringing this kind of Bill so that there can be total implementation of the Supplementary Budget.

We are now heading to elections and we need a lot of security within some areas or the entire country. I hope the Minister for Finance has catered for vehicles which will assist in alleviating insecurity in some areas within the Provincial Administration. We come from some areas where there is a lot of insecurity and lack of vehicles to assist the Provincial Administration to ensure that there is security and criminal activities are dealt with accordingly.

I also look at the local government authorities which have been catered for. I think this operational Bill will take care of the workers within the authorities and so, there will be no fear

of not getting their salaries at any time of the year. I hope they can now operate properly without any fear. It has been catered for in this specific Bill.

If you look at the uncompleted projects, some projects were started in this financial year but they have been moving at a slow pace and, more specifically, in the road sector. I have a road in my constituency which was started in this financial year but it has hardly moved even two kilometers. I believe the Minister for Finance catered for those kind of roads which started in this financial year, but which have not been completed. There are many other specific services. I believe that the relevant Ministries will ensure proper implementation of this specific operational Bill and the Supplementary Budget. That is because once we have approved the Supplementary Budget and the Appropriations Bill, it is up to the Ministries concerned to ensure that the element of prudence is catered for while trying to implement the whole Budget. Otherwise, I thank the Minister and support the Bill.

The Minister for Education (Mr. M. Kilonzo): Mr. Speaker, Sir, I want to acknowledge my learned friend, the Minister for Finance, for an excellent piece of job. Allow me to draw your attention to page 10 of the Bill - Vote No.131 - because history is in the making. My learned friend has kindly agreed to allocate a sum of money, although not enough, but sufficient funds that can help: "The amount required in the year ending 30th June, 2013 for the Ministry of Education for capital expenditure including general administration and planning" and I emphasize "early childhood education, primary education, schools for the handicapped, secondary education and adult education". I want to recognize and salute the Minister for accepting this recommendation from my Ministry. That is because as you know under Schedule IV, PART II, Section IX, Early Childhood Education has been assigned for county governments. But the fact that the Minister has recognized the urgency of starting this work is truly a landmark position. I hope that as we wait for the next Cabinet Secretaries, they will continue with this.

However, allow me to mention that he has given us under Vote No.R209 at page 8, money for salaries of teachers. But it cannot have escaped your attention that we still have a shortage in this country of more than 70,000 teachers. I hope that the next Cabinet Secretary for the budget coming in June will help this country to make a further step in the journey towards providing more teachers for this country because you cannot talk about education without teachers.

The other thing that I would like to bring to the attention of this very august House is the issue of sanitary towels. Although I have not scored in that respect - and I normally score first class - I have tried. I have tried to tell this country that the girl-child of this country is seriously disadvantaged once she reaches that age when, at that particular time of the month, she goes through that process that leads to us being born. We need sanitary towels for our girl-child. Therefore, allow me to put on record that, as we wait for the next budget process, to ensure that we seek a method, as a country, to enable the girl-child to enjoy the same facilities everyday of the week, every month of the year in the classroom when they reach that age.

With those few remarks, I beg to support.

Mr. Kathuri: Mr. Speaker, Sir, I also want to commend the Minister for making it possible to adjourn this House and go to campaign early enough so that, at least, we can be sure our competitors are not finding it easy.

While supporting the Minister, it is also good to let him know that as much as he has provided for the local authorities, he should be aware that there are many members of staff who have retired from the local authorities and have been complaining seriously. We have seen them staging demonstrations in Embu. I can see they have provided for salaries. But I would urge him

together with his staff to ensure that they also dig into the whole issue and confirm whether the local authorities have serious debts that may make the governors not to function properly while in office. This should not be so difficult because this is something they can compile conveniently. That can be done with the help of the existing structures within the Ministry at the local authority level.

Mr. Speaker, Sir, we are getting into a new dispensation and yet procurement procedures are cumbersome. Some of them have led to wastage of resources. The Minister and his staff need to look at all the ways of making the processes simpler even if it means waiving some of the conditions that have made it so difficult for us to get competitive bids. Some services have been made expensive for no apparent reason. Now that we have seen that the devolved governments will definitely run short of money, it is good that they be aware of this so that they can see where they can adjust their procurement law so that they function and procure without hitches.

Mr. Speaker, Sir, it is also of concern that even as we get into county governments, the Treasury is expected to collect resources through taxes and related fees and charges. It is also still of concern that the National Land Commission is not yet operational and yet, there are some issues which ought to be tackled through that Commission. It is a commission that could lead in revenue generation. A good example is the Land Board which ought to have been put in place in my constituency. We are still waiting for the National Land Commission to be gazetted. This is what is going to enable the Government collect revenue. When it is missing, revenue is getting lost. Even if it is not lost, I believe that it is not being remitted to Government and yet, this is the revenue that is seriously needed to make sure that the systems functions with the right funding.

As we appreciate the Minister because he has done a lot, we need to tell him that this money is not enough. As and when the Ministry realizes some savings, let the county governments receive more funding so that they are operational without a lot of strain. If you want to kill an institution, starve it of cash. I believe that is not the intention of this Government - or the coming one - to do that. The county governments should survive strongly

With those many words, I beg to support.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, I stand to support this Bill. The Ministry of State for Special Programmes requires funding. The other day, I was checking for foodstuff for the people of Samburu North in Baragoi area who were displaced and robbed of their livelihood, that is, their cattle. They are now living without food at all. I was told that the Ministry does not have resources to buy foodstuffs. I am, however, glad that a substantial amount of money has now been put in this budget not only to help the people of Baragoi, but also the people of Tana River and Western Kenya who have faced disasters through the recent rains. I hope that the Minister will move very quickly to support those communities.

Of great interest are the resources required in the Ministry of State for Provincial Administration and Internal Security, especially the new Inspector-General who has moved in very quickly to deal with a number of security challenges that are cropping up this time when we are preparing for elections. It is critical that resources are given to the Inspector-General so that he does his work well.

With those few remarks, I beg to support.

Mr. Nyammo: Mr. Speaker, Sir, I rise to support this Bill and commend the Minister for doing a great job. At one stage, I remember asking him, "Who is the finance man? Is it the lawyer or is it me?" He wins because he is now behaving like a finance man.

Mr. Speaker, Sir, there are areas where the Minister could have provided better than he has. Recently, we passed a Bill here on Small and Medium Enterprises (SMEs). We have prided ourselves by saying that SMEs provide about 80 per cent of our employment and contribute to the Gross National Product (GNP) anything between 18 per cent and 22 per cent. I feel sorry that under the Ministry of Trade where the Bill was domiciled, there is no provision for implementing that Bill. If that Bill is well implemented – I urge the Minister to provide for it – it will revolutionize the countryside. If we cascade that Bill to the county governments with the requirements that they provide sheds for SMEs, they will then create employment at a very low cost.

Mr. Speaker, Sir, those are budding manufacturers. I feel sorry that we killed the Kenya Industrial Estates (KIEs) of this world. We know that KIE was the nursery of our upcoming manufacturers. If this Bill is implemented, it will increase the number of manufacturers greatly, widely and cheaply.

With those few remarks, I beg to support.

Mr. Speaker: Minister for Finance, I see no further interest. Are you ready to reply?

The Minister for Finance (Mr. Githae): Yes, indeed, Mr. Speaker, Sir. Let me take this opportunity to thank hon. Members of this august House for their support, co-operation and contributions. The points have been noted. It is not possible to provide adequate funds in all areas. Maybe, I did not mention that when we started preparing this Supplementary Budget, we got more than Kshs165 billion in additional requests. From that, the Minister had to make some very painful decisions to reduce it from Kshs165 billion to Kshs57 billion. It was not an easy decision, but we managed.

I wish to thank hon. Members for their contributions and support.

I beg to move.

(Question put and agreed to)

Mr. Speaker: Hon. Members, from this point, you will now be guided by the Supplementary Order Paper No.2 which has been circulated. As at the point which we are, you will realize that at Order No.12 we have a number of Bills that are supposed to proceed to Committee of the Whole House. The indications I have are that the Bills appearing from (i) to (viii) have, in fact, been concluded in so far as the Committee of the whole House is concerned. We will, therefore, just move to receive the Reports from the Committee. That is what we will do now. We will receive the Reports with respect to those Bills.

(Mr. Speaker consulted with the Clerks-at-the-Table)

REPORTS AND THIRD READINGS

Mr. Speaker: Hon. Members, I will ask the Chairman of the Committee of the whole House to make the Report on the Constituencies Development Fund Bill, Bill No.77 of 2012.

Who was the Chairman of the Committee? Hon. Member for Kibwezi, Prof. Kaloki.

Prof. Kaloki: Mr. Speaker, Sir, I seek your direction, am I supposed to report as the Chair of the whole House?

Mr. Speaker: Indeed, that is what I have just directed.

THE CONSTITUENCIES DEVELOPMENT FUND

Prof. Kaloki: Mr. Speaker, Sir, I beg to report that the Committee of the whole House has considered The Constituencies Development Fund Bill and approved the same with amendments.

Mr. Speaker: Hon. Members, the sponsor of the Bill should now move for us to proceed to adopt that Report.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I beg to move that the Constituencies Development Fund be now read the Third Time.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

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

THE INTERNATIONAL INTERESTS IN AIRCRAFT EQUIPMENT BILL

Prof. Kaloki: Mr. Speaker, Sir, I beg to report that the Committee of the whole House has considered The International Interests in Aircraft Equipment Bill and approved the same with amendments.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I beg to move that The International Interests in Aircraft Equipment Bill be now read the Third Time.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

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

THE CIVIL AVIATION BILL

Prof. Kaloki: Mr. Speaker, Sir, I beg to report that the Committee of the whole House has considered The Civil Aviation Bill and approved the same with amendments.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I beg to move that The Civil Aviation Bill be now read the Third Time.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

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

THE NAIROBI CENTRE FOR INTERNATIONAL ARBITRATION BILL

Prof. Kaloki: Mr. Speaker, Sir, I beg to report that the Committee of the whole House has considered The Nairobi Centre for International Arbitration Bill and approved the same with amendments.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Youth Affairs and Sports (Mr. Namwamba) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I beg to move that The Nairobi Centre for International Arbitration Bill be now read the Third Time.

The Minister for Youth Affairs and Sports (Mr. Namwamba) seconded.

(Question proposed)

(Question put and agreed to)

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

Mr. Speaker: The Member for Kibwezi, as the Temporary Deputy Chairman, could you kindly report on the Kenya Law Reform Commission Bill, Bill No.67 of 2012?

THE KENYA LAW REFORM COMMISSION BILL

Prof. Kaloki: Mr. Speaker, Sir, I beg to report that the Committee of the whole House has considered The Kenya Law Reform Commission Bill, Bill No. 67 of 2012 and approved the same with amendments.

Mr. Speaker: Who will hold brief for the Attorney-General?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I beg to move that the Kenya Law Reform Bill, Bill No. 67 of 2012 be now read the Third Time.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

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

Mr. Speaker: The Member for Kibwezi, could you now report on the Science, Technology and Innovation Bill?

THE SCIENCE TECHNOLOGY & INNOVATION BILL

Prof. Kaloki: Mr. Speaker, Sir, I beg to report that the Committee of the whole House has considered The Science, Technology & Innovation Bill, Bill No.53 of 2012 and approved the same with amendments.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Speaker, Sir, Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Speaker, Sir, I beg to move that The Science, Technology & Innovation Bill, Bill No. 53 of 2012 be now read the Third Time.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

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

Mr. Speaker: The hon. Member for Kibwezi, you can now report on The Sports Bill.

THE TECHNICAL AND VOCATIONAL, EDUCATION
AND TRAINING BILL

Prof. Kaloki: Mr. Speaker, Sir, I beg to report that the Committee of the whole House has considered The Technical and Vocational, Education and Training Bill, Bill No.55 of 2012 and approved the same with amendments.

Mr. Speaker: Hon. Phillip Kaloki, I called you to report on The Sports Bill. However, you appear to have been programmed to report on The Technical and Vocational, Education and Training Bill. I will proceed that notwithstanding. The HANSARD is appropriately corrected.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Speaker, Sir, Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Speaker, Sir, I beg to move that The Technical and Vocational Education and Training Bill, Bill No.55 of 2012 be now read the Third Time.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

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

Mr. Speaker: The Temporary Deputy Chairman, Prof. Philip Kaloki, can you now report on The Sports Bill?

THE SPORTS BILL

Prof. Kaloki: Mr. Speaker, Sir, I beg to report that the Committee of the whole House has considered The Sports Bill, Bill No.43 of 2012 and approved the same with amendments.

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Speaker, Sir, I beg to move that The Sports Bill, Bill No.43 of 2012 be now read the Third Time.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

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

Mr. Speaker: Order, hon. Members! You will continue to be guided by Supplementary Order Paper No.2 and we will now go back to the Committee of the whole House and we will consider business beginning with the Bill at (ix) and continue until we dispose of business on the Bills at (xv).

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE TRANSITION COUNTY ALLOCATION OF REVENUE BILL

(Clause 2 agreed to)

Clause 3

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 3 be amended in paragraph (a) by inserting the words “and any other expenses” immediately after the words “wages and administrative costs”.

We are just adding the words “other expenses” because we have now added more money for the counties. So, they will be able now to do some development and not just administrative expenses.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

Clause 4

The Minister for Finance (Mr. Githae) Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 be amended in sub-clause (1) by deleting the words “for wages and administrative costs” appearing immediately after the words “county government allocation”.

(Question of the amendment proposed)

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

(Clause 4 as amended agreed to)

(Clauses 5, 6, 7, 8, 9, 10 and 11 agreed to)

Schedule

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Schedule be amended by deleting column B and substituting thereof the following new column-

	Column B
COUNTY	Allocations to be Transferred to County Governments Immediately After Elections
BARINGO	167,256,975

BOMET	177,291,444
BUNGOMA	289,098,464
BUSIA	204,893,279
ELGEYO-MARKWET	123,169,798
EMBU	144,564,942
GARISSA	217,388,329
HOMA-BAY	212,227,537
ISIOLO	115,138,304
KAJIADO	166,166,769
KAKAMEGA	335,494,219
KERICHO	169,668,084
KIAMBU	281,065,927
KILIFI	280,233,425
KIRINYAGA	133,240,926
KISII	267,165,122
KISUMU	213,967,379
KITUI	273,681,740
KWALE	193,053,229
LAIKIPIA	129,910,803
LAMU	77,260,390
MACHAKOS	254,918,456
MAKUENI	224,836,164
MANDERA	337,276,386
MARSABIT	195,437,951
MERU	244,561,818
MIGORI	219,826,411
MOMBASA	195,756,188
MURANG'A	201,712,527
NAIROBI CITY	489,488,844
NAKURU	305,694,565
NANDI	179,079,104
NAROK	199,147,810
NYAMIRA	156,473,885
NYANDARUA	162,223,384
NYERI	167,582,330
SAMBURU	133,759,268
SIAYA	188,109,598
TAITA-TAVETA	124,634,357
TANA-RIVER	150,044,045
THARAKA-NITHI	118,155,722
TRANS-NZOIA	192,075,005
TURKANA	394,663,541
UASIN-GISHU	195,518,698
VIHIGA	145,812,293
WAJIR	272,397,682

WEST POKOT	162,445,573
GRAND TOTAL	9,783,568,694

(Question of the amendment proposed)

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, I want to support this amendment. This was part of the negotiated settlement to this Bill but I still want to point out that this amendment came with an extra Kshs3 billion requirement and which will go a long way in overstressing the borrowings in this country. I just wanted to sound an alarm that this is going to crowd out the public sector and we will soon be seeing an increase in the interest rates not to mention inflation. I want to hear the Minister say “No” loudly and convince me much as we are in the Committee Stage.

Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I wish to confirm that there will be no increase in inflation as a result of the Kshs3 billion that we have given to the counties. Why? This is because what I intend to do is to seal all the tax leakages that we have been experiencing. That is why in the Supplementary Estimates, there is Kshs2 billion for the Kenya Revenue Authority (KRA) first of all to come up with a system that will be able to monitor the Excise Duty revenue stamps, so that we do away with the fake and counterfeits.

Mr. Temporary Deputy Chairman, Sir, in addition, in the recent Finance Act we put in a new tax on mobile transfer charges. So, I wish to confirm that there will be no inflation. I wish to confirm that interest rates will not increase. I wish to confirm that our micro-economic stability will continue.

(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)*

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Transition County Allocation of Revenue Bill, Bill No.90 of 2012, and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Prof. Kaloki): We have now completed the Transition County Allocation of Revenue Bill, and now we will move to the Transition County Appropriation Bill, Bill No.91 of 2012.

THE TRANSITION COUNTY APPROPRIATION BILL

(Clause 2 agreed to)

Schedule

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Schedule be deleted and replaced by the following new Schedule-

Appropriations

(1)	(2)	(3)
County Government No.	Service Purpose	Supply
501	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Baringo County	167,256,975
502	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Bomet County	177,291,444
503	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Bungoma County	289,098,464
504	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Busia County	204,893,279
505	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Elgeyo Marakwet County	123,169,798
506	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Embu County	144,564,942
507	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Garissa County	217,388,329
508	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Homa Bay County	212,227,537
509	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Isiolo County	115,138,304
510	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Kajiado County	166,166,769
511	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Kakamega County	335,494,219
512	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Kericho County	169,668,084
513	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Kiambu County	281,065,927
514	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Kilifi County	280,233,425

515	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Kirinyaga County	133,240,926
516	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Kisii County	267,165,122
517	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Kisumu County	213,967,379
518	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Kitui County	273,681,740
519	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Kwale County	193,053,229
520	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Laikipia County	129,910,803
521	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Lamu County	77,260,390
522	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Machakos County	254,918,456
523	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Makueni County	224,836,164
524	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Mandera County	337,276,386
525	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Marsabit County	195,437,951
526	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Meru County	244,561,818
527	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Migori County	219,826,411
528	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Mombasa County	195,756,188
529	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Murang'a County	201,712,527
530	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Nairobi County	489,488,844
531	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Nakuru County	305,694,565
532	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Nandi County	179,079,104
533	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Narok County	199,147,810
534	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Nyamira County	156,473,885
535	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Nyandarua County	162,223,384
536	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Nyeri County	167,582,330
537	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Samburu County	133,759,268

538	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Siaya County	188,109,598
539	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Taita-Taveta County	124,634,357
540	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Tana River County	150,044,045
541	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Tharaka Nithi County	118,155,722
542	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Trans-Nzoia County	192,075,005
543	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Turkana County	394,663,541
544	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Uasin Gishu County	195,518,698
545	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Vihiga County	145,812,293
546	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of Wajir County	272,397,682
547	the amount required in the year ending 30 th June, 2013 for Salaries and Expenses of West Pokot County	162,445,573
	GRAND TOTAL	9,783,568,694

(Question of the amendment proposed)

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, I want to support the Minister. Now, the county governments are going to set out and get to business unlike previously, where they were just going to pay salaries. I think this is a good start and it is commendation to the Minister. I support.

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, I am also supporting the Minister for working out the new tabulations, which now give confidence to the 47 county governments, as they kick off with funds.

(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)

(Scheduled as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Prof. Kaloki): Minister, you may now respond since we have concluded all your amendments.

The Minister for Finance (Mr. Githae) Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Transition County Appropriation Bill, Bill No.91 of 2012 and its approval thereof with amendment.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, we have dealt with the Transition County Appropriation Bill, Bill No.91 of 2012 and we are now going to move to the National Government Co-ordination Bill, Bill No.74 of 2012.

THE NATIONAL GOVERNMENT CO-ORDINATION BILL

Clause 2

The Temporary Deputy Chairman (Prof. Kaloki): We have an amendment here and hon. Odhiambo-Mabona will be able to move it.

Hon. Odhiambo-Mabona are you ready? Hon. Odhiambo-Mabona, your microphone is on and I can see you are running to get there; I know you will get there.

(Hon. Odhiambo-Mabona moved to another microphone)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I am sorry I did not inform you that I have agreed with the Chairman of the Committee and the Minister that I withdraw my amendments, and that we support the amendments by hon. Kapondi with further amendments.

The Temporary Deputy Chairman (Prof. Kaloki): I do not have anything from hon. Kapondi for clause 2. Since you are dropping your amendment, I want to propose the Question.

Since hon. Odhiambo-Mabona has dropped her amendment, we will go to the Minister. Minister, proceed.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 be amended in the definition of “national government function” by inserting a comma and the words “this Act” immediately after the word “Constitution” It is just a typographical error; I am just inserting comas in between.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

Clause 3

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I withdraw my amendment to Clause 3.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 3 agreed to)

(Clause 4 agreed to)

Clause 5

Mr. Kapondi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended in Clause 5 by inserting the words “pursuant to Article 6(3) of the Constitution” immediately after the word “service”.

(Question of the amendment proposed)

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

(Clause 5 as amended agreed to)

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

Clause 10

Mr. Kapondi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended in Clause 10 by deleting Sub-sections (3), (4) and (5) therefor.

(Question of the amendment proposed)

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

(Clause 10 as amended agreed to)

(Clauses 11 and 12 agreed to)

Clause 13

Mr. Kapondi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended in Clause 13 by:-
(a) inserting the words “and such other committees or mechanisms as may be necessary” immediately after the word “Secretaries”;

- (b) deleting Sub-section (2);
- (c) inserting the words “through the Cabinet Secretary” immediately after the word “President”.

(Question of the amendment proposed)

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

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

(Clause 13 as amended agreed to)

Clause 14

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I withdraw my amendment to Clause 14.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 14 agreed to)

Clause 15

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, there are three proposals for amendment to this clause. We will start with the one by the Minister.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended in Clause 15 by introducing a new sub-clause (f) to read as follows:-

“(f) any other national government administrative officer in respect of a service delivery unit established under section 14”.

This is to provide for the appointment of village elders; a proposal which came out very strongly from hon. Members during the Second Reading stage of this Bill.

(Question of the amendment proposed)

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

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, we have a proposal for further amendment by hon. Kapondi.

Mr. Kapondi: Mr. Temporary Deputy Chairman, Sir, after consulting with hon. Millie and the Minister, I wish to move as follows:-

THAT, the Bill be amended in Clause 15 by-

a) deleting the word “sub-county” appearing in Sub-section (b) and substituting therefor the word “Deputy County Commissioner”;

b) deleting the words “ward coordinator” appearing in Sub-section(c) and substituting therefor the word “Assistant County Commissioner”.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Kapondi, do you have the written amendment with you?

Mr. Kapondi: Yes, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Prof. Kaloki): I will put the Question but, please, provide the Clerks-at-the Table with the write-up because it is different from the amendment that you submitted earlier.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Prof. Kaloki): Yes, Minister.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I just want to confirm that I have no objection to the amendment.

*(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)*

The Temporary Deputy Chairman (Prof. Kaloki): Yes, hon. Millie Odhiambo.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I withdraw my amendment to Clause 15.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 15 as amended agreed to)

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

Clause 20

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

THAT the Bill be amended in Clause 20 by deleting the words in the section and substituting therefor the following new clause-

20. All property, assets, rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into by or on behalf of the system of administration commonly known as the Provincial Administration shall upon the commencement of this Act, vest in the national government to the same extent as they were enforceable by or against the system of administration commonly known as Provincial Administration before the commencement of the Act.

(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)

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I just want to alert you that I have a new clause at the end of Clause 23.

The Temporary Deputy Chairman (Prof. Kaloki): We will come to that. Let us first dispose of clauses 21 to 23.

(Clauses 21, 22 and 23 agreed to)

New Part

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following new Part be inserted immediately after Clause 18-

PART IIIA – COLLABORATION AND DISPUTE RESOLUTION BETWEEN THE NATIONAL AND COUNTY GOVERNMENT ON ISSUES OF APPARENT CONCURRENT MANDATES

Constitution of mediation team.

18A. (1) Where a dispute arises as to the mandate or powers of any of the officers, or roles of respective officers of the county governments and those of the national Government a mediation team shall be constituted to deal with the dispute.

(2) The mediation team constituted under subsection (1) shall consist of two eminent persons appointed by the governor and two eminent persons appointed by the Cabinet Secretary for the time being responsible for national Government co-ordination.

(3) The mediation team shall be guided by the constitutional principles and the respective constitutional mandates of each respective government.

(4) The mediation team shall undertake and finalize its task within a period of fourteen days.

(5) Should the mediation team fail to resolve the dispute within the stipulated time, the matter may be referred to the High Court for resolution.

Mr. Temporary Deputy Chairman, Sir, this was one of the areas we agreed on. It is about dispute resolution between the national and county governments on issues of apparent concurrent mandates. I know the Inter-Governmental Relations Act provides a more comprehensive framework, but it is not a framework that deals with intra-county conflict. So, this is further to what is provided.

