

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 5th September, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTION BY PRIVATE NOTICE

RELUCTANCE BY ERC TO LOWER ELECTRICITY COST

(Mr. Ochieng) to ask the Minister for Energy:-

(a) Why has the Energy Regulatory Commission (ERC) not lowered the cost of electricity in the country considering that the cost of fuel was reduced two months ago?

(b) When will the cost of electricity go down?

(c) Could the Government consider refunding consumers the overcharged fuel costs for the last two months?

Mr. Speaker: Member for Nyakach! Member for Nyakach is not here. Question dropped!

(Question dropped)

Next Question by the Member for Makeni!

ORAL ANSWERS TO QUESTIONS

Question No.1337

DISMISSAL OF MR.MUTIE S. MUNYAO BY TSC

Mr. Kiilu asked the Minister for Education:-

(a) why Mr.Mutie Samuel Munyao (TSC No.384373) was dismissed by Teachers Service Commission (TSC) on 1st March, 2010 while the Commission was fully aware that he was suffering from acute Pelvic Ulcer Disease (PUD); and,

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

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I plead with the Chair to give us a little more time because Mr. Mwatela has the answer to this Question.

Mr. Speaker: Fair enough. Member for Nyatike, next Question!

Question No.1696

MEASURES TO TAP TALENTS AMONG THE YOUTH
IN NYATIKE CONSTITUENCY

Mr. Anyanga asked the Minister for Youth Affairs and Sports:-

(a) what measures the Government has put in place to tap talents among the youth in various sporting activities throughout the country, particularly in remote areas such as Nyatike Constituency; and,

(b) whether the Government has a programme of establishing sports facilities in all the 47 counties and, if so, what the total cost of establishing such facilities will be.

Mr. Speaker: Minister for Youth Affairs and Sports. We will have to take the next Question in the meantime. Mrs. Shebesh, please, proceed!

Question No.1682

CRITERIA USED FOR APPOINTMENT OF COUNTY COMMISSIONERS

Ms. Shebesh asked the Minister of State for Public Service:-

(a) whether he could provide a list of all administrative officers, both in the field and those in central Government from Job Group N to R indicating each officer's job group and also disaggregate it by gender;

(b) whether he is aware that in the appointment of the 47 County Commissioners, senior officers were left out in favour of junior ones; and,

(c) what criteria was used in appointing the County Commissioners.

Mr. Speaker: Minister of State for Public Service.

(Mr. Otieno walked into the Chamber)

Mr. Dalmas Otieno, you are running late. Proceed!

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, sorry I was late and was not able to catch up with you on time.

However, allow me to explain that the subject matter of this Question is actively before the Court of Appeal under Civil Application No.NA1/194 of 2012 UR143/2012.

Hon. Members will remember the High Court ruling by hon. Lady Justice Mumbi Ngugi dated 29th June, 2012 on this subject matter. She gave a ruling to Petition No.208 of 2012 combined with the Miscellaneous Application for Judicial Review No.207 of 2012.

Mr. Speaker, Sir, the Minister of State for Defence and Acting Minister of State for Provincial Administration and Internal Security applied for a stay and gave notice of intended appeal on 17th July, 2012 against the ruling by Lady Justice Mumbi Ngugi. The petitioners below, however, objected to the application for stay:-

- (i) The Centre for Rights Education and Awareness.
- (ii) Caucus for Women's Leadership.

- (iii) Women in Law and Development in Africa.
- (iv) Development through Media.
- (v) Coalition of Violation against Women.
- (vi) Young Women Leadership Institute.
- (vii) International Centre for Policy and Conflict.

Mr. Speaker, Sir, the stay application was heard and a ruling will be delivered on this on 17th September, 2012. I submit, therefore, that the matter is *sub judice* and the Question should be deferred indefinitely until the Court of Appeal disposes of the issue.

Thank you.

Mrs. Shebesh: Mr. Speaker, Sir, I want to appreciate the Minister's answers. Not being a lawyer, I would then seek further direction from you because what I am aware of is that the ruling on the issue of County Commissioners was that they are in place illegally. The Attorney-General who sits in this House gave advice to the Government not to appeal that decision. The Minister, in his personal capacity, has then gone to court to appeal this matter. Therefore, as I said, I appreciate the Minister's answer. But from what I have just said - the issue not being in conflict with the ruling that the court gave and the subsequent advice of the Attorney-General – I wonder whether it is in order for the Minister not to answer my Question. The appeal has been lodged by the Minister as an individual and not as a Minister of State.

Mr. Speaker: Very well. Mrs. Shebesh, I have heard your sentiments. However, I am afraid the rule with respect to *sub judice* does not draw a distinction between who goes to court; whether it is the Minister in his official capacity or private capacity. As long as it is in court on a matter that is now intended to be before Parliament, it is *sub judice*. That dichotomy is not recognized by our Standing Orders. So, if there is appeal and that is a matter of public notoriety, it will remain *sub judice* until the appeal is determined. Minister, you are accordingly guided.

(Question deferred)

Next Question by the Member for Kirinyaga Central!

Question No.1520

NON-PAYMENT OF CONTRACTORS FOR FRESH PRODUCE MARKETS

*(Mr.Gitari bowed and crossed the Floor
before going to the Bar)*

Order, Mr.Gitari! You are out of order! That conduct is not permissible. You will have to go back. Retrace your steps.

(Mr.Gitari bowed, moved to the Bar and crossed the Floor)

Mr. Speaker: Mr.Gitari, proceed!