Mr. Temporary Deputy Chairman, Sir, I do not know whether at the point I am moving it to be read a Second Time I can move my further amendment at the same time.

The Temporary Deputy Chairman (Prof. Kaloki): No, we will allow you to do that later. There is a time for that.

(Question of the new part proposed)

(New part read the First Time)

*(Question, that the new part be read
a Second Time, proposed)*

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I thought Mrs. Odhiambo-Mabona was going to drop this amendment. I still kindly request her that in the spirit of the consensus we have really built over time, she just drops it and then we will go to the detailed Inter-Governmental Relations Act for any mediation.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, perhaps, I could explain to the Minister that this is actually one of the clauses that we agreed on yesterday; even his technical advice team had no problem with it. I had actually agreed that later I may remove it, but when I read the Inter-Governmental Relations Act, I found that it focuses a lot on a resolution of county to county conflict. It is not focused on intra-county conflict, where you have a County Commissioner and a governor having a conflict over mandates. You do not want people to start working and fighting. You need mediation instead of people running to court and spending a lot of energy in court. You need an amicable way of solving the dispute. So, this is actually one of the areas that we had no problem with. I do not know if I can move my further amendment now; I wanted to move a further amendment to sub-clause (5)---

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mrs. Odhiambo-Mabona! Let us deal with this one and then you will be able to move your amendment later.

*(Question, that the new part be read a Second Time,
put and agreed to)*

(The new part was read a Second Time)

*(Question, that the new part be added to the Bill,
put and agreed to)*

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I wish to move a further amendment to Sub-clause (5) by deleting the words “High Court” and substituting therefor the words “summit under the Inter-Governmental Relations Act”. This is to ensure that where there is no agreement, instead of having them running to the High Court, they refer the dispute for further resolution under the Inter-Governmental Relations Act. If we use the method that is in the Inter-Governmental Relations Act, we will be actually stopping operations. Even on any minor dispute you will have to constitute the summit, and that is too technical and high up there. So, there needs to be a simple mechanism of resolving disputes within the county.

The County Commissioner and the governor should be able to sit with two or three people and solve a conflict. So, I am suggesting that we delete the words “High Court” and replace them with the words “summit under the Inter-Governmental Relations Act.”

(Question of the further amendment proposed)

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

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

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Millie Odhiambo, make sure that you sign that amendment which you have just moved and bring it here, so that it is captured correctly.

New Clause

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following new clause be inserted immediately after Clause 23:-
“24. Repeal the offices of Minister Act, 2009”.

Mr. Temporary Deputy Chairman, Sir, this is basically to repeal the Offices of the Ministers Act, 2009, since it has become obsolete. It was mentioning the Prime Minister and Deputy Prime Ministers and their qualifications. The Constitution has superseded the provision for that.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause
be read a Second Time, proposed)*

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be
added to the Bill, put and agreed to)*

(Title agreed to)

(Clause 1 agreed to)

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The National Government Co-ordination Bill and its approval thereof with amendments.

(Question proposed)
(Question put and agreed to)

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

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

THE KENYA NATIONAL COMMISSION FOR UNESCO BILL

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we will now consider The Kenya National Commission for UNESCO Bill (Bill No.80 of 2012).

(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,
16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28,
29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40,
41, 42, 43, 44, 45, 46 and 47 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Assistant Minister for Education (Mr. Mwatela): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The National Commission for UNESCO Bill and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we will rearrange the order of the Bills as there is still some work going on The Retirement Benefits (Deputy President & Designated State Officers) Bill. So, we will move to The Presidential Retirement Benefits (Amendment) Bill (Bill No. 85 of 2012), followed by The Supplementary Appropriation Bill and then come back to The Retirement Benefits (Deputy President & Designated State Officers) Bill.

THE PRESIDENTIAL RETIREMENT BENEFITS (AMENDMENT) BILL

(Clause 2 agreed to)

Clause 3

Mr. Onyancha: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 3 of the Bill be amended by deleting paragraph (a).

Madam Temporary Deputy Chairlady, the import of this amendment is to reduce the lump sum from one-and-a-half years to one year's basic salary.

(Question of the amendment proposed)

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

(Clause 3 as amended agreed to)

(Clauses 4 and 5 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Githae): Madam Temporary Chairlady, I beg to move that the Committee doth report to the House its consideration of The Presidential Retirement Benefits (Amendment) Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we will now move to The Supplementary Appropriation Bill.

THE SUPPLEMENTARY APPROPRIATION BILL

(Clauses 2, 3, 4 and 5 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Githae): Madam Temporary Chairlady, I beg to move that the Committee doth report to the House its consideration of The Supplementary Appropriation Bill and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we will then go back – and I hope the Minister is now ready - to the Retirement Benefits (Deputy President and Designated State Officers) Bill.

THE RETIREMENT BENEFITS (DEPUTY PRESIDENT
AND DESIGNATED STATE OFFICERS) BILL

Clause 2

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 2 of the Bill be amended-

(a) in the definition of the term “Designated State Officer” by inserting the following new paragraphs immediately after paragraph (h):-

(i) Director-General of the National Intelligence Service;

(j) Inspector-General of the National Police Service.

(k) Secretary to the Cabinet;

(l) Director of Public Prosecutions.”

(b) in the definition of “retired Chief Justice”, by deleting the words “and does not include a person who served as Chief Justice before the commencement of this Act” appearing immediately after the word “Constitution”;

(c) in the definition of “retired Speaker”, by deleting the words “and does not include a person who served as Speaker before the commencement of this Act” appearing immediately after the word “Constitution”;

(d) in the definition of “retired Vice-President”, by deleting the words “and does not include a person who served as Vice-President before the commencement of this Act:” appearing immediately after the word “Constitution”;

THAT, Clause 2(d) be amended by inserting the following words at the end “which shall be replaceable once every four years”

(Question of the amendment proposed)

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

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

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 2 of the Bill be further amended by inserting the following new definitions in their proper alphabetical sequence-

“retired Member of Parliament” means a person who, having held the office of Member of Parliament, has ceased to hold office as such in the manner specified in the Constitution and does not include a person who served as Member of Parliament before the commencement of this Act.”

“retired Minister” means a person who, having held the office of Minister, has ceased to hold office as such in the manner specified in the Constitution and does not include a person who served as Minister before the commencement of this Act;

(Question of the further amendment proposed)

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

(Clause 2 as amended agreed to)

Clause 3

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 3 of the Bill be amended by-

- (a) renumbering the existing provision as subclause (1);
- (b) deleting the expression “15th January, 2008” in the renumbered subclause (1) and substituting therefor the expression “27th August, 2010”;
- (c) inserting the following new subclause immediately after the renumbered subclause (1)-
“(2) Notwithstanding subsection (1), a person who served as a Vice-President or Speaker of the National Assembly as of 27th December, 2007 shall be entitled to the benefits conferred by section 5(2) of this Act.”

(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)*

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 3 of the Bill be further amended by inserting the following new subclause immediately after the new subclause (2)-

“(3) A retired Minister shall, on the commencement of this Act, be entitled to benefits conferred by the Second Schedule to this Act.

(4) A retired Member of Parliament shall, on the commencement of this Act, be entitled to benefits conferred by paragraphs (b), (c) and (d) of the Second Schedule to this Act.”

(Question of the amendment proposed)

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

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

Clause 5

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 5 of the Bill be amended in sub-clause 1(c) by deleting the words “and half” immediately after the words “equal to one” and further deleting the letter “s” immediately before the word “salary”.

(Question of the amendment proposed)

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

Mr. Onyancha: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 5 of the Bill be amended in sub-clause (1) by inserting the word “basic” immediately after the words “salary of the entitled person’s” in paragraph (a).

(Question of the amendment proposed)

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

(Clause 5 as amended agreed to)

(Clauses 6, 7, 8, 9, 10, 11, 12, and 13 agreed to)

Clause 14

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended in Clause 14 by inserting the following new sub-section immediately after sub-section (2)-

(3) The Second Schedule of the National Assembly Remuneration Act is amended by deleting item 5.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted,

put and agreed to)
(Clause 14 as amended agreed to)

New Clause 13A

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 13-

Gratuity for Members of Parliament.

13A. A retired member of Parliament shall be entitled to a gratuity at the rate of thirty one per cent per annum of the taxable remuneration paid to the member during the period of service of such member in respect of the salary and motor vehicle fixed cost allowance.

Provided that in respect of the Tenth Parliament, gratuity shall be paid-

(a) at the rate of thirty-one per centum of the salary specified in the second column of the First Schedule for every year in service, in respect of the period up to 26th August, 2010; and,

(b) at the rate specified in this item for the period commencing 27th August, 2010 and thereafter.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

(First Schedule agreed to)

Second Schedule

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Second Schedule of the Bill be amended:-

(i) In the heading by inserting the words "OR A RETIRED ATTORNEY GENERAL, A RETIRED CHIEF OF THE KENYA DEFENCE FORCES, A RETIRED DIRECTOR-

GENERAL OF THE NATIONAL INTELLIGENCE SERVICE, A RETIRED INSPECTOR-GENERAL OF THE NATIONAL POLICE SERVICE”, THE SECRETARY TO THE CABINET OR DIRECTOR OF PUBLIC PROSECUTIONS immediately after the words “A RETIRED DEPUTY CHIEF JUSTICE”.

- (ii) By inserting the following new paragraph immediately after paragraph (d):-
- (e) Maintenance expenses for the vehicle provided pursuant to this Act.

(Question of the amendment proposed)

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

(Second Schedule as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Retirement Benefits (Deputy President and Designated State Officers) Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

THE TRANSITION COUNTY ALLOCATION OF REVENUE BILL

Dr. Laboso: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Transition County Allocation Revenue Bill and approved the same with amendments.

Mr. Deputy Speaker: Minister, can you move agreement with the Chairperson?

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito) seconded.

(Question proposed)

(Question put and agreed to)

Mr. Deputy Speaker: Minister, can you move the Third Reading? Can you get the text as it is verbatim; word for word?

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I beg to move that The Transition County Allocation of Revenue Bill be now read the Third Time.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito) seconded.

(Question proposed)

(Question put and agreed to)

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

THE TRANSITION COUNTY APPROPRIATION BILL

Dr. Laboso: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Transition County Appropriation Bill and approved the same with amendments.

Mr. Deputy Speaker: Minister, can you now move agreement to the Report?

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for Education (Mr. Mwatela) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move that The Transition County Appropriation Bill be now read the Third Time.

The Assistant Minister for Education (Mr. Mwatela) seconded.

(Question proposed)

(Question put and agreed to)

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

THE NATIONAL GOVERNMENT CO-ORDINATION BILL

Dr. Laboso: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The National Government Co-ordination Bill, Bill No.74 of 2012 and approved the same with amendments.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Co-operative Development and Marketing (Mr. Nyagah) seconded.

(Question proposed)

(Question put and agreed to)

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, I beg to move that The National Government Co-ordination Bill, Bill No.74 of 2012 be now read the Third Time.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

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

THE KENYA NATIONAL COMMISSION FOR UNESCO BILL

Dr. Laboso: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Kenya National Commission for UNESCO Bill, Bill No.80 of 2012 and approved the same without amendment.

The Assistant Minister for Gender, Children and Social Development (Mr. Keya): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Co-operative Development and Marketing (Mr. Nyagah) seconded.

(Question proposed)

(Question put and agreed to)

The Assistant Minister for Gender, Children and Social Development (Mr. Keya): Mr. Deputy Speaker, Sir, I beg to move that The National Commission for UNESCO Bill, Bill No.80 of 2012 be now read the Third Time.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

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

THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) BILL

Dr. Laboso: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Retirement Benefits (Deputy President and Designated State Officers) Bill, Bill No.86 of 2012 and approved the same with amendment.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Co-operative Development and Marketing (Mr. Nyagah) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move that The Retirement Benefits (Deputy President and Designated State Officers) Bill, Bill No.86 of 2012 be now read the Third Time.

The Assistant Minister for Gender, Children and Social Development (Mr. Keya) seconded.

(Question proposed)

(Question put and agreed to)

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

THE PRESIDENTIAL RETIREMENT BENEFITS
(AMENDMENT) BILL

Dr. Laboso: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Presidential Retirement Benefits (Amendment) Bill, Bill No.85 of 2012 and approved the same with amendment.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for Gender, Children and Social Development (Mr. Keya) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move that The Presidential Retirement Benefits (Amendment) Bill, Bill No.85 of 2012 be now read the Third Time.

The Assistant Minister for Gender, Children and Social Development (Mr. Keya) seconded.

(Question proposed)

(Question put and agreed to)

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

Mr. Deputy Speaker: Hon. Members, we now go to The Supplementary Appropriation Bill, Bill No. 1 of 2013.

THE SUPPLEMENTARY APPROPRIATION BILL

Dr. Laboso: Mr. Deputy Speaker, Sir, I beg to report that a Committee of the Whole House has considered The Supplementary Appropriation Bill, Bill No.1 of 2013 and approved the same without amendment.

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Co-operative Development and Marketing (Mr. Nyagah) seconded.
(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Supplementary Appropriation Bill, Bill No.1 of 2013 be now read the Third Time.

The Minister for Co-operative Development and Marketing (Mr. Nyagah) seconded.
(Question proposed)

(Question put and agreed to)

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

Mr. Deputy Speaker: Next Order!

MOTIONS

APPROVAL OF TOTAL INDEBTEDNESS

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to Section 50(2) of the Public Finance Management Act, 2012, this House approves the increase of total indebtedness for the time being outstanding in respect of principal amount of money borrowed or credit obtained from US\$9.3billion (Kenya shillings eight hundred billion i.e. Kshs800billion) to US\$14 billion (Kenya shillings one trillion two hundred billion i.e. Kshs1.200 billion).

On 12th February 2009, pursuant to Section 6(1) of the External Loans and Credit Act, Cap.422 of the Laws of Kenya which is now repealed, this House approved the increase of total external indebtedness from Kshsh500 billion to Kshs800 billion. At the time of setting the

ceiling, the Government's external debt stood at US\$6,181 equivalent to Kshs480 billion at the rate of Kshs78 to the US dollar which was prevailing at that time. Since that time, repayments have been effected and new loans have been contracted and as at November 2012 the total debt stood at US\$9.056 billion equivalent to Kshs771 billion made up as follows:

Multilateral institutions – US\$5,537 billion

Bilateral creditors – US\$2,657 billion

Commercial banks and suppliers' credit – Kshs862 million bringing the total debt to KshsUS\$9 billion equivalent to Kshs771,383 million.

Mr. Deputy Speaker, Sir, what this means is that the total debt is therefore very close to the ceiling of Kshs800 billion and the reason for this is partly due to the depreciation of the Kenya shilling against the major currencies which our debts are denominated. For instance, against the US dollar, the Kenya shilling depreciated by 10 per cent moving from Kshs78 in June 2009 to Kshs86 currently. It is therefore necessary to raise the ceiling to comply with the law.

We also need to increase the ceiling to accommodate new programmes and project loans that we intend to borrow over the next five years of the medium term plan, that is from 2013 to 2017 and also under the second plan under Vision 2030. As part of the efforts to sustain the economic growth over this period and continued fight against poverty, we have through the Medium Term Fiscal Framework identified activities, programmes and projects that will need to be undertaken and funded. We need to borrow externally about Kshs350 billion over the next five years and we need this money to finance them

Mr. Deputy Speaker, Sir, again let me say that our policy on external borrowing is to borrow as much as possible on concessional terms and I would like to inform the House that this policy has been maintained and will be maintained and I can also confirm that over 90 per cent of the projected external borrowing will be on concessionary terms. In reviewing the ceiling, we also need to consider the fact that our external debts had accumulated in all major world currencies but mostly in US dollars, Euros and Japanese Yen. Exchange rates between these currencies and the shilling fluctuate mostly upwards. To avoid the need to have to review the ceiling frequently on account of exchange rates alone, we are factoring the ceiling for giving an allowance of currency fluctuations.

The term of this House will expire on 15th January in readiness for the general elections scheduled for 4th March 2013 after which the next Parliament will be reconvened. To enable Government to contract essential external loans some of which are at advanced stages of negotiations with our development partners, it is vital that this House passes this Motion. Hon. Members are aware that to achieve the objectives under vision 2030, we need external assistance mostly in the area of infrastructure comprising of energy, roads and water among others. Infrastructure for counties also needs to be financed and as this House will recall this morning, we gave quite a substantial amount to the counties. To access external borrowing without violating the law, it is necessary therefore to enhance the ceiling. I wish to emphasise that the high ceiling is for planning purposes only. Again, I want to emphasise that the ceiling is for planning purposes only and the loans to be contracted will be subjected to scrutiny by the National Assembly as per the Public Finance Management Act.

Mr. Deputy Speaker, Sir, finally, I wish to assure this House that the concerns raised on the utilization of the proceeds from external loans and grants are receiving serious attention by the Government. The recently passed Public Finance Management Act has elaborate provisions to strengthen public finance financial management including periodic reporting to this House of

Government borrowing levels. Regulations to operationalise the Public Finance Management Act are under preparation and will be approved by this House.

In conclusion, I wish to state that in the specific area of debt management, reforms have been undertaken over the last nine years and are continuing. The Public Finance Management Act provides for the establishment of Public Debt Management office within the national Treasury. The Public Finance Management Act also requires tabling in Parliament by February of each year of medium term debt management strategy consistent with budget policy statement. This will enable the House to interrogate Government if there is any deviation from this strategy.

Mr. Deputy Speaker, Sir, with the foregoing assurance, I beg to move that pursuant to Section 50(2) of the Public Finance Management Act 2012, the ceiling of the total indebtedness in respect of principal amount of money borrowed or credit obtained be raised from US\$9.3 billion which is equivalent to Kshs800 billion to US\$14 billion which is equivalent to Kshs1.2 trillion which will be made up as follows: The current ceiling is Kshs800 billion. The ceiling to cater for new loans is Kshs350 billion. Increase to cater for possible cross currency fluctuations is about Kshs50 billion. The total is Kshs1.2 trillion. So, you can see that basically this is for planning purposes only and whatever else debt under the Public Finance Management Act must be brought here to Parliament for interrogation.

With those few words, I beg to move and ask Prof. Anyang'-Nyong'o to second this important Motion. I thank you.

The Minister for Medical Services (Prof. Anyang-Nyongo): Mr. Deputy Speaker, Sir, I would like to second this very important Motion for the simple reason that we need it. As everybody will understand no Government can run its finances without borrowing.

Mr. Deputy Speaker, Sir, let me add one thing, that borrowing is of two types. One, there is domestic borrowing, which is usually through Treasury bills and bonds; two, there is external borrowing, which can come in many forms. There are commercial loans, grants, aid and also loans from one government to another, or from multilateral agencies to our Government.

Mr. Deputy Speaker, Sir, the Kenyan Government stands out internationally as a Government, which has been extremely responsible for honouring its obligations in terms of repayment of loans, except at one period that people remember. From about 1992 to 1999, as you know, when this country's fiscal discipline went into chaos we had a lot of problems. If you remember, interest rates went as high as at 86 per cent and most of our businesses, particularly those that depended on external loans went under.

Mr. Deputy Speaker, Sir, I remember as the Minister for Planning and National Development in the year 2003, this was one of the things that we were to grapple with in the economic recovery strategy for wealth and economic creation. One of the reasons why we called it a recovery was because this country had actually gone into a very interesting but sad situation, where we had negative growth rate. Now, you know when you have negative growth, you are almost in the intensive care unit, as far as the economy is concerned. I must say that the NARC Government did very well to resurrect the economy and rise from negative to five per cent and seven per cent growth rate by the time the NARC finished its term. Unfortunately, during the post-election violence we went back. But I must commend my colleague, the current Minister for Finance that he has been extremely stable in trying to ensure that fiscal and monetary policies in this country are in good stead.

Mr. Deputy Speaker, Sir, therefore, when the Government is making this particular request regarding borrowing and increasing the parameters for borrowing, I think there is

evidence that the Government has performed responsibly in using loaned money and credit. Therefore, the country risks no major problem in doing so.

But much more than that, if we are going to continue to finance our infrastructural credits, which really have started to lay the fundamental framework for meeting Vision 2030, we must expand parameters for borrowing; any business cannot run without loans. Once you get money on credit, you must continue servicing it. Therefore, I think the Minister has made a timely and responsible move to bring this matter to Parliament, as indeed, no such thing can be done without approval of the National Assembly. Therefore, I would really like to request the National Assembly to support the Minister's request and make sure that as we move towards devolved Government next year we will have a sound basis for financing our expenses and expanding the economy.

Mr. Deputy Speaker, Sir, finally, let me say that if you look at all the data in the report on Kenya's Economic Survey, this country is poised for a take-off, which has been held back for some time. But everything points to the fact that we are poised for a take-off. This take-off really depends on the political economy of our nation. By political economy, I mean that what we get as data for economic growth cannot be sustained outside the parameters of good governance. Therefore, as we move to the elections, let me appeal to the nation; let us carry out this exercise responsibly, peacefully and democratically. It will reinforce our political economy, and will add to the output and outcome of what the Minister is asking for.

So, I would like to second the Motion and ask the National Assembly to support it.

(Question proposed)

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I thank the Minister for moving this Motion. However, regrettably, I wish to oppose it and the reason is that this Parliament has done an excellent job. We have done a lot of legislative work, very revolutionary legislative work.

Mr. Deputy Speaker, Sir, towards the end, we are doing a lot of reckless legislation and we are approving a lot of work very recklessly. This is because we are not allowing a lot of time for scrutiny and public participation.

Mr. Deputy Speaker, Sir, indeed, if you look at the amounts that the Minister is talking about, they are extremely huge, especially before we go into an election period; it raises eyebrows. We want to raise this kind of money at a time when we are going for elections.

Mr. Deputy Speaker, Sir, I would want to indicate that again if you are going for elections, it means a new Government is coming in place. I do not know why the Minister is over-enthusiastic to do the work of another Government. You do not know if you are going to be there. Even if you are going to be there, you wait for that Government. You cannot be enthusiastically doing work for other people, and causing them to be indented. This is really up to the Minister at this point. It remains, therefore, that whatever you do may be questioned by an incoming Government.

Mr. Temporary Deputy Speaker, Sir, finally, I want to say for the sake of the children of this country that if you look at the level of indebtedness that our children are in as a consequence of our own actions, it is not sustainable. I want to say that for the sake of our children, if you want to enslave them further, then their voices must be heard. There are many organizations that speak for and work with children; they work on these issues. I do not think something of this magnitude is something we should be passing. Let me revise my wording but anyway---

An hon. Member: Do not revise it. Nobody is complaining.

Mrs. Odhiambo-Mabona: No, I will revise it because if I do not revise it you will all leave here.

Mr. Deputy Speaker, Sir, we need the House and Members when we are dealing with such a serious issue. I find it sneaky. I find it almost cheeky and I would want to very strongly oppose it.

The Minister for Trade (Mr. Wetangula): Mr. Deputy Speaker, Sir, thank you for the opportunity to support the Motion.

Mr. Deputy Speaker, Sir, world over, all governments operate by borrowing; borrowing internally, borrowing externally and luckily for this country, what the Minister is asking for is to expand the borrowing ceiling. But he cannot spend that money without the approval of this House. So, it is not an issue that we should worry about, that we are giving him a *carte blanche* for him to spend money that this House has not approved.

Mr. Deputy Speaker, Sir, you may recall, as hon. Anyang'-Nyong'o said, in the 1990s, when Finance Ministers - I believe at one time my friend, hon. Okemo, was one - were regular unpleasant visitors to the Paris Club to go and explain all manner of things in very humiliating circumstances about the inability of this country to run its affairs, our indebtedness and so on.

We have come out of that situation and we must thank our Government of the last ten years for putting this country on a path of growth. Of course, what happened after the elections of 2007 engaged us on a reverse gear but we have since recovered. I think we need to move in the direction of growth. You cannot grow without credit. The Minister has said that this money is for planning. What I want to urge him or whoever will come in next, is that any subsequent borrowing must really go into infrastructure. I have in mind the highway from Mombasa to Malaba and Busia, which can spur a 10-20 per cent GDP growth. We need those kinds of mega projects. How can you run such mega projects? By borrowing!

Mr. Deputy Speaker, Sir, finally, I want to urge Minister Githae that I wish him well in his bid for the governorship of Kirinyaga but in the event he does not find favour with the electorate, the CORD government will recall him and give him the position of Finance Minister, so that he can continue guarding our Treasury in the same good way he has been doing.

With those remarks, I beg to support.

Mr. Deputy Speaker: Yes, hon. Charles Onyancha.

Mr. Onyancha: Mr. Deputy Speaker, Sir, we should not have any fuss about this Motion. Let me say at the outset that I fully support the Motion for very good reasons, which I am going to enumerate.

First, we should consider that the last time this ceiling was put in place was five years ago. Speaking as a financial expert, a sum of money five years ago is not the same amount today. It has been eroded by inflation on an annual basis. Assuming a 10 per cent inflationary rate, you will find that he is asking for the same amount he asked for five years ago in real terms. That is something which hon. Members should keep in mind.

In addition to that, if you look at the exchange rates five years ago and the exchange rates today, because we are borrowing in foreign currency; you will appreciate that that is further erosion, which he has not asked to be cushioned from, in my opinion. That is probably going to contribute another 20 per cent. So, those two factors taken into account together bring down the Kshs1,200 billion to about Kshs600 billion. What we could buy with Kshs900 billion five years ago today we need to spend, maybe, Kshs1,600 billion to buy it. Therefore, with that in mind, we should not have any objection to this Motion.

Secondly, our economy has been growing tremendously, especially in the last ten years. A growing economy needs the oil to grease it. That oil is finance. Really, when you consider the percentage of this ceiling to the GDP you will find that it has actually gone down tremendously. That is another issue which I believe we need to take into account.

Further, we need infrastructural development as fast as we can. Indeed, we must borrow because this is an investment we are making. As hon. Wetangula said, it will repay. This is not money that is wasted. With our intended aim to substantially reduce, if not to kill corruption; if we put these funds into proper infrastructural development, we will give our country a chance to grow at 10-15 per cent per annum. That is all we want to create jobs.

Lastly, the Minister has given us assurances. His past assurances have not been bad. Okay, we are questioning about the Constituencies Development Fund (CDF) in the last minute but I am sure that he is going to sort it out. I encourage him to do so to leave the good name that he has already acquired. Having said so, for me, this is not borrowing. This is a ceiling for planning purposes, as it has been clearly stated.

So, I fully support.

Mr. Deputy Speaker: Yes, hon. Njuguna Mwaura.

Mr. Njuguna: Mr. Deputy Speaker, Sir, I thank you for giving me the chance to make an input to this very important Motion.

I will start by thanking the Minister for his commitment in managing our resources at the Treasury. Secondly, the ceiling amounting to Kshs1.2 trillion is alarming. If this amount is not properly managed, the country can plunge into a very serious financial crisis.

We have seen countries like Greece and other European countries which have already plunged into financial crisis. If it were not for the goodwill of other European countries, Greece would have lost part of its land. I recall that Greece had to surrender some islands in order to save the mortgaging of the entire country.

The intention by the Minister is very important because as the population of this country increases, we need more resources to improve water services, roads and other sectors of socio-economic life in this country. Therefore, my fear would be for careless handling of this ceiling. With the confidence that the Minister has demonstrated in this country, we should be able to approve this request.

Therefore, I support the Motion in totality.

(Question put and agreed to)

Mr. Deputy Speaker: Next Order!

WRITE OFF OF EXCESS GOVERNMENT DEBT OWED BY SUGAR COMPANIES

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No. 12 of 2012 on write off of Excess Government of Kenya debt owed by the Public Sector-Owned sugar companies, laid on the Table of the House on Thursday 6th December, 2012.

Mr. Deputy Speaker, Sir, what we are trying to do is to recover and privatise some of these companies. But we cannot do this because of the excess debt they have. Even if we were to liquidate all the assets, they cannot meet their liabilities. It is really sad that we have to take this

decision. The amount is almost over Kshs40 billion. If we do not do this the Common Market for Eastern and Southern Africa (COMESA) exemptions will expire at the end of this year. Our factories cannot compete with factories in Egypt and Mauritius. You will be surprised that sugar as far away as in Brazil is cheaper when it lands in Mombasa than the sugar produced in this country. So, if we do not privatise change management of these sugar companies, all of them will close down.

Therefore, I came to the conclusion that we need to write off all these debts, so that the Privatisation Commission can go to the next step of trying to privatise and bring in new management and discipline in these sugar companies.

Mr. Deputy Speaker, Sir, somebody may ask, what led to this state of affairs? The first reason was policy inadequacies such as price control regime with regard to price adjustments which were not always done on time to cushion the companies from the increasing cost of production. This was the time when we had the price controls. The price of sugar was controlled and even in respect of the cost of production, the Government would impose a certain price; that was the price that the sugar companies were forced to sell at.

There was also financing without regard to appropriate labour regulations and ability of the factories to service debts. In my view, this was poor management. Secondly, there was general mismanagement and poor governance that led to the creation of this huge debt burden without any corresponding assets.

Mr. Deputy Speaker, Sir, at a meeting held on 14th October, 2010, the Cabinet approved a number of measures that were necessary to revive the sugar industry. These have been enumerated in the Sessional Paper and I will not go through them one by one.

In summary, we are saying that we will expedite the privatisation of the five sugar companies to facilitate rehabilitation and expansion. We want to create financially-viable sugar companies to be able to access adequate cane, and also consider the minimum viable size of a factory which we have been given as 29,914 hectares. We want to restructure the sugar companies' balance sheets through write-off of excess debts, write off of debts to strengthen the balance sheets of the companies to facilitate reconstruction.

We want to enforce the regulation on factory zones. The poaching of sugarcane is contributing to this problem. The outgrowers and employees' investment trust will be formed, so that once these companies are on sound financial footing, farmers should then be able to buy shares in these companies.

We want to provide that certain shares must be held on behalf of farmers. Once they are in a position to pay, they should pay then at the same price that the strategic partners buy. The Government will retain about 25 per cent of the shareholding on behalf of the farmers.

I am confident that with all these measures, these companies will now start off on a sound financial footing, and they will be able to compete with the sugar companies in Egypt, South Sudan, Sudan and even in far places like Mauritius and Brazil.

Mr. Deputy Speaker, Sir, I will not go through the Sessional Paper. It gives out the write-off for each company. For example, there is a write-off of Kshs1.5 billion and another of Kshs1.5 billion. That is for Miwani Sugar Company to Government of Kenya and the Sugar Fund. There is a write-off of Kshs6 billion and another Kshs2 billion due from Muhoroni Sugar Company to Government of Kenya under the Sugar Fund. There is write-off of Kshs21 billion, and almost Kshs1 billion due from Nzoia Sugar Company to Government of Kenya and the Sugar Fund. This was as in June.

There is a write-off of another Kshs5.6 billion to facilitate the construction and rehabilitation of sugar mills, new plant and new equipment. Again, this is for Nzoia Sugar Company. The South Nyanza Sugar Company has Kshs3 billion for rehabilitation. Chemelil Sugar Company is Kshs1.3 billion.

Mr. Deputy Speaker, Sir, I am confident that if Parliament approves these write-offs - it is required by law that Parliament must approve any write-off - these sugar companies will start the journey to being in a sound financial position.

I beg to move and request Mr. Wetangula to second.

The Minister for Trade (Mr. Wetangula): Mr. Deputy Speaker, Sir, to some of us sugar growing is like camels to you where you come from. I represent sugar farmers. In seconding this Motion and supporting it fully, I know the pain that farmers in the sugar sector have gone through in this country. Some of the good reasons that my learned friend has given are valid; some are excuses but we must make a decision.

Mr. Deputy Speaker, Sir, we have always operated under the nightmare of COMESA sugar. Our sugar factories are owned by the Government. The Government is presumed to be inefficient. They borrowed money that has quadrupled on interest. They have been mismanaged and so on.

We also know that the largest single sugar factory in Africa that produces and sells sugar to Kenya, and that scares other sugar factories in Sudan is Government-owned, Kenana. It is a massive factory, efficiently run and is owned by the Government. So, I want to urge Parliament to agree to this, because this is not the first time this Parliament is approving writing off of loans. We did so with the Kenya Airways in the early 1990s. We did so with the AFC, although in AFC actually it was scandalous because we wrote off loans that benefitted individuals. We wrote off loans with the former Kenya Posts and Telecommunications Corporation before privatisation.

I want to urge that after writing off these loans, the process of privatising Chemelil, Muhoroni, SONY and Nzoia sugar companies should be done a little carefully and differently from the reckless manner in which Mumias Sugar was privatised. You have the factories, you have massive arable land that must go back to the counties where these factories are based, so that whoever will buy the mill then can lease that land from the counties to generate income for the counties. That is why this process must be looked through very carefully. In the case of Mumias, for example, the privatisation was done regardless of the land that the people of Mumias had surrendered to the Government to build the plant. So, those who took the factory took it plus the land, but without taking into account the valuing of the land. We want the parcels of land for SONY, Nzoia and Miwani sugar companies to go to the counties where they are based.

Secondly, as a country, we also must decide what we want to do with the sugar sector. It does not add up for Kenya sugar production sector to be scared of sugar from Swaziland and Malawi, yet these countries' levels of development and economies are much smaller and less developed than our own. There must be something wrong somewhere. I think the reasons the Minister has advanced if addressed and factories are given clean balance sheets--- If they want to go and borrow commercially to run the enterprise, they must do so. They must also learn how to maximize the use of production in the sugar industry. There is co-generation that Mumias is doing; none of the others is doing it. There is production of drinking water that Mumias is doing; none of the others is doing it.

There is flawed procurement of spares and so on. Then, there is inadequate supervision, I believe, from the sector itself and the overall players in the sector. I want to urge that we write

off these loans, start from a new slate, but not rush in the privatization until the interests of all the stakeholders are taken into account.

Mr. Deputy Speaker, Sir, I saw – and I want to caution the Minister – a paper where they said that for those who want to buy these factories 51 per cent must go to the farmers. I, definitely, want the farmers to have major stakes in these factories, but it is unlikely that a person who wants to invest in a factory or industry will be agreeable to take less than 51 per cent and then, surrender the majority voting rights to somebody else. So, we need to balance these interests. The interest of the investor is as important as the interest of the farmer and Government, so that we have a better system to run our sugar industry.

Mr. Deputy Speaker, Sir, I want to end by, once again, thanking the Minister for doing a good job. He should rest assured that we support him fully for the wonderful job that he has done. He has been there for a very short time and, definitely, done much better than some of the people who were ahead of him for a lot longer.

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

(Question proposed)

The Minister for Medical Services (Prof. Anyang’-Nyong’o): Mr. Deputy Speaker, Sir, I rise to support this Motion for the same reasons that my friend, hon. Wetangula, has given.

Mr. Deputy Speaker, Sir, first, I am going to be the Senator for Kisumu County which is largely dependent on sugar. In my county we have three factories; Miwani, Muhoroni and Chemelil. Miwani collapsed in 1987 because of poor management and rent seeking. Miwani has one of the largest land in that area which has been lying idle since then. There was an attempt by somebody to appropriate Miwani from the people, but I am happy that, that attempt failed or is not going to succeed. So, it is important to understand what hon. Wetangula is saying; that while we support privatization, we must ensure that assets owned by these factories, definitely in the final analysis, not only help these factories grow, but also help the local economy in the counties.

Mr. Deputy Speaker, Sir, I want to give a brief history of privatization in this country, particularly with respect to the sugar belt and factories in this nation. In the 1990s when almost every public corporation collapsed in this nation due to rent seeking, primitive accumulation and sheer looting, the Kenya Government was left with huge debts in almost every public corporation, including the Agricultural Finance Corporation (AFC), Industrial and Commercial Development Corporation (ICDC), Kenya Airways and so on. Since then, the Government has been involved in the process of rehabilitating public corporations; privatizing and selling some to the private sector. One of the public corporations that we rescued in this House, I think in 1996, was Kenya Airways, where the Government decided to take a very brave step which was very controversial in this House; to pump money into the Kenya Airways, so that the Government by taking over the debt of Kenya Airways, it acquired more equity in the airways. That is one of the reasons Kenya Airways has survived today. I am sure the money that the Government put in Kenya Airways was recovered after a very short time. This is because the Kenya Airways was efficiently and effectively managed. It started making profits and the private sector including you and I started buying its shares in the Nairobi Stock Exchange. That is the direction that we would like the sugar factories to go.

Mr. Deputy Speaker, Sir, as hon. Wetangula said, privatization simply means that assets of a public firm are sold to the private sector, either to large capital or private capital of different sizes. One of things that we must remember is that when we say that we are going to sell shares

to farmers, workers and the public, we are selling shares to small capital because the farmer is investing in the factory, not because he loves investing for its sake, but because he is also looking for profit. Every investment in a capitalist firm is for profit making. Therefore, one should not fear the fact that somebody comes in and buys 15 per cent to put more capital into the factory. The more capital you put, the bigger the possibility that production will go high. If the firm is managed efficiently then productivity will improve. Therefore, you have expansion of an economy. So, what the Government is doing is saying: "Look, let us put money into these sugar farms, so that they can be revived and there can be more productivity." With efficient management, more profit will be made and more money earned from these sugar factories, not just by the private capital putting in 51 per cent, but all other small capitalists like farmers, workers and so on, who will eventually buy the shares in the stock exchange. It is very illogical that people think that when you see a figure like 51 per cent going to the private sector, you are selling off the household equipment or goods to somebody who is foreign. You are just injecting more capital into the company.

Mr. Deputy Speaker, Sir, when I sponsored the Privatization Bill in this House, which was eventually taken over by the Attorney General, I did it because at that point in time, people were very afraid of the word "privatization." Privatization needed to be put into law, so that people knew that the only way to deal with the crisis of the 1990s when public corporations collapsed was for capital to be injected into them, so that they could be revived. That capital could not come from the Government itself, because it was closely in debt. Indeed, even donors then and people giving aid were shunning the Kenyan State like a leper. That process of privatization has worked reasonably well in our nation, except in a few cases.

Mr. Deputy Speaker, Sir, I am, therefore, making a very strong case that the firms called Miwani, Chemelil, Muhoroni, SONY and Nzoia sugar companies should be privatized, but responsibly, as hon. Wetangula said. Let me give you a very sad case. When I was Chairman of the Public Investments Committee (PIC) in this House in the mid 1990s, we did study the sad state of Nzoia Sugar Company. It acquired equipment and got a loan from some American firm called Arkel which supplied them with equipment. They brought tractors which could not run on roads in Nzoia at all. They ended up being parked in the yards of Nzoia Sugar Factory. We pursued this case, which was a case of rent-seeking and corruption, up to the International Court of Settlement. Unfortunately, a Kenyan who had been working at Nzoia as the Chief Executive Officer turned out now to be a witness to the same company that we were suing. In the end, we lost the case and the Attorney General had to pay this company which had looted our own nation US\$5 million. That was a very sad case. So, Nzoia is one of the companies which has landed the Ministry of Finance heavy debts because of irresponsibility, corruption and rent-seeking. That is now water under the bridge. What we need now is to revive our companies and make sure that there is more productivity through proper management and use of the capital invested.

Mr. Deputy Speaker, Sir, finally, let us forget this traditional concept that sugar factories are only there to produce table sugar. Sugar factories must diversify their products as, indeed, Muhoroni has done through its food chemicals branch. This is what should happen in all the companies. When I was Minister for Planning and National Development, I took the Chief Executive Officers of SONY, Miwani and Chemelil sugar companies to Cuba to go and see how sugar companies are run much more productively. This is because in Cuba some of the products that are produced from sugar are not only power alcohol.

White sugar is a by-product! They produce beverages, detergents, perfumes, electricity, furniture and you will not believe it. They produce this medicine used for giving people immunity---

An hon. Member: HIV!

The Minister for Medical Services (Prof. Anyang'-Nyong'o): No! Not HIV, it is medicine for inoculation.

Mr. Okemo: Vaccines!

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Yes, Vaccines! That is the word. My friend, Mr. Okemo, here is always cleverer than me.

Yes, Mr. Deputy Speaker, Sir, they produce vaccines and perfumes. There is a firm called Labiofam which depends on getting raw material from the sugar economy, the kind of things they produce for the Cuban economy is just amazing. I took our people there and I said: "Let us go back and do exactly this!" We went there with Mr. Wetangula and so we can do this. But we cannot do it unless we inject capital into those factories in the same manner the Minister is proposing. So, I must say that this thing is timely; it has come before devolution, we should pass it, inject capital into the sugar companies, privatize them responsibly, let the living standards of our people improve so that our economy can march forward and leap into the future by realizing Vision 2030.

With those few remarks, I beg to support.

Mr. Okemo: Mr. Deputy Speaker, Sir, I also rise to support this Motion and in so doing, I would like to reflect on something. This morning, I was passing a Report of the Committee on privatization and one of the recommendations was that the privatization of the sugar mills will be postponed until certain steps have been taken; one of which was to ensure that Sessional Paper No.12 - which we are now dealing with - has been passed. That is because no privatization makes sense if you are selling a completely worn down asset because you will get nothing for it. Therefore, one of the ways to make sure that we can get reasonable returns out of the privatization is to clean up and restructure the balance sheet. You restructure the balance sheet by writing off some of these debts. In fact, in this Paper, there are proposals to write off the loans to the extent of about kshs41 billion. I think Kshs9 billion is to be injected into buying equipment to improve the factories. There is also a proposal to make sure we write off all the taxes, land rates and penalties accompanying them so that when you look at the balance sheet, it looks attractive. That, therefore, will lead to very attractive proceeds when you privatize.

My belief is that the sugarcane farmer in the sugar growing areas of Kenya has always had a raw deal. The milling companies make very hefty profits, some of them. But the bit that goes to the farmer is so little. So you ask yourself: "Why would the farmer be there producing these raw materials, going to produce sugar in these mills which make billions and billions of shillings and the farmer does not benefit?" Some of the farmers, at the end of the period of 18 months, actually end up with negative balances on their statements. "DR" is the famous thing we call them in the sugar growing areas. We want sugar mills to be profitable, but we also want the farmer to benefit from this profit, either by getting decent returns on his sugarcane or by getting a way of participation in the shareholding of those firms. Therefore, I would like to encourage the Government to go ahead and write off those debts and make sure that the firms can get modern equipment so that the cost of production can go down. That way, they can be competitive when the safeguard measures expire in 2014. They should be ready to compete internationally because if they are not, they will close down anyway. None of us would like to have the sugar mills close down. We would like them to operate profitably; we would like the farmer to get decent returns

from his sugarcane and we would also like those sugar mills to make it possible for the farmer to buy some shares. We are not saying that they must buy a certain percentage but let them have some interest. Let them own; let them feel a sense of ownership in those factories. If they do so, then they will continue to produce sugarcane. They know it will give them decent returns and they also know they will get something out of the dividends by being shareholders in those mills.

So, I would like to support this Motion.

Mr. Onyancha: Mr. Deputy Speaker, Sir, I also rise to support this Motion. The Government has been known to be a poor manager of the private sector. In trying to privatize the sugar industry, our Government is trying to get off business and do management of the Government and that is something commendable.

Wherever we have gone and seen privatization working properly, we find that whatever institution has been privatized becomes more efficient and has improved management. There is good management in production and they start making good profits. They, thereafter, expand and create more employment. When we give shares to private investors, even if it is 51 per cent--- In this case, the Government intends to retain some proportion. We have not given it away. That is because as of now, there is no sugar company - except only one - that is paying taxes. When we privatize and those companies improve and start paying taxes, we, as the people of Kenya, own 30 per cent of it because we take 30 per cent of those profits from taxation. I, therefore, would like to encourage this exercise and also encourage - like other speakers - that at the time of privatization and thereafter, diversification into other areas like power alcohol, molasses, bagasse, electricity production and other areas should be considered.

With those few remarks, I beg to support very strongly.

Mr. Ruteere: Mr. Deputy Speaker, Sir, I also stand to support the Motion and say that the Minister is doing a very good job to see that farmers reap the benefits of their products. That is because the write-offs have happened in the coffee industry and now, it is happening in the sugar industry. Farmers feel very much encouraged because they can see that, at the end of the day, what they produce will fetch good prices because the burden of carrying over the debts will not be on them anymore. However, I would urge that the management of those factories, once privatized, should be so prudent that they do proper business. We are now talking of the good returns from Kenya Airways (KQ), but we should also realize that it is also going down right now. It is not the KQ that was there. So, sometimes, you can go very far up and start nosediving and this should be taken care of.

Otherwise, I beg to support.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I wish to support this Motion and state two facts. The first one is that while operating on the national business environment, Mumias Sugar Company, Butali Sugar Company and West Kenya Sugar Company are a success. The second fact is that the factories that produce cheap sugar from Brazil and Sudan are all public factories.

The problem with the sugar industry in this country is the question of management. It, therefore, means that, if our factories are well managed, if sugarcane farming is well managed and if the sugar industry itself is well managed, then it would be profitable. However, the Government is this evening, requesting the National Assembly to allow it to privatize those firms, when other Governments - say Brazil and Sudan - have been able to make this business profitable. It is yet again an admission by this Government that it is not fit to be in charge and to run public affairs.

Mr. Deputy Speaker, Sir, it is my prayer that the forthcoming Government will rise up to address the issue of management of public affairs. It is important that as we support the Minister

in this exercise, he remembers that this is not the first time we are going to privatize public companies. For example, what lessons have we learnt from the exercise that we did at Telkom Kenya? What lessons have we learnt from the privatization that took place at Kenya Railways? We should not just approach Parliament and attempt to placate the public that simply because we are privatizing, things will be well.

Mr. Deputy Speaker, Sir, behind every successful company, be it private or public, there is an animal called a farmer. As we allow the Minister to privatize, we are hoping that he is going to rise to the need to address the challenges that face our farmers. The Minister is on record - in the short time that he has been the Minister – to have given money to write off the debts of farmers that they owe to financial institutions; for example, AFC. Why has it been difficult for this Government to extend the same write-off of loans to sugarcane farmers and yet, they have done this very successfully to farmers in other sub-sectors like coffee? It leaves us wondering whether the Government is in a hurry to relieve the burden of farmers from certain regions of this country for whatever reasons, and leave the other regions wallowing in poverty.

We must, as we address the challenges facing the farmers, also address the issue of the cost of transport. It will have absolutely no meaning if the companies become private and the same challenges that farmers are faced with - especially on the issue of exploitation on the aspect of transport - are not addressed. There is absolutely no reason why a private company like Butali can lift a tonne of cane for a distance of 40 kilometres at Kshs390 per tonne and yet, a public company like Nzoia Sugar Company lifts the same tonne of cane at Kshs800 for a distance of about five kilometers or even two kilometers. These are things which I hope the new senators for Bungoma, Siaya and Kisumu counties will link up with me – because, hopefully, I will become the Senator for Kakamega County - so that we can bring that exploitation of our farmers to an end.

Mr. Deputy Speaker, Sir, there is the issue of the benefit to the farmer. Yes, hon. Prof. Anyang'-Nyong'o and hon. Wetangula have talked very persuasively about the issue of coal generation and I support them. But who earns from the generation of that coal? We would like a payment formula to the farmers to be such that it captures the coal generation. We would like to see a farmer paid from the tonnes he delivers at the sugar company but, inside that payment, it be factored that this company is going into coal generation, electricity, furniture, syrups for medicine-making and so on.

There is an issue with regard to Sugar Development Levy (SDL). This is an area whereby the money is collected and obviously the more successful factories like the one we have in Kakamega County, are the ones that contribute the lion's share. Unfortunately, because of poor management, when the SDL is ploughed back in order to develop cane, what then happens is that factories that produced little money end up being the major beneficiaries of SDL. I look forward to a situation under the next Government where SDL will be given back for the development of cane on a pro-rata basis. Those who give more should also get more when it comes to benefiting from the collective commonwealth of the fund.

Finally, I would like to talk about the issue of the cost of farming. I am hoping that the new Government will ensure that the cost of farm inputs is brought down. The easiest one is the issue of fertilizer. One hopes that the next Government will have the wisdom of creating, once and for all, a fertilizer company so that we do not have to fleece our farmers just because the fertilizer comes from outside the country.

I want to thank God that the issue which has been vexing farmers in all sectors, the inputs by way of the cost of ploughing, is now coming down because of the discovery of oil at the

Ngamia I in the upper part of the country and the other wealth that we have discovered. I am hoping that the people who will take over are not waiting, again, to perpetuate corruption that we have witnessed in this country, when we are exploiting that resource.

Hon. Minister, I want to end by thanking you because during your tenure, we have not seen computer errors. We have seen you come here with a Budget and we are satisfied. Sometimes, we are left wondering: “Is it because of the computer errors that, today, we see presidential candidates flying the skies with 20 to 50 helicopters at the same time?” Is it that they made a windfall? These are things that we shall be asking. I am hoping the Public Accounts Committee in the lower and upper Houses will rise to this matter so that we can pin down those people. People cannot, all of a sudden, be crisscrossing the country without telling us where those resources have come from. We are going to ask questions on behalf of the children.