Mr. Gitari asked the Minister for Local Government:-

(a) what procedure is used in making payments to contractors constructing the fresh produce markets funded through the Economic Stimulus Programme (ESP);

(b) why some contractors in some constituencies have been paid more than the work they have done while other contractors who have completed their work have not been paid; and,

(c) when all the contractors who have completed the works will be paid.

Mr. Speaker: Minister for Local Government!

Order, hon. Members! While the Minister is awaited, we will take the Member for Belgut. Mr. Charles Keter, maybe, you want to come down to the Dispatch Box. We have a problem with the twitter pens here.

Mr. Keter: I think it is okay, Mr. Speaker, Sir.

Mr. Speaker: Okay, proceed.

Question No.1695

ALLOCATION OF RADIO/TV FREQUENCIES BY CCK

Mr. Keter asked the Minister for Information and Communications:-

(a) whether he could provide the number of both radio and television frequencies allocated to broadcasters throughout the country;

(b) whether he could provide a list of broadcasters indicating the respective number of frequencies allocated to each one of them; and,

(c) how much money the Communications Commission of Kenya (CCK) receives from the allocation of the frequencies to the broadcasters mentioned above.

Mr. Speaker, Sir, when I asked this Question, Mr. Mwau had asked a similar Question by Private Notice. You directed it to the Committee on Energy, Communication and Information and House Broadcasting Committee. I happen to sit in the House Broadcasting Committee and, therefore, I do not think it is good for me to continue pursuing this Question because the answer will be covered by the Report which will be tabled before this House next week.

Mr. Speaker: Fair enough. If this matter has been covered in an inquiry by a departmental committee, then we shall await the Report of the Committee. So for the time being this Question is taken out of the Order Paper and will stand deferred infinitely.

(Question deferred)

We will take the Member for Butula, Mr.Odhiambo.

Question No.1573

UTILIZATION OF ALTERNATIVE SOURCES OF ENERGY

Mr. Odhiambo asked the Minister for Energy:-

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

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

(c) how much wind energy the Government intends to tap in the country in the 2012/2013 Financial Year and indicate the level of investment for the same.

Mr. Speaker, Sir, I wish to bring to your attention the fact that this Question was answered on the Floor of this House sometimes back. Out of the answer, a number of Members raised very many supplementary questions. The Speaker at that moment referred the Question back to the Minister to go and respond to those supplementary questions that had been raised by my colleagues in this House.

Last week, the Minister came with answers to those supplementary questions. He said the answer was very long. The Speaker then asked that the Question be deferred to this week.

I am surprised that the answer being provided to me is the same answer that the Assistant Minister had previously given to this House, yet he had provided me with supplementary answers to the supplementary questions that were raised by my colleagues in this House. So, Mr. Speaker, Sir, I wish that you advise on this matter.

Mr. Speaker: Order! Hon. Member for Butula, this Question was largely transacted; that is your position?

Mr. Odhiambo: Yes, Mr. Speaker, Sir, I believe it because I have copies of the supplementary answers that the Assistant Minister had prepared for this House.

Mr. Speaker: Okay; Assistant Minister?

The Assistant Minister for Energy (Eng. M.M. Mahamud): Mr. Speaker, Sir, this Question is always listed on the Order Paper, and as the hon. Member has mentioned, this is the third time it is appearing on the Order Paper. The ruling from the Chair on 9th August, 2012, was that the Chair would go through the HANSARD and see what the gaps were. I am not particularly aware of those gaps myself because they are not listed on the Order Paper. So, I request the Chair to direct whether I should answer the Question the way it is on the Order Paper and see if the Floor will, once again, come up with supplementary questions; you should give further directions.

Mr. Speaker: Hon. Member for Butula, the position would appear to be – and I am informed by institutional memory – that this Question, in fact, has been fully answered and the only reasons it is back on the Order Paper is so as to deal with a final residual concern that you may have had. So, I want to give you an opportunity to just do that; I allow you to ask one supplementary question in respect of anything that you are not satisfied with.

Proceed, hon. Member for Butula.

Mr. Odhiambo: Thank you, Mr. Speaker, Sir. Now that you have made that ruling, I will honour it. But I think I was feeling that it would have been fair if these other supplementary questions that have been raised by my colleagues were answered satisfactorily.

Mr. Speaker: Hon. Member for Butula, in that case you will be questioning my directions. I am satisfied that those questions were fully answered and we remained with the last opportunity for you. So, proceed; use this opportunity!

Mr. Odhiambo: Thank you, Mr. Speaker, Sir. How is the Ministry planning to ensure that energy is cost effective for purposes of ensuring that investors find Kenya a suitable destination for investment?

Eng. M.M. Mahamud: Mr. Speaker, Sir, the Ministry is undertaking a lot of projects that are aimed at expanding the capacity of our energy sources, geothermal included, so that by

the time we have sufficient power generation, then our cost of production, or generation, will be cost effective.

Mr. Speaker, Sir, currently, we depend a lot on Independent Power Producer's (IPPs) because of lack of adequate generation capacity. We also depend on hydro power, which is very dependent on the weather. But with the expansion of our energy mix, we expect to be able to have enough generation capacity, so that we can reduce the cost of generation.

Mr. Chepkitony: Mr. Speaker, Sir, when will Kenya Power reduce their tariffs, now that we are consuming less of thermal energy? We are using more of hydro energy because it has been raining and we expect tariffs to come down. This will be very good for industries, consumers and the general public.

Eng. M.M. Mahamud: Mr. Speaker, Sir, may I request my colleague to repeat the question? I am sorry, I did not get the question.