Hon. Members: Buying candidates!

Dr. Khalwale: Yes, they are buying candidates left, right and centre! These are questions we will ask for the sake of our children. And by the way, what is a good Minister doing in that kind of company? You are welcome to the *Amani* Coalition Minister.

With those many words, I support.

(Question put and agreed to)

ADOPTION OF SESSIONAL PAPER NO.15 OF 2012
ON KENYA GOVERNMENT GUARANTEE TO KAA

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No.15 of 2012 on the Kenya Government Guarantee of a loan of US\$93,000,000 equivalent to Kshs7,994,280,000 from European Investment Bank to Kenya Airports Authority for the Rehabilitation and Expansion of the Jomo Kenyatta International Airport laid on the Table of the House on Tuesday 18th December, 2012.

Mr. Deputy Speaker, Sir, I will be very brief. Again in accordance with the Public Finance Management Act, Laws of Kenya, Parliament is required to approve any guarantee and that is why I was particularly happy when Mr. Onyancha gave out the details that this was for planning purposes. Any guarantee of loan requires approval from Parliament and that is exactly what I am doing here. I am asking Parliament to approve and I want to move that this House adopts Sessional Paper No.15 of 2012 on the Kenya Government guarantee of a loan of US\$93,000,000 which is equivalent to Kshs7,994,280,000 from European Investment Bank to Kenya Airports Authority (KAA) for rehabilitation and expansion of Jomo Kenyatta International Airport (JKIA) laid on the Table of the House on Tuesday, 18th December, 2012.

Kenya Airways is a fully owned Government institution and it has embarked on rehabilitation of aprons and construction of additional passenger terminals and the car park. It has successfully negotiated this loan from the European Investment Bank for the expansion of the JKIA so as to enhance passenger capacity from 2.5 million to 9.3 million.

Mr. Deputy Speaker, Sir, I will just give you brief details of the loan which will be of interest. The interest rate for the loan is based on the European Investment cost of funds plus a margin of 0.5 per cent. There is also an additional charge of a commitment fee of 0.5 per cent. You cannot get anything better than this. If the House approves this Sessional Paper then the

Government will guarantee the loan. This was a condition from the European Investment Bank that the host country must guarantee any investment that they make in each country. That is why we are asking this august House to approve this Sessional Paper to enable us now to issue a guarantee to European Investment Bank.

The KAA is expected also to augment the total project financing by about 30 per cent. This means that they must also raise Kshs4.5 billion in overall expansion of JKIA. I wish to confirm to this House that as Treasury we have looked at their cash flows, their commitments, their past performance and we have no doubt that they will be able to repay this loan on their own. Even if we are guaranteeing, they will be able to pay. One of the reasons why you people are saying that I have been successful, what I have done is that I have freed companies that can be able to access funds on their own to do so and not come to Treasury. That is the directive I gave. Therefore, Kenya Power, KenGen, Kenya Airways and all the other companies will not get finances from Treasury. If the company is in a position to meet its obligations or repay their loans, they go the private sector and borrow. Therefore, I am only left to finance those sectors that are needed socially or for prospective purposes. So, I am asking that the National Assembly considers and approves the issuance of Government of Kenya guarantee for the loan to KAA of US\$93,000,000 equivalent to Kshs7.9 billion from European Investment Bank, a government owned overseas development assistance bank.

Mr. Deputy Speaker, Sir, with this guarantee, the total Government's liabilities with European Investment Bank will be Kshs47.4 billion which is within the ceiling which we have agreed.

I will ask Prof. Anyang'-Nyong'o to second this Motion so that the Government can be in a position to issue a guarantee to European Investment Bank.

I beg to move.

[Mr. Deputy Speaker left the Chair]

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

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I beg to second this Motion for guaranteeing a loan from the European Investment Bank to support the expansion of JKIA. If you have been to JKIA of late you will realize that work is already going on there and, indeed, expansion is needed to make JKIA grow and become a hub for the airlines industry in this region and it is already doing so. If you go to JKIA you will see the congestion that we are experiencing. People have observed that Kenya Airways have had problems of late but I associate these problems with the phenomenon of expansion. Any company that begins to expand exponentially as Kenya Airways has done over the last couple of years, sooner or later, it meets its problem of matching its expenses with its profits to the extent to which you can invest to expand and therefore incur a lot of recurrent expenditure in managing and expanding the company or investment. When the graph catches up where profits begin exceeding expenses substantially, there is always that problem. Some companies do actually go under if the expansion is not managed responsibly. We have seen some American Airlines which were growing up very fast and all of a sudden they close shop and sell their assets to other companies. This is one of the things that Kenya Airways must manage. In this regard we are not talking about Kenya Airways but KAA which is an Authority responsible for managing the ports

in our nation, particularly the major airports that we have like Mombasa, Kisumu, Eldoret, Nairobi and so on.

The KAA must make sure that the airline industry has an enabling environment in terms of physical facilities at the airport. The Sessional Paper that has been laid on the Table of this House explains very clearly what this request today is. I believe that this request follows what is stipulated, not just in the Public Finance Management Act, but also in Guarantee of Loans Act. Therefore, the Minister is being very responsible by bringing this matter to the House so that the money is acquired legally. I do remember in the old KANU days, that is, in the 1990s, the Moi Government used to incur a lot of loans without bothering to bring anything to Parliament. That was the problem with the Goldenberg Scandal. Once this thing is brought to Parliament as we have, and once we look at the Sessional Paper itself, the Minister has been very transparent to the National Assembly, therefore the facts have been laid before us and subsequently there should be proper accountability.

Finally, one of the reasons why I am supporting this, as you have said, those parastatals that can access loans by themselves should go ahead. I know we have approached you in our Ministry through our parastatals and I do hope that before March, ours will be speeded up. I hope that our request will be looked at expeditiously so that we can also grow.

With those few remarks, I beg to second this very important Motion.

(Question proposed)

Mrs. Odhiambo-Mabona: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I thank the Minister for bringing the Motion. However, I want to oppose it. The idea is very noble because our airports are really in a pathetic state. I talked to an international traveler who came in yesterday. He said that the jet landed when there was rain. The whole place was flooded because we do not take care of very basic things like that. So, the idea is very noble, but the timing is wrong.

I oppose.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I would like to strongly support this Motion. It is important that we realize the opportunity that is there in expanding Jomo Kenyatta International Airport (JKIA). This will very easily make our airport the hub of international travel in this country. It is only through this kind of funding that as we make it the hub of international travel, it will be competitive, secure and make sure that the process of doing that business is also profitable. Finally, it will create job opportunities for our youth.

We cannot just sit back and let this opportunity pass through our fingers. Those of you who have travelled in the region have seen what has happened at Kigali. Within a very short time, Rwanda has a very nice international airport. What a shame it is that the founding father of the nation, President Kenyatta, is the one who had the vision that we are seeing today. Where was Mr. Moi? What did he do? How come President Kibaki; the great economist, has not seen the wisdom to do what he is attempting to do now? I look forward to the next President opening up that opportunity.

I support.

Mr. Koech: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to also strongly support this Motion. Kenya is supposed to be the hub of Africa. As we speak today, we are getting challenges, especially from Ethiopia. It is important that we

expand our airport and modernize it. I am glad to hear from the Minister that the Authority will service this loan on its own.

I beg to support.

Mr. Onyancha: Mr. Temporary Deputy Speaker, Sir, I would like to support this Motion very strongly. We have just passed The International Interests in Aircraft Equipment and the Civil Aviation Bills. In addition to that, we have positioned ourselves and claimed that we want to be the hub of the region. We know that the Kenya Airways has failed to expand faster because it cannot acquire big planes like the airbus which has better pay load.

We have also been informed that this loan will be coming very cheaply from a Government institution. I support because the guarantee is not a payment. I know the cash flows have been steady for the Kenya Airports Authority (KAA) and they will meet this loan repayment. For those reasons, I would like to support, except for two issues which I would like to raise at this moment. One of them is the shocking news that Kamlesh Pattni has got a lease for all future KAA developments. We, as Kenyans, need that to be clarified because that amounts to selling our country and we cannot afford to do that. If it is true, then we, as a Parliament, must reverse that agreement wholesomely.

The second one is about the bickering between the Board and the Ministry of Transport. That does not go into building confidence in the public in the institution and it portrays an image of corruption and other things which do not augur well for an institution like this which also may be, in future, privatized.

I beg to support.

Mr. M'Mithiaru: Thank you Mr. Temporary Deputy Speaker, Sir for giving me an opportunity to support this Motion for the adoption of the Sessional Paper No.15 of 2012 on the Kenya Government guarantee loan of Kshs93 million dollars to the KAA.

The modernization and rehabilitation of the Kenya Airport cannot be over emphasized because we know that at the international level, Nairobi is a hub for air transport connectivity. Therefore, we need to be competitive within the region where others are coming into play. We must ensure that Kenya is ahead of all those other people.

The other bit is that I wish my colleague, hon. Millie, to have any fears that this is only a guarantee. All we know is that a guarantee is a contingent liability which the Government can be turned to pay only if the KAA defaults in payment. However, we know the strength of the KAA. There is no way it can default on the payment having seen their balance sheet and having prospects of expanding business once the airport has been modernized.

With those remarks, I beg to support.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I would like to support. The Government, although very late, should know and capitalize on the good will of Parliament as far as infrastructure is concerned whether it is roads, airports or rail. This House has been committed. The Speaker has been very clear and so are we.

I have a word of caution to my good friend who is here. Do not be suspicious, especially when Prof. Anyang'-Nyong'o has spoken.

I support.

Mr. Njuguna: Thank you, Mr. Temporary Deputy Chairman, Sir. I also rise to support this Motion because it is important to accomplish the works that have already started. We need to make JKIA the real pride of Africa. This will allow bigger aircrafts to be landing in our capital City. Therefore, this money must be allowed to flow in and be properly utilized for the intended cause. Looters should not be allowed to go there.

I support.

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, I also rise to support this Motion knowing the importance of air travel. We have seen a country like South Africa taking a very big share of air travel because their airport is one of the biggest and its runway very competitive. I wish Kenya had more than one runway because we would be having more planes landing and taking off at the same time thereby creating employment.

I urge the KAA to open some small airports outside Nairobi. For instance, it is difficult to travel to Meru when one is in a hurry. When one has an emergency, they cannot travel. Therefore, Isiolo Airport should be opened as a matter of urgency so that we can connect the JKIA with Isiolo.

I support.

Mrs. Noor: Mr. Temporary Deputy Speaker, Sir I would like to take this time to support this Motion on the adoption of Sessional Paper No.15 of 2012 on KAA for the Rehabilitation and Expansion of the JKIA. The JKIA is an airport that should be a global destination which the whole world will look at and see, as others have said before me, the pride of Africa and the pride of Kenya. The expansion of the JKIA will create job opportunities and expand our economic growth. That will help attract many investors to this country because there will be easy connection and communication with other countries. This will give an opportunity to our young people who have wasted their time looking for job opportunities.

With these few remarks, I support.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Temporary Deputy Speaker, Sir, I stand to support this very important Motion. Expanding JKIA is actually expanding our economy. This will enable us to do exports and imports. Therefore, this is a very important move by the KAA and guaranteed by the Government for this loan, so that this area of the economy can be expanded. We will have efficiency in tourism, trade, movement of goods and, especially our horticultural products. By expanding this airport, our farmers will be enabled to send their produce to destinations outside the country.

So, I want to support this very important Motion. We want to urge the Kenya Airways Board to efficiently and effectively use this money with the supervision of the Minister for Finance who I know as a great friend and a very efficient. Let me commend him and thank him for pushing the agenda of the economy forward.

With those few remarks, I support.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, let me take this opportunity to thank hon. Members for their very valuable contributions and say that Kenya Airways is in a position to meet its liabilities. So, really, we should not fear that the Government will be called upon to repay. They project that the passenger figures will increase from 2.5 million to almost 9.5 billion, but I agree with the hon. Members that we need a second runway at JKIA. It is embarrassing that if there is a small mishap at the runway, then the whole airport has to be closed. So, that is one of the things that the KAA wants to do. They want to have a second runway exactly for this purpose.

With those words, I thank hon. Members and I beg to move.

(Question put and agreed to)

The Temporary Deputy Speaker (Mr. Imanyara): Next Order!

ADOPTION OF REPORT ON NOMINATION
OF CHAIRPERSON/ MEMBERS OF TSC

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

THAT, this House adopts the Report of the Departmental Committee on Education, Research and Technology on the consideration of nomination of the Chairperson and Members of the Teachers Service Commission laid on the Table of the House today, Wednesday, 9th January, 2013.

Mr. Temporary Deputy Speaker, Sir, in moving this Motion, I want to still reiterate the importance of the Teachers Service Commission (TSC) in ensuring the management of the teachers, principals and ensuring the quality service, therefore, quality education for our nation. Earlier on, we had names presented to us. There were serious concerns that led to the rejection of the report by this honourable House.

One of the issues was that there were allegations that some of the people or members who applied were under investigations a report that we did not have evidence on then. In the list that was presented to Parliament, there is a letter that was attached to it from the Ethics and Anti-Corruption Commission (EACC) dated 18th October 2012 and signed by Abdi M. Muhamud. In this list, it gives the position on the report on all the applicants. Therefore, the name that was forwarded to this House retains the name of one Mr. Kiragu Wamagochi. We, as Committee, looked at his papers and we recommended his appointment.

On the other issue of the commissioners, we were supposed to get three commissioners and the serious concern that we had was that meritocracy had not been followed and we did not have information why the numbers one to four candidates were not considered. In the list that is now presented to us and I read it; Number one of the people who was interviewed was Mr. Cleophas Tirop who scored 81.4 per cent. The second person who had been proposed for nomination was one, Fredrick Hata Ochieng who scored 71.6 per cent. He was in position four and he is visually impaired and the third person proposed is Adan Sheikh Abdullahi who had scored 70.3 per cent and was position five from Garissa County.

Mr. Temporary Deputy Speaker, Sir, considering all these, we interviewed them and we recommended their appointment to these very important positions in Government.

Therefore, I beg to move that this House adopts this Report. I call upon hon. P.C. Muturi Mwangi, Member of Parliament for Kiharu and also a Member of my Committee to second this Motion.

Mr. Muturi Mwangi: Mr. Temporary Deputy Speaker, Sir, this is the second time we are having this list. Previously, it was rejected. Now it has come back with improvements and corrections. I want to support the Motion because TSC has not had a chairman for quite some time now. The Act was passed and this House knows that TSC has a very big challenge. We have a shortage of teachers in every county to the tune of 60,000. Now that the evidence has been given to the Principals and they have forwarded to us the names of the commissioners and the chairperson to be approved by this House, I will not hesitate to support the Motion. I would urge the House to support it, so that TSC can start its actual mandate with the appropriately appointed commissioners.

I second.

Mr. M'Mithiaru: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity.

I wish to support this report with an amendment. When this report was brought to the House and was returned, the issue was that the names that had been forwarded had not followed the merit rating because one, Dr. Lydia Nzomo, who was rated first was omitted with the reason that there was an anti-corruption investigations on her. When the Chair was moving this Motion, he said that, and I quote:-

“The report they got, so far, talked about anti-corruption, but they did not have the opportunity of seeing that report or any recommendation from the Ethics and Anti-Corruption Commission (EACC)”

So, on not tabling this report the second time has the Committee got that report to confirm that, yes, there is already an offence that this lady has committed?

Mr. Temporary Deputy Speaker, Sir, in the absence of that and for purposes of ensuring that merit always rules, to adopt this report, I propose an amendment which is to delete the recommendation No.1 of the Committee which talks about the appointment of the Chair.

But I support fully the appointment of Commissioners.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. M’Mithiaru, have you moved?

Mr. M’Mithiaru: Mr. Temporary Deputy Speaker, Sir, I moved and request hon. C. Kilonzo to second.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I thank my good colleague for bringing this amendment. As I second, I wish to state as follows. One, Maria Nzomo is still the Chief Executive Officer (CEO) of the Kenya Institute of Education (KIE). Two, this business of making allegations and then condemning somebody without hearing her side of story is not good. If this House follows that route, we will not do justice to our people. You are innocent until proved otherwise. Ms Nzomo was not aware that she was even under investigation until this matter came to Parliament.

So, let us use as a good example so that, in future, we do not condemn people unheard and on the basis of allegations. Those of you who run big organizations know that every time you try to bring change, change will always fight back. People will always try to fight against changes. So, it is very important that we protect those people who are committed to bring change.

Those of us who have worked with Dr. Nzomo will attest to the fact that this is one of the good reformers within the education sector.

With those few remarks, I beg to second.

(Question of the amendment proposed)

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, I stand to support the amendment because it is not right for people just to eliminate a person because they do not want them by alleging things that are not known by the person. These issues come up when somebody competitively qualifies for a top position. That is when they go to look for excuses as to why one should not be appointed to the job one has applied.

Mrs. Lydia Nzomo, who was Deputy Secretary, Teachers Service Commission (TSC), and at one time acted as Secretary to the TSC, did a very commendable job.

Mr. Temporary Deputy Speaker, Sir, she is now the CEO of the Kenya Institute of Education that deals with our curriculum and is best suited for this job because she scored very highly. This Parliament said it was not approving the list. Now that it has been resubmitted, we want to amend it, so that this issue which had made it to be rejected, can be addressed and we get

new commissioners as we continue. They can appoint one of them as the Acting Chairman before the substantive Chairman is appointed.

I support the amendment.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I rise to support the amendment. I support the amendment very strongly because I want to assert it is wrong for people to allege things without any proof against other people and damage their reputation.

I happen to have been an Assistant Minister in the Ministry of Education and Mrs. Lydia Nzomo was in the Kenya Institute of Education, where she did a commendable job. She is a lady of high integrity. I really feel that unless there is proof of corruption and a report is tabled, this House should not impute ill motives on this lady who has served this country very well in the high position she was accorded by the Government.

Mr. Temporary Deputy Speaker, Sir, I oppose this list as a whole because it is not gender sensitive. It has completely excluded gender. I feel that this list should go back and comply with the constitutional one third gender rule.

I, therefore, support part of the amendment that we do not support the Chair who has been proposed. I also reject the whole list because it lacks gender participation. So, it is against the Constitution.

Mr. Koech: On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to make one correction to what the hon. Minister has said, that the Commission has eight Commissioners and a Chairman. We already have five Commissioners sitting up to June and among them are three women. I just wanted to make that clarification so that we do not confuse Members.

Mr. Farah: Mr. Temporary Deputy Speaker, Sir, I also want to add my voice to this debate. Whatever panel dealt with this, needs to be investigated itself on integrity. It must be investigated on integrity because Mr. Mbarak Said Twahir has allegations of embezzlement of funds for World Bank funded Kenya Education Sector Support Programme at the Ministry of Education. I happen to know this person. I happen to know the case that was put against him. The case did not have any ground; so it was dismissed. It is not in court. Here it says that the case was taken up for investigations and is currently pending in court. This is a lie. This is perjury. This is a serious problem. This is a disabled person who uses crutches. He should have been a very senior person for a very long time. He has been marginalized; he has never been given a chance. Even on further investigation by the Director of Public Prosecutions, it was found that this thing was in itself occasioned because of malice. Whoever took him to court was somebody who was trying to make sure that he did not get the next promotion.

Here is a panel that says that this person was investigated, There is an allegation and the matter is in court. You cannot be in court and, at the same time, be serving in the Government. As a matter of fact, he was interdicted. The case went on. There were no grounds and a *nolle prosequi* was entered and he was acquitted. So, this is not right. I think this panel must go back and every member in the list here must be given a good chance to be able to have an opportunity to compete and seek this position. This needs to be revisited. The Chairman's position in the whole list---

He should get the chairman's position, and not any other position.

Mrs. Chepchumba: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute.

From the outset, I must declare my interest; one of the candidates who had been rejected earlier on comes from my constituency. That is Cleopas Tirop. I want to say that merit should be

used in appointing officers. It is so unfair to subject someone to an interview and, later on, reject him on flimsy reasons. This time round, the principals have it correctly. Therefore, let those who are qualified to be given an opportunity.

With those remarks, I support the Report.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I want to sort out the amendment, so that you can have the substantive debate.

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

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, let me now read out the Motion as amended, so that you can make your contributions:

THAT, this House adopts the Report of the Departmental Committee on Education, Research and Technology on the consideration of nomination of the chairperson and members of the Teachers Service Commission laid on the Table of the House today, Wednesday, 9th January, 2013, subject to deletion of recommendation (i) appearing on page 13 of the Report.

(Motion as amended proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I can now support the Report as amended. My concern was that we raised very serious issues of gender discrimination. Women always do well, but we tend to create all manner of excuses to get them out of contention. I know that by the amendment, we have not brought in the woman, but it gives her an opportunity to be re-considered.

If the panellists and the appointing authority are listening, they should hear clearly that we really do not think there is a problem with one Lydia Nzomo, unless they have a problem with the name “Nzomo” because the other time Maria Nzomo was brought forward, her name was rejected. Now Mrs. Lydia Nzomo is brought in, the name is rejected. So, it looks like there is a problem with the gender and “Nzomo” bits.

I now support the Motion as amended. Let us give women opportunity.

Mrs. Noor: Mr. Temporary Deputy Speaker, Sir, I stand here to support the Report as amended. You will remember that the other night we were here. We aired all the frustrations that we have gone through as a House, particularly on issues of women. We were frustrated. We feel betrayed. We felt that it was not only this House, but also the Supreme Court has frustrated the efforts of the women of this country.

I feel very happy tonight that we are giving another chance for a woman to be considered. We know that there are many people in this country with pending issues in court, but they have no problem. They go to interviews and do anything they require to do. However, when it comes to a woman, the story is different. As a woman, if you steal a chicken, you are told: “You have a problem here.” When a man steals “Goldenberg”, there is no issue.

Therefore, it is high time that we recognised the women of this country and give them due opportunities as per the constitutional requirement. This time round, the women of this country are not going to be given a privilege. It is a right which is stipulated in the Constitution. This is a right we gave to ourselves. We fought for the later tooth and nail. We are telling you

that we are going to make history in this country this time round. Watch this space. You will see us. We are going to make it.

With those few remarks, I support the Report as amended. The nominees are Kenyans who are going to serve us. The TSC is a reputable Commission. As a teacher, I feel very proud of this Commission.

The Assistant Minister for East African Community (Mr. Munya): Mr. Temporary Deputy Speaker, Sir, let me also add my voice to what other hon. Members have said; that the rules that were established in establishing this Commission were intended to prevent anybody, irrespective of what office one holds, from circumventing justice and preventing qualified Kenyans from occupying offices they deserve to occupy.

The accusations that are being raised against Lydia Nzomo have never been proven. She was never asked questions relating to them when she was interviewed. So, these were afterthoughts that were brought in to make sure that she was kept aside, so that other people who were favoured by whoever could be given the position. It is the responsibility of this House to make sure that there is fair play in appointments, so that the most qualified Kenyans can be given positions.

When we see that rules are not being followed and situations are being manipulated so that particular individuals are rejected, this House comes in to make sure that justice is done. I am happy with what the House has done, especially given the history that this particular lady has gone through. She served in the TSC for many years, but she was, again, bypassed and kept aside. When she qualified for a certain position, she was never given the opportunity. She was moved out to another position. Now, again, she was interviewed for a position she qualifies. She scored more marks than many of the interviewees, but she was bypassed again, so that other people who are less qualified could be picked.

It is, therefore, important that this House sends a message to the interviewing panels and the appointing authority, so that the rules can be strictly followed. The gender rule should also be strictly followed, so that the women of this country can be treated as equal citizens.

With those remarks, I beg to support.

Mr. Farah: Mr. Temporary Deputy Speaker, Sir, I also want to add my voice to this matter. I have gone through the records of the Commissioners and established that they are all people of impeccable dignity, record and history. I happen to know Aden Sheikh Abdulahi, who comes from Garissa County. He is somebody of an exceptional quality.

I was made to understand that Mr. Cleopas Tirop is a disabled person. Nonetheless, with all the disabilities, he has been able to climb the ladder of education and excel, in showing his own integrity and dignity in the manner he has been involved in the education sector. The same goes for Fredrik Haga Ochieng. I am told that he is also an invalid, but nonetheless, he has been able to do a very good job. Three of the Commissioners are the kind of people who need to steer this particular Commission in the right direction.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of order, hon. Magerer?