Mr. Speaker: Assistant Minister, you should be alert! We want to use our time well.

Hon. Chepkitony, kindly repeat your question.

Mr. Chepkitony: Thank you, Mr. Speaker, Sir. My question to the Assistant Minister is: Now that it has been raining, our dams are full and we have been able to exploit the full potential of our hydro power stations; the fact is that we are getting most of the power from hydro stations and we are generating less using diesel power. Could the Kenya Power reduce their tariff to make it affordable for our industries and other consumers of electricity?

Eng. M.M. Mahamud: Mr. Speaker, Sir, the cost of electricity is determined by many factors, including the cost of thermal energy. In fact, the cost of power now, if you look at the bills in the last few months, they have, in fact, reduced because of the reduction in the oil prices. But greater reduction will be much achieved when we generate more power using other sources like geothermal power.

Thank you, Mr. Speaker, Sir.

Mr. Mureithi: Mr. Speaker, Sir, considering that we are in a competitive environment with, for instance Ethiopia, who are actually growing the same commodities and doing more or less the same business; and considering that the dollar has stabilized and the price of oil has come down, when are you going to reduce the cost of energy, so that we can make doing business in Kenya cheaper than our competitors have done?

Eng. M.M. Mahamud: Mr. Speaker, Sir, with due respect to my colleagues, we are now attempting to get me to answer Question No. 1 by Private Notice on the cost of energy, yet it has been dropped. The Question which hon. Odhiambo asked was about rural electrification and the comprehensive coverage of energy in the country. I need your guidance, Mr. Speaker, Sir.

Mr. Speaker: Very well; that is a different Question!

Hon. Odhiambo, ask your last question.

Mr. Odhiambo: Thank you, Mr. Speaker, Sir. Could the Assistant Minister tell us what the Ministry is doing so that they can justify the numerous levies in the electricity bill such as fuel cost charge, foreign exchange rate fluctuation adjustment, inflation adjustment, Energy Regulatory Commission levy, Rural Electrification Programme levy, among others? What is the Ministry doing to reduce these or to abolish them?

Eng. M.M. Mahamud: Mr. Speaker, Sir, I think that question relates to the cost of energy, which I was prepared to answer very comprehensively if the Question was put.

Mr. Speaker: If you have the answer, please proceed and answer so that the hon. Member for Butula gets some satisfaction this afternoon.

Eng. M.M. Mahamud: Mr. Speaker, Sir, the cost of energy as you see in the electricity bill is determined using various parameters. One is the fixed charge, which is a fee used by Kenya Power to cater for fixed costs like meter reading, billing, printing, postage and the rest. There is the energy charge, which is a charge for the customer's electricity consumption within the billing period. There is a fixed cost charge which covers the cost of fuel used to generate the energy consumed by each consumer each month. There is also the foreign exchange rate fluctuation, inflation adjustment, Value Added Tax, ERC levy and the rural electrification levy. These are all levies which have been actually put as per the Energy Act, and depending on the parameters like the fuel cost and the rest, these keep changing within a given period. These parameters have been agreed on and they are within the regulations under the Energy Act. I do not foresee a situation in which we will be changing the parameters; the cost of the parameters will keep changing depending on the market situation.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: What is it, hon. Member for Mumias? Are you on a point of order?

Mr. Washiali: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to avoid the question that was put by hon. Odhiambo, he is saying that the price of fuel has now come down? What are you doing in your Ministry to make sure that the cost of electricity also comes down the same way fuel has come down? Is he in order?

Mr. Speaker: Order, hon. Member for Mumias! Are you saying that the price of fuel has come down or that fuel has come down?

Mr. Washiali: Mr. Speaker, Sir, I was asking why the Assistant Minister---

Mr. Speaker: Order, hon. Member for Mumias! Of course, we understand what you want to say, but that is not what you have said! The cost of fuel coming down is not the same as fuel coming down!

(Laughter)

Mr. Washiali: It is the cost of the fuel, Mr. Speaker, Sir.

Mr. Speaker: You stand guided!

Mr. Washiali: Thank you, Mr. Speaker, Sir.

Mr. Speaker: Assistant Minister?

Eng. M.M. Mahamud: Mr. Speaker, Sir, again, this answer will be the answer to Question No. 1 by Private Notice. The hon. Member is forcing me to answer the Question which was dropped by you, but to be fair to him, I will answer it.

Based on fuel cost charge formula, benefits resulting from the reduction of the cost of petroleum fuels used in power generation are passed on to the consumer through their monthly bills. Relative to the May, 2012 fuel cost charge of Kshs6.97 per kilowatt hour, the fuel cost charge dropped to Kshs5.97 per kilowatt hour in June and, further, to Kshs5.39 per kilowatt hour in July. These reductions were passed on to the consumers.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well; hon. Member for Samburu East!

Question No. 1694

NON-PAYMENT OF DUES TO MESSRS. NANTEI LOSENKEI/
MR. LOLRIMIS MEIDIMI

Mr. Letimalo asked the Minister for Education:-

(a) whether he is aware that Mr. Nantei Losenkei, who worked as a watchman at Maralal Primary School, and Mr. Lolrimis Ole Meidimi, who worked as a cook at Amaiya Boarding Primary School in Samburu Central District have not been paid their terminal and other benefits since they retired in 2007; and,

(b) when they will be paid their dues.

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

(a) I am aware that Mr. Nantei Losenkei, who worked as a watchman at Maralal Primary School, and Mr. Lolrimis Ole Meidimi, who worked as a cook at Amaiya Boarding Primary School in Samburu Central District, retired in 2007. Prior to the gazettelement of the Legal Notice No. 262 of 3rd September, 1993, it was the responsibility of the Ministry of Education to pay service gratuity for non-teaching staff in schools. The boards of governors took over the responsibility when the legal notice came into effect. The Ministry receives the request for payment with all the necessary documents and then it processes the payments due to the retired staff prior to 3rd September, 1993. As per the Gazette Notice No. 262 of 3rd September, 1993, Mr. Nantei Losenkei qualifies for payment of service gratuity by the Ministry up to 30th June, 1993, since he was employed on 2nd December, 1980. Maralal Primary School management is responsible for his service gratuity from July, 1993, to the date of his retirement in July, 2007.

The following documents are required by the Ministry to be submitted by the school management for the processing of his terminal benefits. These include a copy of his letter of appointment, a copy of the Pay Change Advice that is PCA-GPE 33 form, the last pay slip or extract from the school payroll, a copy of the national identity card and a copy of the letter of retirement.

Mr. Speaker, Sir, in the case of Mr. Lolrimis Ole Meidimi, Amaiya Boarding Primary School management is responsible for paying his service gratuity since he was employed on 1st February, 1995 after the gazettelement of Legal Notice No.262 of 1993.

Mr. Letimalo: Mr. Speaker, Sir, I think it is high time the Ministry of Education looks into the plight of members of the non-teaching staff who retire because he says that after that legal notice he has cited, it is now the responsibility of the school management committees and board of governors to pay service gratuity to its retirees. Both Losenkei and ole Meidimi are now in their fifth year since they retired. My question to the Assistant Minister is: Does the Ministry have a budget line on which to charge this payment? How come it takes five years---

Mr. Speaker: Order! Let the Assistant Minister answer.

Prof. Olweny: Mr. Speaker, Sir, for the person who was employed in 1980, we have the money that is due to him up to 1993. From there, yes, there is a budget that is used to pay them. Even today there is a budget but that money is given to the schools.

Mr. Chepkitony: Mr. Speaker, Sir, could I know from the Assistant Minister whether there are any arrangements the Ministry is making for all employees of board of governors to have a contributory retirement scheme for all of them? This will mean that the BOGs will be deducting money from the employees and also make their contributions. This should then be taken to a consolidated fund within the district and the Ministry should spearhead the formation of such funds to benefit employees.

Prof. Olweny: Mr. Speaker, Sir, like other employees in Public Service, payments are made towards the National Social Security Fund (NSSF). That is there!

Mr. Letimalo: Mr. Speaker, Sir, in his answer, the Assistant Minister says: - if you look at the third paragraph – “The following documents are required by the Ministry to be submitted by the school management for the processing of his terminal benefit”. That is what is required by the Ministry to be submitted by the school management for the Ministry to pay what it is supposed to pay up to 1993. The documents he has listed are supposed to be provided by the school where this worker was. Why does the Ministry not write to the school administrators so that they can provide these documents instead of waiting for this retiree who is now in the village to look for these documents?

Prof. Olweny: Mr. Speaker, Sir, normally, the retirees are helped in speeding up the processing of the money that is due to them but sometimes after retirement they keep quiet, lie somewhere and they do not even care. For example, for a copy of the National Identity Card (ID), the man owns his ID; he has it. Even if the school gives all the documents, there are some that he has to fill in himself like the GPE 33. He should go to the school to fill in the form and have all the documents given to the head of school to put them together and then send to us including a photocopy of his ID which is in his own pocket, if at all he has it.

Question No.1731

SACKING OF MS. ALICE N. MARUI
AS ADULT EDUCATION TEACHER

Mr. Speaker: Ms. Karua is not here? The Question is dropped!

(Ms. Noor stood up in her place)

I can see Ms. Noor standing in her place but I am afraid you cannot catch my eye. I am not on notice!

(Question dropped)

Question No.1577

HARASSMENT OF KENYANS ON MIGINGO ISLAND
BY UGANDA SECURITY FORCES

Mr. Speaker: Mr. Kiuna is also is not here? The Question is dropped!

(Question dropped)

Question No.1556

UPGRADING OF WANG’URU-GATEGI ROAD

Mr. Gitau asked the Minister for Roads:-

(a) why the Wang’uru-Gategi Road (R34) has not been upgraded to bitumen standard; and,

(b) when it will be upgraded?

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

(a) My Ministry has not yet upgraded R34 to bitumen standard because of budgetary constraints.

(b) We have, however, initiated plans to upgrade the section from Wang'uru to the junction with the Road E628 to bitumen standard under the Roads 2000 Programme in the Financial Year 2012/2013.

Mr. Gitau: Mr. Speaker, Sir, I want to tell the Assistant Minister that, at least, 50 years after Independence, we shall be enjoying a piece of tarmac within Mwea Constituency. Nevertheless, could he state when the tendering will be done and when we should be expecting a contractor on site?

Mr. Kinyanjui: Mr. Speaker, Sir, we have already started the preparatory work and as I have indicated, this is being done under the Government of Kenya and the Government of France, the *Agence Française de Développement* (AFD), in a programme sponsored jointly called the Roads 2000 Programme. We expect to have completed the procurement process and all the other preparatory arrangements by December 2012 and, therefore, early 2013 we should have the project started.