The Assistant Minister for Energy (Mr. Magerer): Mr. Temporary Deputy Speaker, Sir, I would not really like to interrupt my Deputy Speaker, but just as a point of correction---

Mr. Farah: Mr. Temporary Deputy Speaker, Sir, I corrected it myself by saying that Cleopas is not invalid. The person who is disabled is Fredrick Haga Ochieng. Cleopas also has a good history.

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, I also want to add my voice in support of this report. Initially, I had some very fundamental problems with the report because I really felt that justice was not at play. There was gender-insensitivity in the sense that somebody who had made it academically and professionally was denied a chance by this Commission. Now with this amendment, I can comfortably support this report; even those people who are disabled are given an opportunity to serve this nation. It shows that disability is not inability.

With those few remarks, I support the Report.

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I was wondering why the Deputy Speaker spoke twice when he came to the Chamber.

The Temporary Deputy Speaker (Mr. Imanyara): Order. You have already approached the Chair on that and I have explained why.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I was not directing it to the Chair; I was just wondering to myself.

Mr. Temporary Deputy Speaker, Sir, I pride myself as a Member of the Kenya Women Parliamentary Association (KEWOPA). We have stood as a Parliament with the women of Kenya to ensure that gender considerations are taken into account.

The only reason Mrs. Lydia Nzomo was not considered was one, a simple reason, namely her gender and nothing else. I knew Mrs. Nzomo when she was at the TSC. She did a good job in all the issues that I brought to her attention affecting the teachers of Turkana County. I want to agree with the Deputy Speaker that, that panel needs to be investigated. When the report was brought to the committee chaired by the distinguished former principal, David Koech, they said nothing about her name. It was much later that we heard one Mr. Kimemia purporting to talk to Parliament through the media. I think it is time that these civil servants appreciated Parliament. Now they have brought a letter claiming that the case is in court. If you allow me I will read Article 99(2)(h) which states as follows:-

“Unless you are found in accordance with any law to have misused or abused a State office or a public office, or in any way to have contravened Chapter 6---

Let me quote Article 3 because it affects us when people are read the law in a selective manner, or in a politically biased manner. It says:-

“A person is not disqualified under Clause 2 unless all possibility of appeal or review of the relevant sentence or decision has been exhausted.”

Mr. Temporary Deputy Speaker, Sir, I have a personal attachment to this issue. Just the other day, we were arraigned in court as Members of Parliament from Turkana on some flimsy grounds of inciting people to kill policemen. Now, we have discovered it was their own policemen who did a shoddy job. You can imagine that I can run for an office and you tell me because I was accused unfairly, I should not contest. This is why the Constitution made it absolutely clear. One, you need to be convicted. Two, even if you are convicted, and sentenced to fewer than six months, you can still run for an office. More fundamentally, if you have appealed, until you exhausted the appellate process, nobody should make a determination on whether you are guilty or not. What the selection panel and the Principals did was to judge Mrs. Nzomo as if she was guilty.

I hope the Kenyan nation appreciates why this Parliament is here as an institution. Its role is to check on the excesses of the Executive. This is one point we will make to the nation, that the Executive cannot expect to manipulate this Parliament even at the eleventh hour. We will rise to the occasion and we will do it even now.

I support.

Mr. Onyancha: Mr. Temporary Deputy Speaker, Sir, I stand here to support the Motion as amended. I do not know why the Principals want to put us through this and we reject their recommendations. It is very clear that we must consider the issue of gender. When they make such decisions, they give us no choice, but to reject their recommendations. We are doing this with heavy hearts because we wanted to go home with smiling faces, but we are disappointing our own Principals. I hope from this they will learn something; even their advisors will learn that such issues cannot pass unnoticed. Also, according to most of the hon. Members here, the next recommended commissioner should be a lady and, preferably, Mrs. Nzomo.

I will not touch on these false allegations because they have not been proved; they have been discussed. What I want to say is that the TSC can still do its work with two commissioners, the ones whose names have not been deleted. I wish them well in their new job. It is a very important institution. Our teachers need a lot of support and a good commission.

With those remarks, I support.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I also want to add my voice in supporting the Motion as amended. Now that there has been the explanation about gender, and that there are three other women who are in the first group that is very acceptable. But I still want to insist that we have very few women chairing commissions. We do not yet have our one third when you put all the commissions together; they should even be more.

We should appeal to the appointing authorities to be fair to women of this country; since a lady was number one in this interview in the name of Mrs. Lydia Nzomo, she should be given the opportunity to be the chair of this commission. We feel very strongly about that. She is a highly experienced lady. When we consider how many women are able to get to positions, it is only fair that she be given the opportunity.

I support.

Ms. Shakila Abdalla: Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion with amendments. It is very unfortunate that in this country sometimes we have double standards. It is clear we passed the Constitution and it has to be followed to the letter. The gender issue has to be considered and recognized.

As a Member of the Education Committee, I have no doubt that Mrs. Nzomo is fit for this position. We do recommend that she is very fit for it since she was interviewed. She deserves this position.

So, I support.

The Assistant Minister for Energy (Mr. Magerer): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to add my voice to this very important debate. I want to say that this behaviour of subjecting personalities to an interview, rating them and then coming back to say that they do not qualify because of things other than what the interview looked for is not acceptable. I want to thank this House for setting a good precedent that if you go through an interview and pass it you qualify to get the position.

Mr. Temporary Deputy Speaker, Sir, the issue of integrity should have been sorted out way before these candidates were cleared to sit for this interview. I want to say the role of the TSC in the education system of our country is really very important. I want to really plead that we have men and women of integrity who deserve the opportunity to serve in this Commissions. When I look at the list in general, and the amendment that has been passed a few minutes ago by this House, I believe that the Parliament of Kenya has lived up to expectations. I urge strongly

that Mrs. Lydia Nzomo, who scored highly in terms of merit, should actually be given the opportunity to chair this commission.

I am a man, but do not belong to the group of male chauvinists who still believe that women may not be able to deliver as well as, probably, their fellow men. If women have qualified for these opportunities, let us not go round just to try and deny them the obvious.

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

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I stand to support the Report as amended.

Mr. Temporary Deputy Speaker, Sir, if this is not discrimination; I do not know what is. This is just bad. I want to thank the House for figuring it out. I also want to thank the Chairman of the Committee who does meticulous work for standing for what is right the other time and this time. When the names were presented before this House last week or thereabout, there was nothing about Mrs. Lydia Nzomo being investigated by the EACC. Then today, somebody brings a letter saying that she is being investigated by the EACC. The EACC as it were is not even properly constituted. Somebody even had the audacity to put in the newspapers that before you run for a political office, somebody called EACC is supposed to clear you against the rules which this Parliament has passed. These are bodies that are run with laws and rules that this House passes. So, they cannot be above this House.

I want to thank the Committee. What you are doing is the right thing. We must stand up for the rights of innocent Kenyans because they may not have an opportunity to defend themselves, once somebody mischievous in the Executive tries to interdict them before they go before a court law.

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

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, in supporting the amended Motion, I note that the regional balance requirement has not been considered. The whole of Coast region does not have any representation in this Commission. This could be one of the factors that are triggering violence in this area. So, in future, regional balance, as stipulated in the Constitution, must be complied with.

Mr. Temporary Deputy Speaker, Sir, Mrs. Lydia Nzomo is not a criminal. This is a decent lady who is well experienced. She is managing the only curriculum development centre in the country. I conclude that the allegations already raised could be inspired by enemies of this lady. If the allegations have any atom of truth, the EACC should institute charges immediately against this lady. As of now, there are no proven charges against this lady. Therefore, she qualifies to be given this appointment.

Mr. Temporary Deputy Speaker, Sir, I support the amended Motion.

The Temporary Deputy Speaker (Mr. Manyara): I now call upon the Mover to reply.

Mr. Koeh: Mr. Temporary Deputy Speaker, Sir, I want to thank this House and the two Principals for their quick action. Remember that it was just the other day when this House rejected the first names and they were very quick in responding and sending us new names. But I just want to say to the two Principals that we know that they are very busy Kenyans. Therefore, there is always need to give time to reports that are given to them by various panels that are nominated to sit and interview people, so that some of these small anomalies could be corrected.

Mr. Temporary Deputy Speaker, I want to totally agree with the House that the Panel needs to be investigated. From the word go, there were serious concerns by Kenyans until we, as a Committee, even summoned the panel ourselves. For the information of the House, the name of Lydia Nzomo was actually not forwarded to the two Principals. So, they are really clean as far as

the position of Mrs. Lydia Nzomo is concerned. Many Kenyans raised a lot of issues and I support the need to investigate this team.

Mr. Temporary Deputy Speaker, Sir, by returning the position of the Chair, I want to believe that the Teachers Service Commission, with eight Commissioners can function until such a time that we will get a substantive Chair who shall have gone through a competitive process that is transparent, open and has no discrimination and malice in it.

Mr. Temporary Deputy Speaker, Sir, I wish those who are going to be appointed the best. This county expects a lot from them. We know that there are serious concerns about teachers' management in this country. There are also serious concerns on the relationship between the Ministry of Education and the Teachers Service Commission. Some of these issues need to be ironed almost immediately, so that we see smooth running and management of the education sector.

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

(Question of the Motion as amended put and agreed to)

Resolved accordingly:-

THAT, this House adopts the Report of the Departmental Committee on Education, Research and Technology on the consideration of nomination of the Chairperson and Members of the Teachers Service Commission laid on the Table of the House today, Wednesday 9th January, 2013 subject to deletion of recommendation (i) appearing on page 13 of the Report.

The Temporary Deputy Speaker (Mr. Manyara): Hon. Members before we call the next Order, let me on behalf of the Members of the Speaker's Panel who have had occasion to preside on behalf the Speaker or Deputy Speaker, because this may very well be my last time, thank the Speaker, Deputy Speaker and the hon. Members for the support that you have given us and the time you have allowed us to preside over the sessions of this House.

We wish you all the best. Happy New Year!

(Applause)

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

[Mr. Speaker resumed the Chair]

COMMUNICATION FROM THE CHAIR

PROCEDURE FOR ADOPTION OF REPORT ON DRAFT STANDING ORDERS OF NATIONAL ASSEMBLY/THE SENATE

Mr. Speaker: Hon. Members, before we take Order No.17, I have the following Communication to make. I would like to guide the House on the procedure which we shall apply to the consideration of the Report of the Procedure and House Rules Committee containing the Draft Standing Orders of the National Assembly, Draft Standing Orders of the Senate and Draft

Joint Rules. First, the Motion for the adoption of the Committee Report will be moved, seconded and proposed in the usual manner. In debating this Motion which will last for a maximum of one hour, hon. Members may make general comments on the content of the Report. At the end of the debate on the Motion, I will not put the Question. Instead, I will ask the Leader of Government Business to move the Motion: "That Mr. Speaker Do now Leave the Chair." If agreed to, the House will dissolve itself into a Committee. This will conclude the first stage of the consideration of the Report. The Report will subsequently be dealt with in the Committee of the Whole House in a similar manner as the Committee Stage on a Bill. This is in keeping with established practice for considerations of rules of procedure of the House. The aim of moving into Committee is to enable hon. Members to examine each of the proposed Standing Orders, the Schedules and the Joint Rules one by one as in Committee Stage of a Bill and propose amendments where necessary.

Hon. Members will notice that in keeping with the said practice when we eventually dissolve into Committee, I will take the Chair as the Chairman to facilitate deliberations more so as I am the Chairman of the Procedure and House Rules Committee. In Committee of the Whole House, I will call upon Mr. Ethuro, who is a Member of the Procedure and House Rules Committee to move the Motion: "THAT, the Report of the Procedure and House Rules Committee on proposed Standing Orders of the National Assembly, the Senate and the Joint Rules be adopted and further, that the new Standing Orders and the Joint Rules as contained in the three appendices to the Report of the Committee shall come into operation at the commencement of the next Parliament pursuant to Article 126 of the Constitution."

This is essentially the Motion of adoption of the proposed Standing Orders Joint Rules. The Chair will propose the Motion. The Clerk will then read each Standing Order and the Schedules, one after the other. We will dispose of them in that order like in the case of a Bill. After all the proposed Standing Orders of the Senate and the National Assembly, the Schedules and the Joint Rules have been disposed of, I will put the Question for the Motion of adoption of the proposed Standing Orders and the Joint Rules. I will, thereafter, call upon a Member of the Procedure and House Rules Committee to move the Motion which is: "That the Committee doth report to the House its consideration of the proposed Standing Orders of the Senate and the National Assembly and the Joint Rules and its approval thereof with or without amendments." I will thereupon put the Question, if agreed to the House, will resume. This will herald the third and last phase of the consideration of the proposed Standing Orders.

When the House resumes, the Leader of Government Business will, on behalf of the Chair of the Committee of the Whole House report in the usual manner as in the reporting stage of a Bill reported from Committee of the Whole House as follows: "That the Committee has considered the report of the Procedure and House Rules Committee on the proposed Standing Orders of the Senate, the National Assembly and Joint Rules and approved the same with or without amendments."

Finally, I will call upon a Member of the Procedure and House Rules Committee to move the Motion: "That the House doth agree with the Committee in the said report." After this Motion is seconded, I will propose and later put the Question for the decision of the House on the Motion, indicating the conclusion of the matter.

Hon. Members, I trust that all of you have understood this procedure. Indeed, all if not most of us, were here in the month of December - precisely I think it was 10th December, 2008 - and it this procedure that we embraced. We are just going to revisit that scenario once again this time round, just approximately four years later.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Maybe, you could give us further guidance because with my eye on the wall clock and remembering that we have resolved at the beginning of business today that we will ensure that we clear the business on the Order Paper. It occurs to me that we also have the Adjournment Motion which has a limitation of three hours. Seeing the one hour of debate and further going into the Committee of the Whole House; and with the mood that we would have liked our affairs to end today, maybe, you could guide us so that we know whether the Adjournment Motion has any chance at all.

Mr. Speaker: Dr. Khalwale, my guidance in that regard would be that from this Communication as I have made, I have clearly indicated that the House will debate the Motion and that that debate will last a maximum – and I used the words “a maximum of one hour.” So, the House, in its wisdom, particularly given that the House has interacted with the proposed Standing Orders variously, including at a Speaker’s *Kamukunji*, maybe, the House may not want to utilize the maximum of one hour. As to whether or not the Adjournment Motion has a chance, any opinion on that at this stage will amount to anticipating debate and the Speaker must be thoroughly guarded on that particular one. So, I will not indicate the fate of the Adjournment Motion.

MOTION

ADOPTION OF REPORT ON DRAFT STANDING ORDERS OF NATIONAL ASSEMBLY/THE SENATE

Mr. Ethuro: Mr. Speaker, Sir, I beg to move:-

THAT, this House adopts the Report of the Procedure and House Rules Committee on Draft Standing Orders of the National Assembly, the Senate and the Joint Rules laid on the Table of the House on Wednesday December 19, 2012.

It gives me great pleasure to move this particular Motion to adopt the Committee’s Report as a member of the Speaker’s Panel and by virtue of that, as a Member of the Procedure and House Rules Committee. The Procedure and House Rules Committee is established pursuant to provisions of Section 56 of the former Constitution as saved in Section III to the Sixth Schedule and the National Assembly Standing Order No.191 in force since 2008. Under the provisions of Standing Order No.191 (2), (3) and (4), the Committee has three specific mandates, but I will just mention two. The first one is to consider and report on all matters relating to the Standing Orders and the second one is to propose amendments to the Standing Orders. That is exactly why this Motion is before the House today. In February 2011, pursuant to the provisions of the stated Standing Order, the Procedure and House Rules Committee embarked on the drafting of the Standing Orders for both the National Assembly and the Senate. This exercise has been extensive, consultative and included legislative experts, civil society groups, scholars, parliamentary officials, the Kenya Women Parliamentary Association Members, Parliamentary Initiatives Network, FIDA-Kenya, ICJ-Kenya and the Institute of Certified Public Accountants of Kenya (ICPAK), among other professional bodies.

In furtherance of this mandate, the Committee, I must appreciate, was supported by the taskforce of the National Assembly comprising of clerks, legal counsel and especially the budget officers. The members of the Committee and the taskforce had the opportunity to visit various countries with comparable systems of Government and bicameral legislatures benefitting a lot from peer exchanges and expert advice from those legislators. In particular, we visited India,

Australia, United Kingdom, Canada, State Legislature of Wisconsin, USA and the Congress of the USA.

The background in which these changes have been made to the Standing Orders is primarily brought by constitutional changes that this country has witnessed. In August, 2010, all of us know that we enacted a new Constitution in which there was a shift from a mix of two systems of Government, that is, a hybrid of parliamentary and presidential system to a more of a semi-presidential system coupled with decentralization of power to county governments. This has drastically altered the legislature's working structures, systems of representation, law making, oversight, budget making and the rules of procedure that are attendant to them.

The Constitution determines the relations between the Executive and the Legislature; the Executive and the constitutional commissions and independent offices which are in Chapter 15 of the Constitution, 2010; and also between the Legislature and the constitutional commissions; and the two Houses of Parliament.

The Constitution has also introduced the principles of sovereignty of people; supremacy of the Constitution; and the national values and principles of governance, including public participation and subjecting the institution of Parliament to the will of the people that we represent in this House. The Constitution has also converted Parliament into a budget-making organ from its traditional budget-approving role. This is a unique function that Parliament is performing. The new Standing Orders of the National Assembly, the Senate and the Joint Rules of both has have been drafted to take into account the constitutional tenets and principles I have just mentioned.

However, the Constitution, beginning with the Eleventh Parliament, has now separated the Executive from the Legislature. The cabinet secretary is the only member of the Executive answerable and accountable - singularly and collectively - as a member of the Cabinet to the National Assembly and to the Senate through the Select Committees. Members will recall that we will not have the pleasure of interacting with hon. Githae.

Except for the elaborate proceedings to impeach and remove the President on grounds of incapacity, there are limited opportunities also for the President to access the Legislature. He can only do so when opening Parliament or delivering a special address to Parliament.

These Standing Orders, therefore, provide for the procedures of engagement between the two organs. Much of this procedure development shall also be left to developing usage, precedence and practice that shall, from time to time, be codified as and when they develop adequate acceptance.

The Constitution of Kenya, however, retained the existing National Assembly and the Executive structure by suspending several articles during this transition period until all the results of the first elections are announced.

Article 262 and the Sixth Schedule, in particular, retained the National Assembly existing before the effective date. Section 10 of the Sixth Schedule also provides that the National Assembly existing immediately before the effective date continues as the National Assembly under the Constitution of Kenya, 2010 for its unexpired term. Section 11 of the same Sixth Schedule also gives the current National Assembly the powers to discharge the functions of the Senate. The National Assembly, therefore, as it stands today, carries out the dual roles of both the National Assembly and the Senate and is expected to spearhead the transition from the unicameral to the bicameral parliament in a number of ways. The National Assembly shall thus be leading the review of the Standing Orders of the National Assembly and the adoption of the

Senate's new Standing Orders. That is why the National Assembly is called upon today to perform this task.

This review of Standing Orders, therefore, come at a time when the two Houses of Parliament are being reborn in a uniquely Kenyan bicameral system of legislature which is quite different from the one abandoned four decades ago. The Orders provide for inter-house relations, inter-house separations and the relations between either of the houses, county governments and with other arms of government and also with constitutional commissions and independent institutions.

Mr. Speaker, Sir, I will not go into the details of all the proposals, but I will just want to highlight the various items that we have put emphasis on in the proposed Standing Orders.

The Standing Orders are looking more critically in conformity with the Constitution on the legislative process, public access and participation in law making, financial controls, budget process and so on. I wish to highlight a few of these things, especially for the draft National Assembly and the Senate Standing Orders.

One is the order of precedence in the administration of oath. The second one is the election of Speakers. There is the notification of opening of Parliament, and presiding in the National Assembly/Senate. We have created the position, again in conformity to the Constitution, the Leader of the Majority Party and the Leader of the Minority Party.

The proposed procedures also factor in visiting dignitaries and the calendar of the House. Of special mention, the calendar of the House will be controlled by the House Business Committee with approval of the House itself. Once this is approved, it shall be published in the Kenya Gazette and the parliamentary website.

There will also be requests for special sittings of either House, special Motions, for example, extension of the state of emergency, extension of the time of Parliament when Kenya is at war and declaration of war.

There are also the normal adjustments. There should be a quorum at the commencement of the House. I want to highlight the quorum at the commencement of the House. With regard to the National Assembly, quorum at the commencement of the House shall be 50 Members, while at the Senate the quorum shall be 15. The sitting in the Chamber is available to all except for the Deputy Speaker, the Leader of the Majority Party, the Leader of the Minority Party, and Members with disability. A new introduction is the messages between the National Assembly and the Senate and messages from the President. That has been accommodated for purposes of harmony between the two Houses.

The other procedure that we have put in place and which is not in the existing Standing Orders is the procedure for removal from State Office, especially the procedure for the removal of the President from office by impeachment, removal of President on grounds of incapacity and procedure for removal of a cabinet secretary. We have also enacted an elaborate procedure for introducing Bills to the House.

As I conclude, I wish to mention the relationship between the Senate and the National Assembly. That is what hon. Members may be interested in. There is requirement of concurrence of the other House for particular Bills. In case that concurrence is not obtained we have provided for a Mediation Committee which, whenever the Assembly does not agree to all or any of the amendments made by the Senate to a Bill concerning county governments which originate from the National Assembly, and the Senate has insisted on such amendments or fails to agree to a Motion or a Bill that originates from the Senate, then a Mediation Committee appointed by both

Houses will be able to deal with that matter. If within 30 days they have not done so, then the Bill will be deemed to have been negated.

Finally, there is the issue of the Committee system. Members need to know that the National Assembly will be the larger assembly and the following Committees have been proposed for the National Assembly: House Business Committee, Committee on Selection, Committee on Appointments, Public Accounts Committee, Public Investments Committee, Budget and Appropriation Committee, Procedures and House Rules Committee, Committee on Implementation, Committee on Delegated Legislation, Committee on Regional Integration, Liaison Committee and the Departmental Committees aligned to the Ministries.

The following Committees have also been proposed for the Senate:-

1. Rules and Business Committee;
2. Committee on Devolved Government;
3. Committee on Implementation;
4. Committee on Delegated Legislation; and,
5. Standing Committee aligned to the line Ministries.

Mr. Speaker, Sir, the Standing Orders propose three joint committees:-

- (i) Joint Committee on National Cohesion and Equal Opportunity
- (ii) Joint Committee on Intelligence
- (iii) Joint Committee on Library and Broadcasting.

Of course, there will be the right to petition Parliament as per public participation, financial procedures. The Standing Orders have made provisions for amending the same Standing Orders for a period review of the same.

Mr. Speaker, Sir, I want to conclude by thanking the Members of the Committee under your Chairmanship and particularly Members of the Panel. We have been able to work by consensus in most of these proposals. These proposals are being brought to the House for the sake of doing our duty, but for the purposes of the Senate they are at liberty now as they start. We want to give them a working document so that they do not operate in a vacuum. They will be at liberty to amend or propose and that is why we have put the provisions for doing the same.

Mr. Speaker, Sir, the role of Standing Orders in the way we conduct business is so significant. You have always reminded us that Parliament is not a market place nor is it a public *baraza*, but an institution that is dignified and the way we conduct our business must be such that we will get the admiration of Kenyans across the divide. The majority will have their way, but the minority will have their say.

With those many words, it is my pleasure to move this Motion and ask my senior in the Panel, Mr. Imanyara, to second.

Mr. Speaker: Hon. Members, even as Mr. Imanyara comes to second that Motion, allow me to confirm the sentiments expressed by the hon. Member for Turkana Central that this Committee worked, perhaps, even harder above average compared to other Committees. I know that on one occasion they actually worked until 2.00 a.m. That hardly compares with any other.

Hon. Member for Imenti Central, you may proceed.

Mr. Imanyara: Mr. Speaker, Sir, I second this Motion. In doing so, I want to thank you as the Chair of the Committee for the leadership you have shown not only in the setting up of precedence and rules that govern the conduct of business in this House, but also for interpreting those rules setting ground for future conduct that would be of tremendous help to those who sit in your Chair after you and those who will sit in the Chair of the Senate speakership.

Mr. Speaker, Sir, as the Mover has said, these amendments were brought as a result of the need to comply with the provisions of the new Constitution. Even before the new Constitution came into operation, hon. Members will recall that four years ago, again at your instance we had very comprehensive amendments to the Standing Orders that not only brought in the live broadcast, but in many ways changed the manner in which we do business in this House. That also enabled this House to carry forward business that was unfinished during the previous period as well as setting up procedures for the budget allocation.