Mr. Washiali: Mr. Speaker, Sir, I would like to ask the Assistant Minister about the policy in the Ministry. When do they decide which road to upgrade to bitumen standard and when do they decide that one should not be upgraded? This is because we have so many roads especially in Mumias, like the road from Mumias to Musanda, which has heavy traffic and I would have thought that the Ministry should upgrade it.

Mr. Kinyanjui: Mr. Speaker, Sir, we have a road sector investment programme and a copy of that is available to the public that clearly stipulates areas that require immediate attention and those that can be done in the medium and long term. However, more importantly in the programme that I have said of the Roads 2000 Programme, we have different donors for different areas. So the AFD is basically in Central Province but we have different donors for sections of western Kenya and a bit of Nyanza. Therefore, each donor has his own priority. Also allow me to raise a concern that many roads, especially in western Kenya and Mumias, because of overloading of cane and other cargo, we have had the roads deteriorating very fast. Therefore, we also expect that the big producers and haulers will ensure that we do not overload because this is one of our biggest problem especially in Mumias.

Mr. Mwangi: Mr. Speaker, Sir, the Assistant Minister has said that the road is under AFD, Roads 2000 Programme. Could he tell the House whether the Government has any policy or programme for maintenance after the roads have been under the Roads 2000 Programme; do they have any funding from the Ministry to cater for the roads thereafter?

Mr. Kinyanjui: Mr. Speaker, Sir, it is true that once the road has been constructed under the AFD or under the Roads 2000 Programme, it is left to the Ministry. More importantly, we have the Roads Maintenance Levy that this House agreed to divide equally among all the constituencies. This money is meant for the maintenance of these roads including those that were previously developed under the Roads 2000. So, once the road has been upgraded under the Roads 2000, the maintenance of the same goes back to the Ministry.

Mr. Gitau: Mr. Speaker, Sir, could the Assistant Minister indicate whether there are other roads targeted by the Roads 2000 Programme, which started three years ago? Down the line, they have done nothing yet.

Mr. Kinyanjui: Mr. Speaker, Sir, we have many roads, indeed, in Mwea and in many other parts of that region, but the scope of this Question did not include tabling of all the roads that are under maintenance or upgrading by this particular agency. However, if the Member wants that information, I would gladly provide it.

Question No.1759

FALSIFICATION OF STATUS OF RAW HIDES TO EVADE
DUTY BY VETERINARY SERVICES

Mr. Kathuri asked the Minister for Livestock Development:-

(a) whether he is aware that prices of raw hides are deliberately falsified and classified as rejects to attract less duty when exported;

(b) whether he could provide a list of tonnage and grades of the raw hides that have been produced per month and the corresponding exports from June, 2011 to date, indicating the producing regions (current provinces) and the exporting companies; and,

(c) whether he could invoke the State Corporations Act (Cap 446) and transfer the responsibilities of duty verification from the Department of Veterinary Services (Hides and Skins Section) to the Kenya Leather Development Council.

The Assistant Minister for Livestock Development (Mr. Godhana): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that there is any deliberate falsification of prices and classification of raw hides as rejects so as to attract less duty when exported. This is because:-

(i) My Ministry does not step prices for the raw hides and skins. The function of pricing of the commodity both locally and internationally is governed by the market forces.

(ii) My Ministry has qualified officers who ensure that all hides, skins and leather for export are graded, while the loading and sealing of the containers is undertaken by the Kenya Revenue Authority. In order to ensure total compliance, my Ministry has an officer at the Inland Container Depot (ICD) in Nairobi to verify all the documents for hides, skins and leader exports. This ensures that the grades stated in the verification documents are correct.

(iii) I would also like to clarify that the production of hides at the slaughter point is based on technical grades rating from I to IV. This classification ranges from best at Grade I to poor at Grade IV. The handling of hides thereafter normally affects the quality of the hides, such that at the point of sale, a hide may have become rotten or perforated during removal of remnant meat from the hide, thus downgrading it to a reject at commercial level. According to the Hides, Skins and Leather Trade Act, Cap.359, the Inspector for Hides and Skins is mandated to decide whether the reject hides and skins can be offered for sale locally or exported.

It is worth noting that earnings from the leather industry have grown tremendously for the last three years rising from Kshs2.4 billion in 2009/2010 to Kshs7.1 billion in 2011/2012 as indicated in the table that I have shown, which the Member has a copy.

(b) The table below shows the production of raw hides undertaken in the country between June, 2011 to July, 2012 and the corresponding exports over the same period. The table is attached to the reply that I have given to the Member. It shows the province, how many hides and skins of Grade I to Grade IV have been exported and the total per province. It brings down

the grand totals per grade and gives the overall for all the grades. I have given a breakdown of monthly production per province in the same grades.

(c) The Ministry does not operate under Cap.446, but rather under Cap.359 of the Hides, Skins and Leather Trade Act and has no provision of transferring any function under Cap.359 from the Director of Veterinary Services to any institution. My Ministry, through the Department of Veterinary Services, has the mandate vide Cap.359, sections 15 and 20 paragraph (f) to undertake sanitary certification for export of hides, skins and leather. The function of duty verification, which I am being asked to transfer is the mandate of the Kenya KRA which I have no authority to transfer.

Mr. Kathuri: Mr. Speaker, Sir, while I appreciate the answer given by the Assistant Minister, it is worth noting that low quality grade of hides and skins, appears to be fairly high. In part “c” of the Question, I had requested him to transfer the function of duty verification. I had stated that it should not be duty verification, but quality verification.

Could he state when he will amend the Act to allow the Tanneries Association to provide a higher number of the members of the council, so that we can seal any loopholes that would be used by the officers when it comes to quality verification which makes the duty chargeable to go down?

Mr. Godhana: Mr. Speaker, Sir, I do not believe in what the Member has talked about. Unless he has a specific case that implicates the person responsible for the classification, then it is not proper for us to start speculating that probably there is any falsification in the process of classification of the product. Therefore, I do not find it necessary even to pursue it further in trying to amend the law to provide what hon. Kathuri has talked about.

If you look at my response in part “b” where I have tabled the list of the people responsible for all this, the Directorate of Veterinary Services has a total of 170 professionals. Within that, we have five officers with Masters Degrees. We have five degree holders, 35 diploma holders and 125 certificate holders. In the Kenya Leather Development Council, we have one expert who is a PhD holder. Then we have one degree holder and three diploma holders. We have all these people in both institutions who are responsible for ensuring that there are no malpractices. So, if hon. Kathuri has evidence to give to me, I am ready to take action. If there is none, then it is not proper for us to speculate.

Eng. Maina: Mr. Speaker, Sir, could the Minister clarify why rejected goods would be allowed to be exported? If they are rejected they should be disposed of here. Why would you allow anybody to export the rejected goods?

Mr. Godhana: Mr. Speaker, Sir, there is no evidence about what they are saying. I have not seen that kind of thing happening. However, the reason KRA is allowed to control prices--- First of all, the outcome is out of negotiation based on the market forces between the person exporting and the KRA and the Ministry of Livestock Development. In the process, if rejected skins and hides and leather products are seen to have fallen short of Grade I to Grade IV and they fall between Grade V and Grade VII, then they are not allowed for export. But if there is anybody overseas who is willing to buy such products, probably, not for export or purposes of Grade I to Grade IV then he is at will to sell. In that case he pays certain taxes that are determined by the KRA for the price to be classified for export, but under those terms.

Mr. Twaha: Mr. Speaker, Sir, there is a trend of levying duties on exports of raw materials like cashew nuts and now hides and skins ostensibly to protect local industries. Does that work where your imports are liberalized and your exports are controlled? If you have a liberal economy then it should be liberalized both ways. What happens is that the cost of the tax

is passed on to the farmer in lower receipts. What the Ministry is doing is to force farmers to subsidize the new infant industries which may not succeed due to the high cost of energy and other things. Why can the Assistant Minister not liberalize the export of raw materials like hides and skins and cashew nuts just as the importation of the finished products is liberalized? That way, we will have a level playing field.

Mr. Godhana: Mr. Speaker, Sir, I do not seem to get his argument properly, but already here the market is liberalized and that is why the cost of commodities is based on market forces. The reason the KRA is responsible for the determination of the prices is because of encouraging value addition locally so that we do not have raw materials being exported. That is why KRA does that control of prices but based on the cost of the products internationally.

Mr. Kathuri: Mr. Speaker, Sir, could the Assistant Minister confirm to this House why Tanzania and Uganda and other neighbouring countries have different arrangements over the same type of products? What does he intend to do to ensure that the tanneries in this country do not collapse as they are doing now?

Mr. Godhana: Mr. Speaker, Sir, we went into partnership within the East African Community (EAC) is so that we ensure that the issues of trade are harmonized. I am not aware that tanneries in this country are suffering. In fact, what the Ministry is trying to do now is to ensure that the tanneries in this country and any other stakeholder in the market survive. That is the aim of the Ministry of Livestock Development.

If you look at the profits that we are making as a country, it will tell you that---

Mr. Kathuri: On a point of order, Mr. Speaker, Sir. It is shocking to hear the Assistant Minister say that he is not aware of tanneries which have collapsed. Is it in order for him to mislead this House that he does not know of tanneries which have collapsed yet we know of tanneries at Githurai, Zimmerman and others in the country that have collapsed? In fact, four of them have collapsed. Is he in order to mislead this House?

Mr. Speaker: Assistant Minister, that is legitimate challenge.

Mr. Godhana: Mr. Speaker, Sir, that is why I said that for all the areas that we have not been doing well, the purpose of the Ministry is to ensure that all those are now brought to survival. I do not see why hon. Kathuri should worry very much. It is within our mandate to ensure that all those survive.

Question No.1691

NON-COMPLETION OF INDUSTRIAL CENTRE AT OLBUTYO IN CHEPALUNGU

Mr. Ruto asked the Minister for Industrialization:-

- (a) why the Minister has failed to send Authority to Incur Expenditure (AIE) to complete the industrial centre at Olbutyo in Chepalungu;
- (b) what measures he will take to ensure that the project is completed; and
- (c) why the Minister failed to involve Constituencies Development Fund (CDF) as per the Economic Stimulus guidelines.

The Minister for Industrialization (Mr. Kosgey): Mr. Speaker, Sir, I beg to reply.

(a) Funds for Chepalungu Constituency Industrial Development Centre (CIDC) were provided for in 2009/2010. The project started off very well. The contractor erected four rooms up to lintel level and a toilet pit was dug. At the time of demise of the contractor, a sum of

Kshs618,597.80 had been paid. However, before a new contractor was engaged the funds were returned to Treasury.

(b) My Ministry will complete the project along with other pending projects awaiting allocation of funds.

(c) The Ministry followed the guidelines as provided. I see that a Mr. Michael Kones who is the CDF Manager attended meetings on behalf of the CDF Committee and signed the contract documents.