Mr. Speaker, Sir, given that in the next Parliament, Members of Parliament would not be Ministers, it was essential to provide detailed and extensive provisions that would govern the conduct between the Executive and the Legislature. That is a role that has been captured in these two sets of rules that we have been taken through by the Mover.

I do not wish to say too much, except that in the Senate, you see that in the joint committees that we are introducing, there is an important new committee that has been proposed, that is, the Joint Intelligence Committee that has been informed by the need to conduct our affairs on the basis of understanding the national security. Members will note that in the proposed Joint Intelligence Committee, Members who sit in the Committee and also the Clerks will be required to take a special oath of secrecy and also to undergo a vetting process. These are issues that have arisen, that is the practical reality that has to arise as a result of the security challenges this country has faced. These are all reflected in this report. The purpose of the joint rules is to enable the orderly conduct of business when the two Houses are sitting as one. So, because all these have been set out very clearly and comprehensively, I am privileged, indeed, to second this Motion and I do second it.

(Question proposed)

Mr. Speaker: Hon. Members, we will want to limit every contribution to a maximum of three minutes.

Mrs. Shebesh: Mr. Speaker, Sir, I want to support this Report as a Member of this Committee. I want to pay special tribute to the Committee that was very accommodating on the views that were brought by Kenya Women Parliamentarian Association (KEWOPA), Kenya Federation of Women Lawyers (FIDA) and all other women organizations. We know through the traditions of this House that for a while it has been difficult for women to find their space. Without Standing Orders being sensitive to the gender representation, we would not be as effective as we have been. We have been marginalised for a long time. These Standing Orders took on board literally all recommendations that were given by the KEWOPA. Without the support of the KEWOPA, members who we call “our Members” even if they are not from our gender, especially Mr. Ethuro’s region, would not be today confident as Members of Parliament. Our representation has been taken on board. We will be able to Chair Committee and be represented in all powerful Committees. Thanks to the new Constitution; a minimum of 47 women will be in this Parliament and another 22 women who are currently sitting in this Parliament will be back in this Parliament. We are hoping that the two Alliances that are all over the country looking for votes are also doing affirmative action in their nominations to ensure that strong women in their strong regions are also elected. Without these Standing Orders looking into that issue, we would not be confident.

Therefore, we want to thank you as the Chair and thank the Members of the Standing Committee and also thank KEWOPA who took time to give their recommendations to the Committee.

With those few remarks, I support.

Dr. Khalwale: Mr. Speaker, Sir, I support this Report. These are, indeed, very exciting times to the extent that it forces me to acknowledge you and pay my special tribute that you have created a place for yourself in the history of this country because of the way you have transformed Parliament. You will remember that once upon a time we were with you in Canada. Looking back at what has taken place since, I would like us to forget all that we talked that time, but reiterate that whatever the outcome of the next general elections, because political parties and coalitions are using the position of Speaker to advance their interests, an innocent man like me hopes that the ideal person to implement the new Standing Order would be none other than Mr. Kenneth Marende. However, that will wait for another day because we will have to vote at that stage.

I looked at the issue that took place in this House in January, 2008 when there was a lot of debate and confusion for your election. I told myself that beyond these Standing Orders, the next Parliament should think of enacting a particular law, so that it clarifies forever the process of electing the Speaker of the Senate, the Speaker of the National Assembly and the Speakers of the County Governments. We are lucky that God prevailed on that day, otherwise, we would have failed to have a Speaker, this House would not have been sworn in and Kenya would have continued burning.

I, therefore, appeal to Members of Parliament who will make it to the National Assembly and to the Senate to strongly consider the possibility of having a law that we could call the Election of the Speakers Act that would give force to what I have just said.

Finally, I want to congratulate the Committee on the issue of innovation. The Committee has been very innovative. I am not surprised because hon. Gitobu Manyara and hon. Ekwee Ethuro are always equal to the task. There are two committees that you have created. That is the Committee on Mediation and the Joint Committee of the Senate and the National Assembly. These are very critical committees.

Mr. Speaker: Your time is up, Member for Ikolomani! We will not forget what we discussed in Canada. We will keep it on record.

Mr. Ruteere: Thank you, Mr. Speaker, Sir. I also want to join my colleagues in supporting this Report and in congratulating the Committee for doing a very commendable work. I also want to appreciate the role you have played as the Speaker of the National Assembly in exposing the Committee Members to bicameral Parliaments all over the world; whose input has been accommodated in this Report. I also want to appreciate that the Committee has taken the input of the civil society, the input of the women of this country and the input of the disabled. This makes the Standing Orders very beneficial to all the people who will be Members of this Parliament. We will have women in large numbers and we will also have the disabled being accommodated in big numbers.

Therefore, what has been done makes it historical that in the next Parliament there will be order. All the issues that need to be addressed will meet the necessary Standing Order for direction. This means that there will be no vacuum. It will start of very smartly, nicely and will have order. Business will start promptly. There will be no issues that will make people debate up to midnight as was the case in 2008. Business will start thereafter.

You have made history in the way you have steered this Parliament. You have made it possible to have the necessary rules in place and pass the necessary Bills. For this, as hon. Dr. Khalwale has said, when people will be rated, they will look and see where to place you because you have made yourself a man of integrity and one who has steered this Parliament.

For that, I beg to support the Report.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Speaker, Sir, thank you very much for giving me the opportunity to support this Report. I support this Report and congratulate you as the Chairman of the Committee and all the Committees for putting a lot of effort in this Report, as detailed as it is which does not surprise me because you are a very thorough person. I happened to have worked under you; a privilege I will never forget. I want to thank you very much for that. I know how thorough and detailed you are. This House has always recognized the detailed way in which you carry out the work of this House.

As I support this Report, I want to say that this is really one of the most important tools that will be required when we have the two Houses. This will be the first time we will have two Houses in Kenya. It has to be very clear which House will be doing what, how the two will relate and how movement of information will be between the two Houses. It is important for us to start right when we have the Senate and the House.

We want to thank the Committee because they have been thorough in trying to separate the powers between the two Houses and showing how Bills will be moved in the two Houses. Without that, we will start the wrong way and it will be very difficult for us.

I also want to laud the creation of joint committees and in particular the Committee of Cohesion and Integration. It is very important that we close in on the areas of conflict and those that divide, so that the two Houses recognize that they are not being divided for anything, except for purposes of efficiency in this country. We expect that some of the Bills will be moved in the two Houses. Those of us who are intending not to be in this House, but to go and serve at the local level as governors will be very happy to see a very cohesive Parliament between the two Houses.

On Part XXV, the Standing Order No.235 of the Senate stipulates a new area which is the procedure of dealing with reports that come from the East Africa Legislative Assembly (EALA) and those that come from the Pan African Parliament (PAP). This, I laud, again because I happen to have been a Member of the EALA. It was very difficult for the Reports from that Assembly to enter this House and influence---

Mr. Speaker, Sir, I support.

Mr. Onyancha: Thank you, Mr. Speaker, Sir. I want to join my colleagues in paying tribute to the panel or the Committee that prepared these Standing Orders. As I say so, I want to appreciate the time put in by all the Members and, especially by the leadership of the Committee.

I have heard a lot of tribute being paid to you, but I thought that we were waiting for the Motion for Adjournment to do that. I hope that we will get there soon. Let me say that the challenge in making Standing Orders for the Senate which we have not sat in or seen was great. It will, probably, call for a bit of correction in the period when the Senate starts functioning. Be that as it may, I believe that this House has done its best in providing the Senate a very soft landing ground as they come in as first timers.

In that regard, I wish my friends who will go to the Senate, well. An example is Dr. Khalwale who has worked very hard in the Committees that I have served with him and others who have been very supportive to the success of this Parliament.

With those few remarks, I support.

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I also want to take this opportunity to thank the Members of this Committee. I think I missed an opportunity. I do not remember the day when there was a *kamukunji* to have gone through this. But if it happened when I was away, I still appreciate. However, these are good Standing Orders that comply with the new Constitution. However, there are areas that I will be proposing amendments having worked in the security sector for the last four years and also foreign affairs and having also interacted with many other jurisdictions both in the developing and developed countries.

We need to be careful in the way we combine the functions of both the Senate and the National Assembly. We need to allow some leeway for each of the Houses to actually have some originating jurisdiction on the formation of select or joint committees so that that unique function of either the National Assembly or the Senate is not impaired by that amorphous grouping because it was tried sometime. This is a reflection of the joint committees by the current National Assembly.

Mr. Speaker, Sir, the areas that I will be proposing amendments are that if you look at the National Assembly Standing Orders, especially on Defence and Foreign Relations Committee, there is a correlation between defence and foreign relations. In the Standing Orders, there is an attempt to lump together defence and homeland security. Again, these are completely two different fields. If you look at America that is the case and the retired general is here. So, we need to separate that aspect so that homeland security which is unique and if there is going to be a unique committee called Homeland Committee that has to deal with a particular issue within the county, then again that is not impaired by an issue that touches on an external threat.

In particular, a section of our Committee Members went to America. We also knew that there was going to be these Standing Orders. We interacted with our colleagues in Congress and also in the United Kingdom (UK). We realized that Defence and Foreign Relations Committees are very common. If you go by what is proposed here, defence is lumped under homeland security. I think we really need to separate that to remain with foreign affairs, so that the issue of homeland security is also there.

Mr. Speaker, Sir, secondly, as we approach this, of course, there will be issues. There are issues that we removed and from the security Bills that we passed. I am sure as a lawyer, but I am not sure whether legislating them and putting them in the Standing Orders will not be *ultra vires*. I want your guidance.

On the issue of the joint committees on intelligence, this same proposal was---

Mr. Speaker: Order! Hon. Keynan, your time is actually up! Yes, hon. M'Mithiaru!

Mr. M'Mithiaru: Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this report on the Procedure and Rules Committee concerning the Standing Orders of the National Assembly and the Senate. Let me also commend the committee under your chairmanship for having come up with these Standing Orders for both Houses and definitely it has been a real commitment for the Committee to quickly come up with the Report.

So, all I know is that under your chairmanship, many things have happened and already we are prepared for the two Houses because we were wondering what would happen if we have the Senate and the National Assembly and already the rules concerning the Senate were not in place, but now it so. It is a big commendation and Kenyans owe you quite a lot on this. For some of us who I know are going to be in the Eleventh Parliament, we shall really be remembering what steps you have done. We also look forward to your guidance even in the Eleventh Parliament.

However, one thing that comes up because I do not want to repeat what others have said, most questions that have been asked and we are trying to belabour them in our minds is that we know we are going to have the ladies who will be elected as county representatives and those who will be elected from the constituency. The other day, they were asking: In terms of supremacy, who carries more weight in terms of the elective constituency? I am sure in considering some of the Standing Orders, it is good also to find out what would happen when such things come up within the social intercourse as far as the hon. Members are concerned.

I support and I wish the Committee the best in this year.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I take this opportunity to support this report of the Standing Orders. I have spent a considerable part of my life in the last three years in this House. I have appreciated what it needs to have working frameworks that guide debate and operation in terms of where we go and when these need to be adjudicated in a certain manner.

However, more importantly, we are moving into a new dispensation. I am glad that this House was there to provide the guidance for the Senate and I hope this will also translate into the other houses in order for the county assemblies so that people can do business in one uniform manner across the entire country as one unitary state other than each county coming out with its own unique ways of doing things which could well create a situation where this country is seen to be a country of 47 mini countries.

Mr. Speaker, Sir, the fact that these Standing Orders will be a live document, I hope that for us who have booked space in this House and in this Senate, that we will have an opportunity to work with these new Standing Orders on a continuous basis and be able to amend them as the time proves that some things require changing. I know we have not changed our Standing Orders since we last amended them. Some were due for amendment, but this is something we can guarantee. We hope we have that opportunity to continuously review these Standing Orders as we move on, especially now recognizing the unique nature of the next National Assembly where we will not have Ministers coming here to answer questions and hon. Members coming here to ask questions. Where we will also not have situations going as they are and the work of the committees will need to be redefined. I believe the first six months of the operation of the next National Assembly - particularly because that is the area where I will be and that is why I am more concerned - will be further more defined as we continue to provide to this nation in a dispensation with a new expectation. This will at least redefine the role of a Member of Parliament which currently based on what the interviews we see in this place and on the campaign trails and when I listen to people talking about what they will do when elected to be Members of Parliament, you can see there is quite a disconnect between the expectations in the Constitution and the reality on the ground and similar things are being expressed by people.

Mrs. Noor: Mr. Speaker, Sir, thank you for giving me this chance to add my voice in support of this report. I want to take this chance to thank you so sincerely for your guidance and the support you have given to all us. Particularly me being a first timer and chairing a departmental committee, you have given me a lot of guidance and that made me what I am today. So, thank you so much for the support you have given to me personally and the support you have also given to the other hon. Members.

I want to particularly thank this Committee for the work they have done and also to thank the other committees of this House because they have made history. You remember the Parliamentary Select Committee on the Constitutional Review. It did a lot of work. There are

very many committees that have done a lot of work. I want to thank them for the work they have done.

I want also to thank the Kenya Women Parliamentary Association although they are few they have done a lot of work. They have given an eye to every issue that came on board, particularly on issues of gender by looking in between the words and letters so that they could add value to any issue that came before this House.

Mr. Speaker, Sir, I also want to thank this Committee, particularly because we have the county assembly Standing Orders in a draft form. We have prepared it and when the counties are in place we shall have the Standing Orders from where they will start. They will not start from a vacuum. They will have a draft which they will work with. Under your leadership, I thank you for preparing this country so that we do not have each county preparing its own Standing Orders.

Mr. Speaker, Sir, these Standing Orders reflect how we are going to interact among ourselves and with the Executive. These are procedures that are standard. The business of the House will be guided. Once we are in the new dispensation, we will not be burning the midnight oil to prepare for the future. We are preparing for a future, so that we do not create---

Minister for Finance (Mr. Githae): Mr. Speaker, Sir, let me also take this opportunity to thank you for your wise leadership and guidance. You have been able to guide this House over the last five years. You have been able to plan for the requirements of the new Parliament. For this we will be ever grateful to you.

Mr. Speaker, Sir, let me also take this opportunity to thank the Members of the Procedure and House Rules Committee for having come up with the Standing Orders for the National Assembly, the Senate and Draft rules for the County Governments. I do not forget your able parliamentary staff. We have not lacked water here on the Table. We have always had a cup of tea whenever we have wanted it and some mandazi at the restaurant. We appreciate the services that your staff have given us. Particularly for me, when I was appointed to this very busy portfolio, you guided me. You have shown me certain procedures that have enabled me to successfully transact business in this House.

I am also grateful to the ever present Mrs. Odhiambo-Mabona. I think there are very few sessions that she has missed. Mrs. Odhiambo-Mabona, at least, for me, I have always appreciated her comments. Her comments were for the general good of the country and they were geared towards helping gender, children and other vulnerable groups. For that we are grateful. Even if we said anything that you were not happy about, we appreciated.

I always used Mr. Martin Ogindo as a bouncing ball for ideas. If he cannot find fault in any Bill, then that Bill must be good. So, Mr. Martin Ogindo, again, if we have disagreed, in the end I will appreciate your comments and views because then I will be very sure that even if it comes----

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I want to support and appreciate the work of the Committee.

Mr. Speaker, Sir, we are getting into a two- house system after the next elections. That system will have its challenges. At the Independence, this country had that same system. But for some reason, maybe for challenges, the leaders at that time could not deal with; they turned the two-House systems into one, which we have today.

Mr. Speaker, Sir, it is great that our Committee has developed draft rules and Standing Orders that will make this country ready for the new system that we are going into. For that reason, I wish to congratulate the Committee.

Mr. Speaker, Sir, since 2008 when we got this coalition Government, we have had serious challenges in this country. Quite often those challenges and problems found their ways to your Chair. You had the wisdom and steadfastness and commitment to deal with these problems. When they came here, you guided this House. You guided this country to overcome challenges which could have led us into some serious problems that I did not know how we would have handled them. Congratulations for that.

I do not know what you intend to do with yourself after the next election, but I wish and hope that you will be on the same Chair, so that we use your wisdom to guide this country once more.

Mr. Chachu: Mr. Speaker, Sir, I want to add my voice in support of the new Standing Orders and draft rules.

Mr. Speaker, Sir, this will guide our National Assembly and the Senate after the next general election. They will further enhance the reforms in our Parliament as required by our new Constitution.

Mr. Speaker, Sir, I want to thank you. You have always led from the front. You have seen many reforms. You have shepherded this Parliament very well. As one of the young people who voted for you at the beginning of this Parliament, when I did not even know your name, I feel proud to have had you as our Speaker.

Mr. Speaker, Sir, I think these draft rules will go far in guiding our Houses, both the Senate and the National Assembly. I want to really commend the good work that was done by the Procedure and House Rules Committee.

With those few remarks, I support the Motion.

Mr. Njuguna: Mr. Speaker, Sir, thank you for the chance to make a few remarks.

Let me start by thanking the Chairman of this Committee for providing good leadership, and allowing generation of a good report that will assist the incoming National Assembly and Senate.

Mr. Speaker, Sir, I personally admired, for the last five years, your stewardship in this House. Your humility, prudence and guidance have been of immense value. Indeed, you have been a good tutor. You have tutored me and I will continue to remember this.

I also wish to thank the Parliamentary Service Commission (PSC) for allowing funds to be invested in this project. These funds have been used well to realize the current Standing Orders. These Orders will lay a firm foundation for the incoming Houses. They are Standing Orders that will be used for generations to come.

I fully support.

Mr. Ogindo: Mr. Speaker, Sir, I also rise to support the Motion. I want to take this opportunity to congratulate you on your sterling performance. As your constituent, you have not disappointed me. I would pray that even if you lose the election you come back, because I know you are big asset to this nation.

Let me say congratulation to the team that came up with the Draft Standing Orders. I was hoping to see the perpetuation of the use of the ranking Members beyond the swearing-in because I thought experience is important; but your team went out there. I was left here. I know that it is in your wisdom. Maybe, you have not considered that but I think it is important that there is ranking even up to the Committee level.

Mr. Speaker, Sir, I also made a remark in this House that the Committee sessions need to be guided in terms of management of time, just in the same way debate is regulated in this House in terms of time by assigning a definite amount of time to a debater. I thought it would be

prudent to have regulation of the Committee sessions guided by the Standing Orders by way of regulating contributions. I had in mind the possibility of granting the Chair ten minutes to make opening remarks; six minutes to the next wrapping up Member and four minutes for each Member to interact. In doing so, you secure participation of Members in the debate. Otherwise Committees risk being properties of the Chairpersons, who may dominate debate and undermine the Committee by its own definition.

Mr. Speaker, Sir, the other point I want to bring out relates to proposed Standing Order No.203 on engagement of experts. I think more thought needed to have gone into this aspect. Parliament is not a business enterprise. Parliament is a watchdog. Any expert advice we need is just for the purpose of furthering the work of Parliament. I thought the Committee could have recommended a standing payment for the experts---

Mr. Speaker: Member for Rangwe, your time is up! Our time is similarly five minutes away. I will give those five minutes to the Mover to reply. This one is cast in stone, Member for Rangwe.

Proceed, Member for Turkana Central.

Mr. Ethuro: Mr. Speaker, Sir, I want to thank each and every contributor for the comments they have made and especially for acknowledging the leadership role you have played in this Committee and the roles of the other Members. I know that the Chairman of the Departmental Committee on Defence and Foreign Relations Committee is going to propose some amendments, you will advise him accordingly when you so wish.

I just want to inform hon. Members that we took into account some of those suggestions, including the ones made by hon. Martin Ogindo. We realise that, maybe, until we go to the next Parliament, these things will play out much better, especially for ranking hon. Members. We certainly have that kind of information and knowledge. We are moving progressively and there will be a time for such considerations after we go into the new dispensation that we are going to take into account.

With those remarks, I beg to move.

Mr. Speaker: Hon. Members, that brings us to the end of the hour. Before I invite the Leader of Government Business to move the next Motion, may I put it on record that I sincerely appreciate the congratulatory sentiments that you have expressed in regard to me. I have taken them with the greatest humility. Indeed, they are very kind. I shall endeavour to continue to apply myself to the best of my ability to all future tasks in this nation.

On that note, I invite the Leader of Government Business to move the Motion.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

MOTION

THAT MR. SPEAKER DO NOW LEAVE THE CHAIR

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to move that Mr. Speaker do now leave the Chair.

Mr. Speaker, Sir, in moving the Motion, I associate myself fully with the congratulatory sentiments that my colleagues have expressed with regard to your particularly outstanding

performance as our Speaker during the Tenth Parliament. We wish you well. I know that we have not had the last of you.

With those remarks, I beg to move and ask hon. Kimunya to second the Motion.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

IN THE COMMITTEE

[Mr. Chairman took the Chair]

ADOPTION OF DRAFT STANDING ORDERS OF THE SENATE, THE NATIONAL ASSEMBLY/JOINT RULES

Mr. Chairman: Hon. Members, we will take the Standing Orders of the Senate first. Before the Standing Orders are called out, the Motion needs to be moved by hon. Ekwe Ethuro, on behalf of the Committee. The Motion is as I read in my Communication.

Proceed, hon. Ekwe Ethuro.

Mr. Ethuro: Mr. Chairman, Sir, I beg to move that the Report of the Procedure and House Rules Committee on the proposed Standing Orders of the Senate, the National Assembly and the Joint Rules be adopted; and further that the new Standing Orders and Joint Rules as contained in the three Appendices to the Report of the Committee shall come into operation at the commencement of the next Parliament, pursuant to Article 126 of the Constitution.

(Question proposed)

(Question put and agreed to)

ADOPTION OF DRAFT STANDING ORDERS OF THE SENATE

The Deputy Chairman: Hon. Members, we will now take the Standing Orders of the Senate and the clerk-at-the-table will read out the proposed paragraphs.

*(Standing Orders Nos. 1, 2, 3, 4, 5, 6, 7,
8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18,
19, 20, 21, 22, 23, 24, 25, 26, 27, 28,
29, 30, 31, 32, 33, 34, 35, 36, 37, 38,
39, 40, 41, 42, 43, 44, 45, 46, 47, 48,
49 and 50 agreed to)*

*(Standing Orders Nos. 51, 52, 53, 54, 55,
56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66,
67, 68, 69, 70, 71, 72, 73, 74, 75, 76,
77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87,*

88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98,
99 and 100 agreed to)

*(Standing Orders Nos.101, 102,
103, 104, 105, 106, 107, 108, 109,
110, 111, 112, 113, 114, 115, 116,
117, 118, 119, 120, 121, 122, 123,
124, 125, 126, 127, 128, 129, 130,
131, 132, 133, 134, 135, 136, 137,
138, 139, 140, 141, 142, 143, 144,
145, 146, 147, 148, 149
and 150 agreed to)*

*(Standing Orders Nos. 151, 152, 153,
154, 155,156, 157, 158, 159, 160, 161,
162, 163, 164, 165, 166, 167, 168, 169,
170, 171, 172, 173, 174, 175, 176, 177,
178, 179, 180, 181, 182, 183, 184, 185,
186, 187, 188, 189, 190, 191, 192, 193,
194, 195, 195, 196, 197, 198, 199
and 200 agreed to)*

*(Standing Orders Nos. 201, 202, 203, 204,
205, 206, 207, 208, 209, 210, 211, 212, 213,
214, 215, 216 and 217 agreed to)*

Standing Order No. 218

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

THAT the Draft Standing Orders of the Senate be amended by deleting the proposed Standing Order No. 218.

What informs this, and we need really to think and be very pragmatic, is that having overseen this very important organization, what we expect is to allow the Senate to deal with that organization because the functions of the Senate are clearly spelled out in the Constitution as to when it will require information from the intelligence agencies. If you look at Standing Order No.2(b) that is what we deleted from the NSIS Act. Therefore, putting it here when we have already deleted Standing Order No. 2(b), in my opinion, may not be right.

Mr. Deputy Chairman, Sir, taking into account that this organisation has many different faces, amongst us, there are NSIS workers here as we sit. Therefore, if we accept this, technically we will be allowing them to pick their friends, constitute a committee which technically means that they will be overseeing themselves.

So, I think the prudent way to do it is to allow each of the Houses to have its own independent intelligence committees and remove this joint one. If you look at the functions, the NSIS cuts across both defence and also homeland. Therefore, if we put this, in my opinion, and what we have seen over the last five years, it might not allow hon. Members a free atmosphere to interrogate, oversee and even interact with the organisation officials, taking into account the

national security needs. Therefore, my proposal is to delete this Joint Committee and allow each of the Houses to have the latitude to come up with a joint committee as and when the situation demands instead of having it as one of the joint select committees.