Mr. Speaker, Sir, the first question is asking why the Minister has not released AIEs. When the Financial Year 2009/2010 ended, the balance of the money which was being held by the Ministry was returned. Money had not been allocated again for this project. However, this year, there is a sum of Kshs250 million which I see in our budget estimates. It is earmarked for devolved projects. I have since resumed office and initiated discussions with the Treasury to find out ways and means of completing these 210 CIDCs.

Out of the 210 CIDCs – I am providing this extra information for the benefit of hon. Members – 55 of them were completed and are in the various stages of being equipped. Now, 58 of them are between 90 and 99 per cent complete.

Mr. Speaker, Sir, 47 of them are between 50 per cent and 90 per cent. The Bomet CIDC falls within that category of slightly more than halfway complete. Those that are below 50 per cent complete are 26; six of them have not been started at all due to lack of land. Land has been identified but they have not been started. However, 18 of them may never be started because there is no land at all.

Mr. Ruto: Thank you Mr. Speaker, Sir. Although I sympathize with the Minister because he has been out in the cold - we have been meeting with him along the corridors - that does not absolve him from ensuring that the Ministry functions. It is true that some of the works were started. It is also true that the contractor passed on. Nevertheless, the Minister should tell us who authorized the payment of Kshs618,000, who visited the site---

Mr. Speaker: Order, concentrate on one question.

Mr. Ruto: Mr. Speaker, Sir, my question is that the CDF did not approve the payment of Kshs618,000 and the CDF Manager is not the CDF.

Mr. Speaker: Order, Member for Chepalungu! You know that you are mixing many things. Concentrate on one supplementary question. I have allowed you a lot of time to lay the basis.

Mr. Ruto: Mr. Speaker, Sir, we did not approved the Kshs618,000 that was paid and we do not know who authorized it and why. The CDF Committee did not visit the site to confirm that the payment was due.

Mr. Kosgey: Mr. Speaker, Sir, the Member for Chepalungu is sympathizing with me. However, there is no need for sympathy.

All the CIDCs were under the supervision of the Ministry of Public Works since it is the technical Ministry that supervises the projects. After the award of the contract, the Ministry of Public Works took over, supervised, and issued certificates and payments were made. There was an officer from the Ministry of Public Works and another one who was from my Ministry, a District Industrial Development Officer, who were very closely monitoring the project. There is no dispute that work was done. The tender sum was Kshs2.4 million, and it seems as if they had done four rooms up to the lintel level. The information I have is that it was done up to the lintel level.

The point now is how to complete this work because taxpayers' money has been spent; Kshs600,000 not just on this project or this CIDC, but on all the others. To make good use of Government funds, we must complete these projects, starting particularly with those which are near completion. We will work down until we complete them. I know that this Question refers to the one in Bomet; since my colleague wants to sympathize with me, I will prioritize and finish it.

Mr. Wambugu: Thank you Mr. Speaker, Sir. I congratulate the Minister for giving us information on these projects or industrial centers. We have a center which was put up in some place called Mathioya around Wanjohi area. About seven months ago, the information we were given by his office, and the Ministry of Public Works, was that the center was complete and that they would equip it with some equipment that we did not know. Could the Minister confirm whether that center is complete, what type of equipment they will be bringing to this center and when they will do so?

Mr. Speaker: Order, Member for Mathioya, ask one question! Mr. Minister, could you confirm whether the center is complete?

Mr. Kosgey: Thank you Mr. Speaker, Sir. The centers are complete. There are 55 of them.

Mr. Speaker: Order, Mr. Minister! You have a specific question from the Member for Mathioya. He has asked you about some center in Mathioya. Just concentrate on that. Do not tell me about the 65.

Mr. Kosgey: Mr. Speaker, Sir, they are 55. I am afraid that Mathioya is not one of them. Mathioya is in the category of----

Mr. Speaker: Mr. Minister, is that center complete or not complete?

Mr. Kosgey: Mr. Speaker, Sir, Mathioya is in the category of those which are between 50 per cent and 99 per cent complete. So, it is not complete. I have it here. It is listed here as having small items to be put in.

Mr. Speaker: Order, Mr. Minister! You are not helping the House. You are actually using our time poorly. I will defer this Question for you to come with a clear answer tomorrow afternoon. Tomorrow afternoon, Mr. Minister, come with a clear answer. This Question is deferred.

Mr. Kosgey: Mr. Speaker, Sir, this Question is answered.

Mr. Speaker: We do not do things that way, Mr. Kosgey. You must respect the rules of this House. You do not have a choice on that.

Member for Chepalungu, this Question is deferred. You will have even more time tomorrow.

(Question deferred)

We will go back to Question No.1337

Question No.1337

DISMISSAL OF MR. MUTIE S. MUNYAO BY TSC

Mr. Kiilu asked the Minister for Education:-

(a) why Mr. Mutie Samuel Munyao (TSC No. 384373) was dismissed by the Teachers Service Commission (TSC) on 1st March, 2010 while the

Commission was fully aware that he was suffering from acute Pelvic Ulcer Disease (PUD); and,

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

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, before I proceed I want to apologize most profusely for coming late.

Mr. Speaker: Yes, apology accepted. Proceed.

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

(a) Mr. Samuel Mutie (TSC No.384373) was dismissed by the TSC on 1st March, 2010 because he had deserted duty from 16th July, to 6th September, 2009.

(b) The hon. Member asked whether I could consider reinstating him into service. I am afraid no.