I want to ask Mrs. Odhiambo-Mabona to second my amendment.

The Deputy Chairman: Seconding in Committee would be superfluous. So, I will propose the Question.

(Question of the amendment proposed)

The Deputy Chairman: Mrs. Odhiambo-Mabona, you can now speak to the amendment. I have proposed it.

Mrs. Odhiambo-Mabona: Deputy Chairman, Sir, I support.

The Deputy Chairman: Mr. Ethuro, I see your request. This is not a very familiar position for me.

Mr. Ethuro: Mr. Deputy Chairman, Sir, the question that you are proposing in terms of deleting paragraph 218, I thought was not essentially what hon. Keynan was asking. His serious bone of contention was whether it should be a Joint Committee or each House can actually have its own Committee on intelligence. I thought that at the very worst, let us have each House have its own. But the whole purpose why we made this a Joint Committee is because we felt that these are real issues that affect the state. I think it was important for Parliament, as one arm of Government, to approach the issues of state intelligence with one united approach.

Mr. Deputy Chairman, Sir, I am definitely opposing the amendment.

Mr. Keynan: Mr. Deputy Chairman, Sir, once we are through with this, I will be proposing subsequent amendments to the National Assembly Standing Orders and also the Joint Rules so that it is consistent.

Mr. Deputy Chairman, Sir, if you look at the Schedules of the National Assembly Standing Orders, Defence has been put under the Homeland Security. You can ask Maj-Gen. Nkaisserry; it is not the tradition anywhere. So, what we will be doing is to propose amendments, have a separate Committee for Homeland Security and a different Committee for both Defence and Foreign Relations. Intelligence will be all over. So, instead of having a Joint Committee for both the Senate and the National Assembly, let us allow the Senate to have its own intelligence committee, whether they call it the National Security or whatever, and allow also the National Assembly to do the same. Look at the roles, you might require something at the county and that might not have anything to do with the National Assembly. It might be unique for the county. That is what I was trying to suggest. Otherwise, we will harmonize and each House will have its own intelligence committee. That is what I was trying to suggest.

Mr. Deputy Chairman, Sir, therefore, all the subsequent amendments on the Senate Standing Orders, the National Assembly Standing Orders and the Joint Standing Orders will harmonize the same, so that each House has a distinct security committee that deals with that particular aspect, instead of that amorphous Joint Intelligence Committee.

Mr. Deputy Chairman, Sir, if you look at it clearly, Standing Order No.218(2) (b) is not in tandem with what we have passed. Therefore, if something has already been rejected in an Act, then having it in the Standing Orders, again, really will negate the very spirit. That is what I was trying to suggest. So, it does not make sense as is captured here. More so, having oversights this and taking into account the unique role of the National Intelligence Service (NIS)---The Chairman, everybody else and I work for the state. Therefore, allowing the same

organization the latitude to pick individuals of their choice technically means that we will be asking them not to oversight themselves. So, we can as well even say that they are not under any Parliamentary oversight rule. So, I think that these are issues that we must get clearly. This is the prudent way that is actually being done in other jurisdictions. Let us look at the national security interest.

Mr. Deputy Chairman, Sir, we must also be clear about the oversight mandate of the National Assembly and the Senate. These are the bits that we will have again to balance.

Mr. Deputy Chairman: Hon. Ethuro, you catch my eye for intervention!

Mr. Ethuro: Mr. Deputy Chairman, Sir, I was wondering if my good friend, the Chairman of the Committee on Defence and Foreign Relations is not confusing matters. If you look at the Second Schedule which is on page 100, where we have established the Standing Committees, the Senate has the National Security and Foreign Relations as a standing Committee on its own. If you look now at the proposed ones for the National Assembly which he has quoted on page 115, we have actually Committee (a) which is on National Security and another Committee (e) on Foreign Relations which deal with the kind of Homeland security that he is talking about. But this Joint Committee on Intelligence was actually meant purely for intelligence purposes. Whether the same NIS agency is vetting Members or not, this country must appreciate that there is a time that comes, in some of our previous experience as topnotch Executive of an organization, where you double-sign, because you must be given the ultimate authority and trust to do what is right.

The Minister for Finance (Mr. Githae): Mr. Deputy Chairman, Sir, I just wanted some clarification because hon. Keynan was almost convincing us, but now he has confused us. He says that he wants us to delete, but after what we have deleted, then what happens? Then, you say that you are going to bring amendments. When are you going to bring these amendments? After deletion before you bring your amendments, then what happens? If you are going to bring amendments, why do we not then approve the way it is and then, come up with amendments on all the paragraphs, so that they are reconciled? You were almost convincing us, but have left us now even more confused.

Mr. Deputy Chairman: Hon. Keynan, you have the Floor, but restrict yourself to clarification. Do not repeat your contribution once more.

Mr. Keynan: Mr. Deputy Chairman, Sir, what I was trying to suggest and I want hon. Ethuro also to appreciate, is that we are dealing with the Standing Orders for the Senate. Standing Order No.218 is the same as Standing Order No.215 in the National Assembly. Once we delete this, I will also be proposing amendments which are filed for the deletion of Standing Order No.215 in the National Assembly and Standing Order No.218 in the Senate. Subsequently, what we will be doing is also to amend the Second Schedule of the National Assembly to merge Defence and Foreign Relations. Again, if Defence and Foreign Relations are merged, we will have a separate Committee for Homeland Security which will be called Administration and National Security. That now will deal with Homeland Security, Home Affairs and a number of other issues. So, we will have Defence and Intelligence. Once we have the four amendments going through, then it will be very clear. The Senate will have its own Committee dealing with National Security and Foreign Affairs. That will include intelligence and all others. The National Assembly will have the same.

Mr. Deputy Chairman, Sir, what I am trying to suggest is that once we are through with this amendment to Standing Order No.218 on the Senate, and we do the same for Standing Order No.215, which actually deals with the same thing for the National Assembly and then propose an

amendment on the Joint Rules, to delete Rule 12 and 10(b), then this will be in harmony. So, we will have an Intelligence Committee for the National Assembly, completely independent from the Senate. For example, if we have a security issue in Turkana, just like the Baragoi issue, there is a bit of Defence, Intelligence and Homeland Security. Sometimes because of this overlapping role, we have had some of the agencies saying: "It is not my work. It is so-and-so's work." We have seen over the last five years. What we are saying is: Can we have a distinct role for each of the agencies, so that they understand that if it is Defence, they know what we are dealing with within Parliament; and if it is intelligence, we know what we are dealing with. So, I will be proposing these four amendments. Once we are through, then we will have separate Committees dealing with each of the agencies.

Mr. Deputy Chairman, Sir, that is what I was trying to suggest.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Chairman, Sir, the reason I will support the deletion of this clause is that when you look at all the other Joint Committees within the Senate, they have a lot to do with the coordination between the two Houses on matters that are shared by the two Houses. Intelligence is certainly not one of the issues in terms of the workings of the two Houses. So, I will be supporting the deletion from that perspective; that the Senate is constituted to deal with issues of county governments and support devolution. The National Assembly has national issues. You cannot put the two together and expect a result. So, I will be supporting, from that perspective, that this Committee looks like it is hanging when you compare it with the other Committee on National Cohesion, which is a shared issue, and also the Joint Committee on Broadcasting and Library but Intelligence is outside Parliament. It is actually now getting into other mandates within the Constitution. On that basis, I will be happy that we remove it and let those issues be handled in separate Houses based on the constitutional mandates of the Houses.

Mr. Deputy Chairman: Mr. Chachu, does that take care of your concerns?

Mr. Chachu: Yes, Mr. Deputy Chairman, Sir.

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

(Standing Order No.218 was accordingly deleted)

*(Standing Order Nos.219, 220, 221, 222, 223, 224, 225, 226, 227,
228, 229, 230, 231, 232, 233, 234, 235, 236, 237,
238, 239, 240, 241, 242, 243,244, 245, 246, 247,
248, 249, 250 and 251 agreed to)*

(1st, 2nd and 3rd Schedules agreed to)

Mr. Deputy Chairman: Hon. Members, that concludes the Standing Orders as proposed for the Senate. We will now move to the Standing Orders for the National Assembly.

ADOPTION OF DRAFT STANDING ORDERS OF THE NATIONAL ASSEMBLY

*(Standing Order Nos.1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30,*

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

(Standing Orders Nos.51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61,
62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78,
79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95,
96, 97, 98, 99 and 100 agreed to)

(Standing Orders Nos.101, 102, 103, 104, 105, 106, 107, 108,
109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121,
122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134,
135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147,
148, 149 and 150 agreed to)

(Standing Orders Nos.150, 151, 152, 153, 154, 155, 156, 157, 158,
159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172,
173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186,
187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197,
198, 199 and 200 agreed to)

(Standing Order Nos.201 and 202 agreed to)

Mr. Ogindo: Mr. Deputy Chairman, Sir, I had an amendment which I wanted the owner of the Draft Standing Orders to move, if you allow.

Mr. Deputy Chairman: Procedurally, you should have worked on that earlier; is that not so? But anyway, let us hear hon. Ethuro.

Standing Order No.203 – Engagement of Experts

Mr. Ethuro: Mr. Deputy Chairman, Sir, I had actually put a request. It is on Standing Order No.203, that is, engagement of experts.

Given our experience, we thought that we needed to amend it by adding that such expertise may be hired on consultancy terms.

Mr. Deputy Chairman: Hon. Ethuro, the problem I have is that I do not have your proposed amendment in writing. That is a major problem. You know our procedures say that you furnish the Chair with the amendments as proposed in writing.

Mr. Ethuro: That is true, Mr. Deputy Chairman, Sir. Neither did I have a copy of hon. Keynan's amendments. I thought that since I have the privilege of moving, I could---

Mr. Deputy Chairman: You want us to be a bit casual. This is like pushing us to bend backwards.

Mr. Ethuro: No, Mr. Deputy Chairman, Sir, I thought it is an amendment that I can move on an amended version. It is not substantially altering the substance.

Mr. Deputy Chairman: Well, we will overburden our clerks then.

(Question of the amendment proposed)

Mr. Ogindo: Mr. Deputy Chairman, Sir, the lacuna that we are trying to cure here is that you would want to engage an expert on a consultancy basis and you are bogged down by the procurement processes, and we have seen this before. I just wanted to ask Mr. Ethuro to amend it further by saying that “this shall be done at the rate of US\$100 per hour”.

Mr. Deputy Chairman: Order, hon. Member for Rangwe. That is taking it too far. We have a proposed amendment and now you are speaking to the amendment and you are saying that you want us to do a further amendment to an amendment that is not yet carried.

Order, hon. Members! I am now seized of the amendment as proposed by the hon. Member for Turkana Central as the sponsor of the Motion and it would be by way of a proviso to paragraph 203.

The proposed amendment is that you add to paragraph 203 the following words:-

“Provided such expertise may be hired at consultancy fee”

So, I will proceed and put the question that paragraph 203 be amended by adding the words “provided such expertise may be hired at consultancy fee”

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

(Paragraph 203 as amended agreed to)

Our draftsmen will ensure that it is appropriately and properly captured.

Hon. Members, you will notice that following that intervention, we then have dealt with paragraph 203. We have concluded Standing Order numbered as paragraph 203. We still have to deal with paragraphs numbered as 201 and 202. I had proposed that earlier and I will now put the Question that paragraphs 201 and 202 be part of the Standing Orders.

(Paragraphs 201 and 202 agreed to)

*(Paragraphs 204, 205, 206, 207, 208, 209,
210, 211, 212, 213 and 214 agreed to)*

Paragraph 215

Mr. Deputy Chairman: Mr. Keynan before you move your amendment, I propose the Question that the paragraph 215 be part of the Standing Order.

(Question of the amendment proposed)

Mr. Keynan: Mr. Deputy Chairman, Sir, this is just to harmonize. This is exactly what we did for the Standing Orders for the Senate. So, paragraph 215 is actually a repeat. I propose that it be deleted from this section.

Mr. Ethuro: Mr. Deputy Chairman, Sir, as I think about it, Mr. Keynan’s contribution looks mild but I feel it is extremely serious and I really want to go on record. Given the state of insecurity in this country, to deny Parliament an opportunity to provide that oversight, I think it is being irresponsible on our part.

I wish to oppose.

Mr. Keynan: Mr. Deputy Chairman, Sir, I think Mr. Ethuro is not getting this. What we are saying is that there is going to be a Committee, as you will see in the subsequent amendments, each House will have their own separate security committees with the same functions. So, we are not removing the oversight role of Parliament in this. I want you to be persuaded because you are really somebody I respect. In essence, it would be wrong to say---

(Loud consultations)

Mr. Deputy Chairman, Sir, I really want your protection because I am not in any way attempting to remove the oversight role of Parliament on the security agents. If anything, we are trying to harmonize and even make it better. We are even making it better so that we have a complete committee operating the way Mr. Kimunya has suggested. The issue of intelligence is very sensitive.

Mr. Midiwo: Mr. Deputy Chairman, Sir, I am not convinced that Mr. Keynan is doing the right thing. All these issues of security and intelligence, in my view, are national issues. Insecurity in any part of the country should be dealt by Parliament in both Houses. I am not sure that what Mr. Keynan is doing is not attempting to create a conflict because at what point will which committee know when to take up a matter?

Mr. Ethuro: Mr. Chairman, Sir, I want to thank hon. Keynan. I am always inclined to agree with him. However, we are Members of Parliament. Friendship and respect at times count but not at the expense of what we think is the correct position.

First, there was an argument earlier on the role of the Senate. If you look at Standing Order No.98(4), you will see that the Senate is supposed to provide the oversight role on the state including impeaching the President. Some of the information that will be required will be from the intelligence. That is one aspect. The second one is that hon. Keynan has talked about security while we are talking about intelligence. I have demonstrated that the Senate has one Committee on security while the National Assembly has two. We split these committees into National Security and Defence. That is already taken care of. What we were talking about is the entire intelligence system. They were persuaded about the joint House so that each House does not keep on calling the same people. In fact, he gave a good example of Baragoi. If you look at the operation in Baragoi that he used, you will see that the NSIS was involved. The Military and the Kenya Police Service were involved and, indeed, Waiganjo the fake one. How do we deal with such if not on one united approach to oversight?

Thank you, Mr. Chairman, Sir.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I am not sure that hon. Midiwo was there when I was making this clarification. However, the issue here is very clear. The Senate is not synonymous with the National Assembly. The two Houses have very distinct roles. One has a constitutional mandate to look at national issues while the other one has a constitutional mandate to look at county related issues. When you mix the two and bring them together, you get people who have been elected for different things to do a joint thing. I agree that we delete the first one and also be consistent in deleting this one. If you look at the schedules, you will see that within the National Assembly, there is a National Security Committee which includes the intelligence. So, the oversight role is taken care of. However, doing the job as a joint Committee of the National Assembly and the Senate is basically saying that we did not need the Senate because we might as well do things together.

Therefore, let us make the two very distinct. Let us not mix them unless there is an issue that requires solution by the two Houses because it is cross-cutting and there is a provision for that even within the Constitution. So, let us delete this without necessarily spending more time on it. We deleted the first one. Let us be consistent.

The Minister for Finance (Mr. Githae): Mr. Deputy Chairman, Sir, what is good for the goose is good for the gander. Since you deleted the word relating to the Senate, it follows logically that we must also delete the one for the National Assembly to enable the two Houses to have different committees on intelligence. I thought that was the basis upon which hon. Keynan convinced us and if they are all joint, it will be on an *ad hoc* basis. It will not be forced into a marriage they do not want. I thought that was the basis. If we delete the first one, then logically this one must also be deleted. In fact, what we should now be looking at are the amendments to the Schedule.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Deputy Chairman, Sir, the hon. Keynan has got a great foresight as regards the motion of security and as far as intelligence is concerned. I totally agree that if we delete the Senate, then it follows quite logically that we delete this so that we can think properly. I want to request hon. Ethuro, that if you are going to the Senate, then move with this to the Senate because this is really what you are trying to do. So, we better have the country at heart and not personal interests.

Mr. Ethuro: On a point of order, Mr. Deputy Chairman, Sir. Actually what is at play here is the more reason why this should be rebelled. The people who are defending this are in the Government and I think they will continue being in the Government. I am actually asking for it to be retained at the National Assembly Standing Orders and not at the Senate. So, the hon. Member for Kajiado Central is misleading the House that we are taking things to the Senate when I am actually trying to retain this particular one in the National Assembly. However, I want to submit that it is not just enough to say that because we deleted in the Senate, then we cannot retain it in the National Assembly. In fact, the more reason why we should retain it in the National Assembly is so that the Senate does not have to deal with it.

Mr. Deputy Chairman: Hon. Ethuro, there is something that you are not quite clear about. If you look at the proposed Standing Orders, paragraph 215, the heading of that paragraph is “Joint Committee on Intelligence”. So, now when you say that you are leaving it for the National Assembly alone and yet it is a designated joint committee, it defeats your argument. Does it not?

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, you are right. I was just saying that for the purpose of the argument. I was explaining to his argument but actually that is my intention; that it means joint. That is my intention all along and I want to see it that way. It is a position I will take and I am prepared to live with the consequences.

Mr. Deputy Chairman: Fair enough! Now, I will put the question that the paragraph numbered 215 in the Standing Orders be deleted.

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

(Paragraph 215 as amended agreed to)

(Proposed Standing Orders 216 217, 218, 219, 220, 221)

222, 223, 224, 225, 226, 227, 228, 229, 230, 231
232, 233, 234, 235, 236, 237, 238, 239, 240, 241,
242, 243, 244, 245, 246, 247, 248, 249, 250,
251, 252, 253, 254, 255, 256, 257, 258, 259, 260,
261, 262, 263, 264, 265, 266, 267 and 268 agreed to)

(First Scheduled agreed to)

Second Schedule

Mr. Deputy Chairman: Hon. Keynan, I have proposed the question. So, do you have a contribution and amendments?

Proceed, you have the Floor I believe.

Mr. Keynan: Mr. Deputy Chairman, Sir, again this is to have this section consistent with the two amendments that we have carried out.

I beg to move:-

THAT the Second Schedule of the Draft Standing Orders of the National Assembly be amended by deleting Committee "A" that is the Committee on National Security and the subject assigned to it and substitute therefor the following new Committees and subjects

Committee "A" is Defence and Foreign Relations which will deal with defence, intelligence, foreign relations and other international issues; again delete Committee "B" and subject assigned to it and substitute therefor the Committee on Administration and National Security; it will deal with the issue of national security, police and homeland issues. I propose the deletion of Committee "E" and subject assigned to it. This will now make the whole thing consistent with the two amendments that we have carried out.

Mr. Ethuro: Mr. Deputy Chairman, Sir, our Standing Orders and the rules of justice demand fair play. I would have loved to get a copy of the proposed amendments. Two, you know our rules were tabled on 19th December, to give everybody an opportunity to look at these things. When you look at the proposal to delete committees "A", "B" and "E"--- In the initial argument when we were deleting, there were proposals that he was going to introduce separate Committees on intelligence in both Houses.

I would like to see the text of the amendments because they were supposed to be circulated; two, you can determine that his initial assertions when deleting have been sustained or otherwise.

Mr. Deputy Chairman: I have worked under the impression that this particular amendment was circulated. In fact, it was approved yesterday. So, it must have been circulated. We will let you have sight of it. In the meantime, we will take contributions from other Members who are interested.

Mr. Chachu: Mr. Speaker, Sir, the initial amendment that we did was for us to have distinct committees of both Houses. That was informed by the fact that we have distinct constitutional functions as the two Houses. But I have a big problem deleting these Committees.

Mr. Deputy Chairman, Sir, the argument here is that we should do things as we have done them in the past. We are living under a new dispensation. These Committees are necessary. I do not think there is anything wrong with us having national security committee separate from that one of defence.

As it is, some of these Committees are being deleted and joined together; hon. Keynan is proposing that we have a National Security Committee and Defence as one.

Mr. Keynan: No!

Mr. Chairman: Order, hon. Keynan! The Member for North Horr has the Floor and is protected.

Mr. Chachu: Mr. Chairman, Sir, in that regard, I think these Committees should remain as they are and should not be related.

With those remarks, I oppose the amendment.

Mr. Chairman: Yes, Member for Kipipiri.

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I know that I supported. I could see the earlier logic of hon. Keynan but, coming to the Schedule, I can see confusion between wanting to maintain the status quo and wanting to go forward. The current situation, where we have the Security and Foreign Affairs Committee as one is totally different from the new constitutional dispensation. All the security organs have now been classified as one within the Constitution. That includes the intelligence service, the national police and defence forces. It is put very clearly within the Constitution what constitutes the national security organs.

Mixing the national security organs with foreign affairs matters, which include trade matters, among others, is going a bit too far. So, I actually support and I want to applaud the Committee that looked at this matter and put these organs in the Second Schedule, including defence, intelligence and the police service, exactly as they are in our Constitution.

Under foreign affairs, we have foreign missions, diplomatic consulates, international boundaries, international relations, agreements, treaties and conventions. I would have added there international trade, because that is how it is within our Constitution. So, I would urge hon. Keynan that we do not tamper with this Schedule.

Let us also wait for the new Government to come into place. Let them organise the Government in terms of the number of Ministries, which will also guide some work on these Committees to mirror the new Cabinet portfolios, so that the Committees can at least mirror the Government. It is also good for working order in terms of which Ministry reports to which Committee. Ministries will not be coming to this House. It will be the Committees which will be bringing business to the House.

If we mix security issues with foreign affairs issues, we will be missing the point. We are trying to mirror the current Committee that the hon. Member chairs to bring it into the new dispensation yet it has been overtaken by the passage of the new Constitution, which clearly takes away matters of security even away from the Government. The National Police Service is independent and the national defence council are independent of the Government of the day. So, let us not mix them with foreign affairs, which is part of Government.

Mr. Chairman: Yes, Member for Wajir West.

Mr. Keynan: Mr. Chairman, Sir, hon. Ethuro has actually attempted to cloud the minds of many hon. Members. I want you to get what I am trying to propose. I think hon. Chachu, hon. Kimunya and hon. Ethuro should listen. If you look at the Second Schedule, as it is, you will see that Committee "A" is National Security. Its subject matter is national security, including defence, intelligence and police services. Committee "B" is Home Affairs, whose functions include public administration, public service, prison service, immigration and management of national resources, disaster, *et cetera*. You then go up to Committee "E", which is Foreign Affairs.

Mr. Chairman, Sir, I want to say Foreign Affairs is a security Ministry everywhere in the world. Secondly, I know that if we put together defence, intelligence and police, we will have interfered with the clear functions of the specific units. For example, putting Kenya Defence Forces nowhere. I have not seen any democratic jurisdiction where police and defence forces have been put together. It does not happen in any jurisdiction. What I am trying to propose is this---

Mr. Chairman: Order, hon. Keynan! Please, address the House.

Mr. Keynan: Mr. Deputy Chairman, Sir, I am not deleting any committee. I am trying to merge defence and foreign relations and the subject matter will be defence, intelligence, foreign affairs and diplomacy. I will merge also home affairs with national security. So, there will be a committee called "administration and national security" that will deal with home affairs.

I hope Mr. Chachu is getting this. So, in essence, what we are trying to say is if you look at the key function of intelligence, it is both defence and also homeland. But most likely it is defence. If you look at the Kenya Defence Forces, it is also defence. That is why even in the cluster of Ministries, the Ministry of Foreign Affairs is clustered with those Ministries. I am sure I have dealt with them. We have overseen them over the last few years. We know where they are; we know where they get their budget; we know how they are considered.

Therefore, what I am attempting to do is, anything that is related to defence and also to foreign issues, put them under one committee. All other issues on homeland security and other quasi-security Ministries like immigration and prisons, put them under the national administration and national security. So, these two committees, one will deal with intelligence, defence and foreign affairs. The other one will deal with homeland security. The same will apply for the Senate. There is a committee that will be called "National Security and Foreign Relations". Since it is a different House, this means all these will be lumped together, which makes some sense.

So, these committees exist and what I am trying to do here is to harmonize their roles. I want to be challenged on this. Maj-Gen. Nkaiserry is here and those who are versed with defence issues are here. Nowhere in the world is defence lumped with the police. If you want us to experiment with this, then we will be the first country to do so. But I want to suggest that we accept my suggestion. We are not deleting any committee. Most of you who have the schedules can see that home affairs is now lumped with national security and administration. Under home affairs are key security institutions like the prisons, immigration and public administration. So, we are putting that as part of the homeland security and leaving defence as a separate entity.

These are some of the best practices in all the jurisdictions that we have visited. If you want to change, then, again, you will be starting something in the Kenyan context.

Mr. Deputy Chairman: Order. Mr. Keynan! Address the House. Do not be distracted by the Member for Yatta, or even the Member for Turkana Central for that matter.

Mr. Ethuro: Thank you, Mr. Deputy Chairman, Sir, for officially allowing me to distract him and not informally. I have just seen the proposals brought by the Chairman of the Committee on Defence and Foreign Relations. I could not agree more with Mr. Kimunya. I wish to apologize to him for some thoughts I had entertained, and for being a State apologist but I have appreciated him.

First, we are trying to realign these to the constitutional requirements. We are alive to the fact that the number of Ministries will also be reduced. The other consideration is that this will be a large House. So, if you amalgamate these committees into one, then that particular committee cannot transact the business that you have given it in terms of providing oversight of the line Ministries and the constitutional obligations.

So, I really want to plead with Mr. Keynan and the rest of the membership that I have actually clarified and not clouded any minds. I am glad that the hon. Member for Kipiriri can confirm that. I now appreciate that at least on this one, we have intelligence which is not the one of the Senate. We can live with it; Maj-Gen. Nkaisserry knows that we are leaving it to the National Assembly. But for Home Affairs, the proposal is that we put it under Administration and National Security. This is not even the Constitution he is running away from.

He is still living in the past of a Provincial Administration where the District Commissioner (DC) was an administrator as well as the chairman of the security committee. I want my good friend to smell the new Constitution that has separated these functions and really persuade him that we have taken into consideration all the things he is saying. We have already acceded, against my good counsel, on the Joint Committees. Surely, he should leave us with these ones.

The Assistant Minister for Energy (Mr. Magerer): Mr. Deputy Chairman, Sir, I want to support the view of hon. Keynan. The first deletion that we did was on the issue of functionality. But I think what hon. Keynan is trying to bring about is the relationship between those particular departments. I think it makes sense that you separate the police from the Defence Forces. You can change the name but in terms of functionality, I think that he has a reason to suggest those kinds of amendments.

Mr. Deputy Chairman: Hon. Members, the balance of those who are interested, please, just do one minute each.

The Minister for Finance (Mr. Githae): Mr. Deputy Chairman, Sir, I think that we must learn from the experience of hon. Keynan. He has been in charge of this Committee and, therefore, knows what he is talking about. To my friend, hon. Ethuro, you have done a wonderful job in coming up with these Rules. What we are trying to do is to improve them. So, please, take any proposed amendments in that spirit. We are not saying that they are bad. We are improving them.

Mr. Deputy Chairman, Sir, what hon. Keynan is proposing is what superpowers like America have done. Defence and Foreign Affairs are together because they complement each other. We want to be a superpower very soon. So, I think he is right.

Mr. C. Kilonzo: Mr. Deputy Chairman, Sir, I think that he has put it in a very good way. But having served as a Member of this Committee and also known the work of the other Committee, it will be almost impossible for that Committee to work if we combined both Internal (the police) and also Defence. Hon. Members need to remember that every day we have about five Questions coming to the House. This is one of the busiest Committees.

Mr. Deputy Chairman, Sir, for efficiency, I support my Chair's amendment.

Mr. Chachu: Mr. Deputy Chairman, Sir, I still have a problem agreeing to this amendment. I think that Defence is the cornerstone of National Security and should remain there.

Mr. Deputy Chairman, Sir, I oppose.

(Second Schedule as amended agreed to)

(Third Schedule agreed to)

Mr. Deputy Chairman: Hon. Members, that brings us to the end of Draft Standing Orders for the National Assembly. We will now very quickly move on to the Joint Rules.

JOINT RULES

(Rules 1, 2, 3, 4, 5, 6, 7, 8 and 9 agreed to)

Rule 10

Mr. Keynan: Mr. Deputy Chairman, Sir, I beg to move:-
THAT, Rule 10(3b) be deleted.

Again, this is just to harmonize the Joint Rules now with the proposed Standing Orders for the Senate and the National Assembly by deleting Rule 10(3b) on the Joint Intelligence Committee.

(Question of the amendment proposed)

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

(Rule 10 as amended agreed to)

(Rule 11 agreed to)

Rule 12

Mr. Keynan: Mr. Deputy Chairman, Sir, I beg to move:-
THAT, Rule 12 be deleted.

Again, this is to harmonize it with what we have done on the Standing Orders for the Senate and the National Assembly by deleting the whole of Rule 12.

(Question of the amendment proposed)

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

(Rule 12 was accordingly deleted)

(Rules 13, 14, 15 and 16 agreed to)

Mr. Deputy Chairman: Hon. Members, we have now concluded the three sets of Draft Standing Orders and Rules, respectively and I will invite Mr. Ethuro, on behalf of the Committee, to move the next Motion.

Mr. Ethuro: Mr. Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the proposed Standing Orders of the Senate and the National Assembly and the Joint Rules and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

REPORT

ADOPTION OF REPORT ON DRAFT STANDING ORDERS OF NATIONAL ASSEMBLY/THE SENATE/JOINT RULES

Mr. Speaker: Hon. Members, I invite the Leader of Government Business to move.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to move that the Committee of the Whole House has considered the Report of the Procedure and House Rules Committee on the proposed Standing Orders for the Senate and National Assembly and Joint Rules and approved the same with amendments.

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

Mrs. Odhiambo-Mabona seconded.

(Question proposed)

(Question put and agreed to)

Mr. Speaker: Hon. Members, that then concludes the matter with respect to adoption of the Standing Orders for the National Assembly, the Senate and the Joint Rules. We will now take the next Order. Hon. Midiwo, do you want to rise on a point of order before we take Order No.18?

Mr. Midiwo: Not just yet, Mr. Speaker, Sir. I am sorry.

Mr. Speaker: Okay. Call the next Order!

MOTION

ADOPTION OF REPORT ON COOPER MOTORS CORPORATION

Mr. Speaker: The Chair of the Departmental Committee on Finance, Planning and Trade!

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

Mr. Speaker: What is your point of order?

Mr. Midiwo: Mr. Speaker, Sir, I am sorry that the Order Paper that I have talks about Order No.17. I think I am a bit mixed up with the Order Papers. But the issue I need to raise before you is that the business appearing on Order No.18 as was called is one which is highly controversial.

We had been directed in the House Business Committee to meet as the Departmental Committee on Finance, Planning and Trade when we raised the issues.

This Report found its way into this House in a way that was not agreed by the Committee. We would like to request that because the contents of this Report have divided our

Committee and because it is our last day, I would like to request that the business on this particular Order be deferred to a later date so that we can all leave in harmony without having to raise those issues on the Floor.

Mr. Speaker, Sir, Members of our Committee had even tried to consult tonight and it seems there is no consensus. We know that the Report, having been tabled, is the property of the House. But I want to plead with you that this being our last day, we should leave here with one face and all of us laughing as we go to our campaigns.

I thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well, Mr. Midiwo. I have heard you except that the point at which you have raised that matter after Order No.18 has been called out does not give me that option to actually give any directions. If you had raised it before the Order was called, that would be different but as it is, the House is now seized of Order No.18 and the Standing Orders do not confer that discretion on me. They do not, really. That is why I asked you if you want to raise a point of order before Order No.18 was called and you said “not yet”.

Mr. Midiwo: Mr. Speaker, Sir, the Order Paper that I have, it is Order No.17. That is not my mistake. The Order Paper that I am holding in my hand is showing Order No.17. That is why I was rising and when the clerk called Order No.18, I was taken aback. It is not inadvertently. It is because I am holding another Order Paper which is also the property of the House which shows that business as Order No.17.

Mr. Speaker: Hon Member for Gem, I would want the Deputy Leader of Government Business to make some response with regard to that or even the Leader of Government Business for that matter before I make any further directions.

The Leader of Government Business wants the Deputy Leader of Government Business to make that response and I will give directions.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, it is just to clarify that we have had three Order Papers for today; there was the original, the Supplementary Order Paper and Supplementary No.2. I think an announcement was made at every stage when the Order Paper moved. So, it may be that Mr. Midiwo was using the Supplementary Order Paper when we had already moved to Supplementary Order No.2. I just wanted to clarify for the record that indeed that the orders have been called in accordance with the Order Paper that is now in use.

Mr. Speaker: Order, hon. Members! I appreciate the concerns by the hon. Member for Gem but I am afraid, like I have alluded to, my hands as the Speaker are tied because after this Order has been called out, then the House is seized of it and interruption by the Speaker would be in judicial exercise of discretion; in fact discretion that I do not have. More so, I guided the House at every moment as we moved from one Order Paper to the other. Members would recollect and it is actually recorded in the HANSARD that we started with the original Order Paper. As we finished Order No.7, I directed the House that we were from that point guided by the Supplementary Order Paper. As we completed the Procedural Motions, I guided the House that we were guided by Supplementary Order No.2. It is possible that the hon. Member for Gem was not in the House and perhaps did not follow proceedings at those points for which we cannot fault you, hon. Member for Gem. Now that that has transpired, it is actually water under the bridge but you can be guided as follows: Now that the House is seized of the Motion at Order No.18, you will have to hold your horse until the Chairman of the Committee on Finance, Planning and Trade which as you have indicated is your Committee because you serve on it, has moved the Motion and it has been seconded. Then you may invoke the provisions of Standing Order No.25 which will validly capture your concerns and or interest. You can move that the

debate be now adjourned and advance among others, the reasons that you have advanced which would be found to be valid under Standing Order No.25. So, please be guided accordingly.

Mr. Okemo: Mr. Speaker, Sir, I beg to move:-

THAT, this House adopts the Report on the Departmental Committee on Finance, Planning and Trade on Cooper Motor Corporation (CMC) (Holdings) laid on the Table of the House on Thursday, 13th September, 2012.

This matter was first brought to the House through a Question which hon. Dr. Khalwale asked. The Question was relating to the suspension of shares of the CMC at the Nairobi Securities Exchange. As that matter was being prosecuted, the issue of the work permit of the Chief Executive Officer who had just been hired by the CMC came into play. The Question had been directed to the Minister for Finance at the time. As he was responding to that Question, the Minister for Finance said that the matter relating to work permits did not fall within his docket and if hon. Dr. Khalwale wanted to prosecute the matter further, he should direct the Question to the Minister of State for Immigration and Registration of Persons.

However, the issue of the suspension of shares still remained. The Minister tried to tell the House – you can get this from the HANSARD – the matter had been seized off by the Capital Markets Authority (CMA). He said that if the CMA was dealing with the matter, it was not necessary for the Committee of Parliament responsible to deal with it. In fact, he used the words; “it would be of no consequence” or something to that effect.

However, as the contributions went on in Parliament, other Members of Parliament had a different view and believed that this matter should go to the Departmental Committee on Finance, Planning and Trade which was the relevant Committee. Since there was nothing stopping any Committee of Parliament from dealing with any matter that they deem fit, the Committee decided to take up the matter because it had very far reaching consequences in terms of the many thousands of small shareholders who owned shares in the CMC and whose shares had been suspended. Therefore, we were saying that if this state of affairs continued, the small shareholders would end up with nothing because they had sunk all their savings into the shares.

Therefore, we took it upon ourselves to investigate the matter and come to certain recommendations which we would then bring to this House. It has taken a long time for that to happen. However, what did we do? We decided that we would call many witnesses starting with the CMA because it is the regulatory body that deals with all publicly listed companies on the Nairobi Securities Exchange. The CMA appeared before us, not once, but three times. The impression they gave us as soon as they appeared before us was that the matter was under investigation and that it was very complicated because the CMC Board of Directors had been split right in the middle. There were series of controversies. There were a lot of accusations and counter accusations with one faction of the Board taking a different line and the other taking another line. Therefore, it was very difficult for the CMA to resolve the matter.

So, therefore, it was difficult for the Capital Markets Authority (CMA) to resolve the matter. One faction of the Board made a decision that the only way to deal with a dysfunctional Board was to call an extraordinary general meeting with the shareholders there who can then decide on the directors that would be responsible for the policy direction of the company. When this decision was made to call for the Annual General Meeting (AGM), the CMA intervened and said that that should not happen because to call an AGM with a lot of controversies outstanding would not resolve the matter. When CMA intervened and stopped them from calling for an AGM, this faction of the Board went to court because they argued that under the Companies Act, the issue of the Board and the selection of the Board lies with the shareholders.

So, the matter went to court. In the meantime, the other faction worked it out in such a way that they were trying to remove this faction that went to court. So, anyway, there was this to and fro and the CMA, on meeting us, came and told us that ultimately the Board issue has to be resolved but, however, they must find out some of these allegations of governance issues – conflict of interest among some of the directors, procurements were not proper and so on. So, what they said was that when they had procured the services of an external forensic auditor who was to come and look at all the books and practices of the Cooper Motors Corporation (CMC) and that they would be issuing a report sometime in January. In the meantime, the management of PWC had also hired another audit firm called PriceWaterHouse Coopers but with a restricted mandate to look at the relationship between Andy Forwarders which is a shareholder of CMC and Cooper Motors Corporation.

So, in the meantime, we wanted to find out about the issue of the work permit because that had nothing to do with shares being listed or not trading on the Nairobi Stock Exchange. So, we invited the Minister of State for Immigration and Registration of Persons to come and address the issue which hon. Khalwale had raised in a Question before the House. Indeed, he came and appeared before us because he had rejected the work permit and then he reinstated it like one day later and we wanted to find out what had happened. Why was this change of heart which was a very peculiar situation? However, he went on to tell us that the information that Bill Clay had given to the immigration department was not complete and some of the documents that had been asked for were not provided. So, as a result, that is why he was in the first place unwilling to issue a work permit.

In fact, he gave an opinion and that can be found in the evidence that he actually gave to the Committee but in his view, Bill Clay was not qualified to take on the job that a Kenyan could be able to perform that is also in his submissions in the evidence he gave.

As a result that job rightfully should be performed by a Kenyan. So, while all this was going on, we got copies of the PWC Report; we also got copies of the Webber and Wentzel audit report. Webber and Wentzel is a foreign forensic audit company from company from South Africa, which had actually been hired by the Capital Markets Authority, as the regulator. So, perusing this report you see that all the recommendations that are in our report are actually derived directly from the forensic audit by Webber and Wentzel. In other words, we took this as an independent, unbiased and objective report and borrowed from it. All the recommendations that we have given, other than the issue of the work permit for Bill Lay, are actually derived directly from the Webber and Wentzel audit report. One of the recommendations was that looking at some of the practices of the Cooper Motors Corporation, the governance and controls were very weak; therefore, some of the directors took advantage of the weak controls to benefit, particularly from procurement of logistic services. That is one of the recommendations.

One of the other recommendations was that in order for the CMC to take any action against Andy Forwarders and Peter Muthoka, who is the Managing Director of Andy Forwarders, further investigations were necessary, because, according to him, the findings by PriceWaterHouseCoopers were not conclusive to either find Andy Forwarders culpable or not; this was because there were so many disclaimers in the PriceWaterHouseCoopers report. Actually you need to read that report to appreciate the number of disclaimers that are in it. Actually after reading the report, you ask, then why did you write it all? It is as if it says “We have done this but because we could not interview so and so, we did not have the chance to read-- Therefore, and this information must be corroborated by further investigations”. Therefore, we kind of put little emphasis on the PriceWaterHouse Coopers Report and put much more

emphasis on the Webber Wentzel audit report, which had been commissioned by the Capital Markets Authority.

In one of the meetings, we called the Minister of State for Immigration and Registration of Persons to come and throw light on what action he was going to take in terms of having found that there were these discrepancies between giving work permits and then withdrawing them more or less arbitrarily. He came and actually told us he had made up his mind. He even gave a copy of an internal memorandum that he had written directing the immigration boss--- I think it was the Director of Immigrations; I do not know the title but there was a memorandum whose copy he gave us. In it, he directed the chief immigration man to cancel immediately the work permit of Bill Lay. He said this was in the public interest and in the interest of Kenya. I think this was on 20th or 21st of December. I think two or three days later, we saw a newspaper article, where he was quoted as saying that he was under pressure from wherever and, therefore, he had to reinstate the work permit that he had directed to be cancelled. So, we felt that this was something very strange and unusual; you keep changing positions three or four times on the same issue.

More importantly, we called Bill Lay to come and appear before us. As a Committee; we interviewed him on his experience, his qualifications, education and he stated that one of his educational qualifications was a degree, which was one of the requirements that was in the application for a work permit.

So, we demanded to see evidence of that qualification and he promised the Committee that he was going to produce evidence by January, 2012. We have not got that evidence up to now. That is actually what made us to come up with a very harsh judgement on him. He said before the Committee that he had a university degree but it had been destroyed by floods. We told said even if it had been destroyed by floods, surely, in this modern age and day, he could get his university to give him a transcript or a certificate fairly easily even through the internet but that was not forthcoming, up to the point I am speaking today.

Therefore, after the Report had been tabled, we held a meeting after the House Business Committee directed that we sit as a Committee and agree on areas of disagreement. We did agree that if there were any issues, we can actually introduce amendments on the Floor of the House.

Mr. Speaker, Sir, the Committee also directed me to come and see you, which I did. I came to your office---

Mr. Speaker: Order, hon. Okemo! There is a point of order by hon. M'Mithiaru.

Mr. M'Mithiaru: Mr. Speaker, Sir, with due respect to my Chairman, yes, we met as a Committee. We requested him to come and meet you and then come back to us, so that we could discuss the Report because many issues had emerged. If I may mention one of them is that it has actually taken us almost two years to come up with this Report. There were so many issues that were coming up, including going to court and then the CMA, who were the regulator of that industry, even taking some disciplinary action on somebody. Now here we are, trying to engage in boardroom wars, as Parliament, as indicated to this House.

So, the Chair of the Committee did not come to tell us what you actually agreed.

Mr. Speaker: Yes, hon. Okemo.

Mr. Okemo: Mr. Speaker, Sir, it is now my word against that of hon. M'Mithiaru but I know very well that they asked me to see you in your office, which I did. I think you can confirm that. I told you about the problems we were having about how to deal with the Report because it was already the property of the House. Originally, the Members of my Committee were demanding that we withdraw the Report and I said that was difficult. I suggested that if there

were amendments, we debate them on the Floor of the House. So, there was a difference of opinion between one set of Members of the Committee and another set of Members of the Committee.

Mr. Speaker, Sir, the main thing is that I believe, as I stand here; that if the Members of the Committee are in disagreement with the Report, this is now the perfect opportunity for them to challenge the various recommendations in the Report. I am sure that if they convince the hon. Members of the House, they will vote in a particular way. It is too late in the day to begin talking about withdrawing a Report which is already on the Floor of the House.

I do not think we will disagree if they have valid points they feel should be tackled; that are incorporated in the Report. They are free to do so, because it is now a Report of the House. So, even if there are Members of the Committee who want to disagree with it, they should give justification for disagreeing with specific aspects of the Report. For me, I know that all the recommendations that are contained in the Report are either from the evidence that we received from the witnesses or they were directly extracted from the forensic audit report.

With those remarks, I beg to move and ask Prof. Kaloki to second.

Mr. Speaker: Yes, hon. Kaloki.

Prof. Kaloki: Mr. Speaker, Sir, I thank you for the opportunity to rise and second the Report of the Committee. The Committee considered the Cooper Motors Corporation and deliberated on various issues pertaining to matters contained in this particular Report. We came up with observations and recommendations, which are contained in the Report. Therefore, I do not want to belabour that point. The Committee Chairman explained the issues pertaining to this Report in details. The Committee Chairman did explain and went into details pertaining to this report.

Mr. Speaker, Sir, I second.

(Question proposed)

Mr. Midiwo: On a point of order, Mr. Speaker, Sir. I rise under Standing Order No.25(1) to move that the debate be now adjourned.

Mr. Speaker: Hon. Member for Gem, you have to give your reasons under Standing Order No. 25. Note that you also have to be seconded. After that, I will propose the question, and if we get there, I will put the question.

If you look at Standing Order No.25, I can only put the Question forthwith for reasons given there.

Mr. Midiwo: Mr. Speaker, Sir, the reason I moved that the debate on this particular Motion be adjourned is that this is supposed to be a parliamentary committee report. What is happening has more than meets the eye. I say that because the Chair of the House Business Committee convened a meeting where we all sat and agreed that the chair would consult the Speaker, call a meeting of the Committee and then we all agree on the way forward.

Mr. Speaker, Sir, all the Chair has done is to consult you and it may be true, because you said that he consulted you but he never came back to the Committee. He has never, as directed by the House Business Committee, come back to this Committee to say this was the result of my meeting with the Speaker.

It is an issue of the integrity of the Committee. This is important. Since we sat, it has been a couple of months, and that Chair had the time. The Chair has been, quite frankly avoiding, this meeting. So, I want to ask you to adjourn this debate until such a time that the

Committee will sit and agree on a few things. There are processes; there are many issues which I do not think at this point, it is good to bring on the Floor of this House. This is a very weighty Report. I want to ask Mr. M'Mithiaru to second.

Mr. M'Mithiaru: Mr. Speaker, Sir, I wish to second the proposal by Mr. Midiwo. It is not our practice to come here and oppose our own report on the Floor of the House, but it is an issue we really wanted to discuss in-house and then agree before we come to the Floor of the House.

Mr. Speaker, Sir, the report that we relied on heavily, which my chairman alluded to earlier, was a forensic report and recommendations which we did. After we did that, other things happened and rendered the report of the forensic audit irrelevant. One of the them, which also the Chair spoke about, is that the Minister of State for Immigration and Registration of Persons said that he had cancelled the permit for one Bill Lay; we all agreed on that and we were happy. Later on, he went on to give that same person the permit and the person is already working.

The other issue was that after the CMA met us as the regulator of all companies quoted on the Nairobi Stock Exchange; they went ahead and took disciplinary action against the board members. One of the board members went to court. The whole reason of bringing this report to Parliament, which was done in a hurry, was for Parliament to direct that a board member should be reinstated. Those are the issues. They are weighty and really it will not be good to expose Parliament to ridicule. That is why we are saying we should go back home and try to ensure that we iron out these issues.

I second.

(Question, that the debate be now adjourned, proposed)

Dr. Khalwale: Mr. Speaker, Sir, from the outset, let me declare my interest in this matter. I have the specific interest that if I had not brought up this matter before this House, we would not be here this evening.

Mr. Speaker: Order, Member for Ikolomani! I do not to rush you. I am not even inclined to do so, but note that we only have six minutes before we get to the end of our time today. I really will want to dispose of this matter one way or the other. So, contribute bearing that in mind.

Dr. Khalwale: Mr. Speaker, Sir, the way this matter has progressed can very easily challenge the respect that we, as Members of Parliament, either in our individual capacity or collectively, have for the respect of the institution of Parliament.

Mr. Speaker, Sir, this matter has dragged up to and including what you witnessed in the House Business Committee when I was pushing. My question was: Why is it that a matter which has already been tabled before the House is finding it difficult to come on the Floor? Then, as hon. Midiwo has said correctly, you said that you did not want sideshows if the Committee could go and sort itself out.

Mr. Speaker, Sir, allow me to appeal to the hon. Members, because of what eventually has happened to Cooper Motors Corporations. The consequences have been adverse and serious. I would appeal that you allow this matter to be ventilated and go one way or the other, so that we can put it to rest. The company is no longer trading its shares. The banks have moved on to the company; the franchise of Land Rover and Ford has been withdrawn. So, the company is actually becoming a shell. I beg that you allow us to debate.

Mr. Speaker, Sir, I oppose.

Mr. Kathuri: Mr. Speaker, Sir, I support that the Motion be adjourned. It is very important for us to also realize that the rich shareholders, who are the directors, are moving to court so that they can arm-twist the poor shareholders. They want to use Parliament as a rubberstamp.

Mr. Speaker, Sir, let us adjourn this Motion and it will be dealt with in the next Parliament.

Mr. Speaker: Order, hon. Members! Looking at the clock and seeing where we are, I have to cut that debate short. We have heard both sides of the divide in terms of for and against. So, I will put the question.

*(Question, that the debate be now
adjourned put and agreed to)*

Hon. Members, we still have one minute. It is possible that we can take the next business within that one minute.

QUORUM

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. I am just noticing the issue of quorum.

(Laughter)

Mr. Speaker: Order, hon. Members! We cannot ring the Bell because it is actually time to adjourn.

ADJOURNMENT

Mr. Speaker: Hon. Members, that brings us to the end of business today. The House stands adjourned until tomorrow, Thursday 10th January, 2013, at 2.30 p.m.

The House rose at 12.00 a.m.