Mr. Kiilu: Mr. Speaker, Sir, while appreciating the answer given by the Assistant Minister on the reason for dismissing this officer for being absent from duty between 6th July and 24th July, you will appreciate that dismissal from service is a very harsh punishment considering that this officer had worked well in two counties. As a result of this decision, the officer is suffering from depression and his lifestyle has changed.

Now that the Assistant Minister has said he cannot reinstate this officer, could he consider paying him some service gratuity in lieu of dismissal so that at least he can have a decent life?

Mr. Mwatela: Mr. Speaker, Sir, I would request the hon. Member to advise the teacher to write to the Teachers Service Commission making that request and it will be given due regard.

Mr. Speaker: We will go back to the owner of the Question.

Mr. Kiilu: Mr. Speaker, Sir, I will advise the teacher accordingly.

Thank you.

Mr. Speaker: Fair enough. That settles the matter.

Question No. 1696

MEASURES TO TAP TALENTS AMONG THE YOUTH IN NYATIKE CONSTITUENCY

Mr. Anyanga asked the Minister for Youth Affairs and Sports:-

(a) what measures the Government has put in place to tap talents among the youth in various sporting activities throughout the country, particularly in remote areas such as Nyatike Constituency; and,

(b) whether the Government has a programme of establishing sports facilities in all the 47 counties, and if so, what the total cost of establishing such facilities will be.

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, I beg to reply.

(a) The following measures have been put in place by the Government through the Ministry to tap youth talents in various sporting activities---

Mr. Speaker: Mr. Minister, this is not a little market in Busia. This is the second time that this Question has been called.

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, I want to apologize. I was of the view that my able Assistant Minister had addressed himself to this Question. I did not know that the ball was in my court. So, I apologize.

Mr. Speaker: Carry on then.

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, I beg to reply.

(a) The following measures have been put in place by the Government through the Ministry to tap the youth talents in various sporting activities throughout the country.

1. Establishment of a minimum of three sports talent centres in every district to cater for different sports disciplines under the supervision of sports or youth officers.

2. To recruit under 15 year old youths in these centres.

3. We have also been hiring technical officials within the sports talent centres to ensure that the skills are inculcated appropriately.

4. We are also facilitating with provision of uniforms balls, soccer boots and payment of honoraria to coaches attached to these centres.

In this case, a sports centre is a place where youths assemble, i.e. like the community playground, a school field or a hall to play various games.

In Nyatike Constituency therefore, the following serve as sports centres where football, volleyball and netball are played. In Muhuru Division we have Banda Community Sports Ground next to Migration Centre. In Karungu Division we have Sports Centre which is located at St. Andrews Sports Ground which is owned by the County Council of Migori where we have a Mr. Fred Otieno as the coach. In Bande Centre which is located at Bande Primary School field, this centre also serves Bande Girls and the coach here is a Mr. Denis Oyugi Osinde.

The other centres that are yet to be operationalized are in Karungu Division which is St. Kamlus, Kale Division. Those are the main areas.

(b) In the last financial year my Ministry spent over Kshs3 million to construct a new basketball court and pavillion at Migori Stadium for use for development of basketball talents among the youth in that county.

Also, last financial year the Ministry spent Kshs140 million to develop sports facilities across the country. In this Financial Year we have budgeted Kshs172 million to also continue developing those facilities in various districts.

Mr. Speaker, Sir, in the medium term plan of 2013/2018, the Ministry envisages putting up 47 regional stadia in each county. For us to attain this, we will need to source Kshs94 billion to be able to achieve our Vision 2030 target.

In Nyatike the Department of Sports is also manned by the District Sports Officer who is also currently based in Migori. In this year's budget of the Kshs172 million we are prioritising - and I am sure some places do not have fields although we had allocated them funds - when we rationalize we will be able to consider Nyatike if they have got more fields.

Mr. Anyanga: Mr. Speaker, Sir, I want to take this opportunity to congratulate the Minister because last time he was here he promised to bring in a more comprehensive answer.

Could the Minister explain specifically to this House how much money this Ministry has given or put aside to enhance development of the centres he has mentioned like Bande Sports Centre in Got Kachola, Banda Sports Centre in Muhuru and Olate Sports Centre in Kale Division?

Dr. Otuoma: Mr. Speaker, Sir, as I had said we have been giving at least Kshs3 million per district in some of the districts that we had already selected. Out of our budget of Kshs172

million I had said that we will rationalize especially in places where we have allocated money and they do not have the grounds for us to move. So, we will rationalize and be able to at least provide one of the playing fields to Nyatike since Nyatike seems to be having some grounds. We will be able to rationalize and see how we can add on to Nyatike District to help them out. But that will come in once we have looked at this Kshs172 million on how to segregate it in each district.

Mr. Nguigi: Mr. Speaker, Sir, I would like to know from the Minister in a place like Nyandarua County and particularly Kinangop where we had a young lady, Mercy Nyambura going up to the Olympics and we have to use CDF money even to purchase fields for sports, what is the Ministry doing? Could they utilize the fields that we are buying and fence them or provide the necessary equipment?

Mr. Otuoma: Mr. Speaker, Sir, that is exactly what we are doing. My colleague from Kinangop has said that the CDF has already purchased some ground. We are also collaborating with those local authorities which have some fields. So, I would urge my colleague that they come and see me, if they already have those kinds of fields, so that we can see how to rationalise the whole thing.

Mr. Anyanga: Mr. Speaker, Sir, the Minister knows that Nyatike has been marginalised for many years. Having been to Nyatike several times, he knows the situation in that particular district. He said that he has allocated a lot of money to Migori. The distance between Nyatike and Migori is very long. Could he, kindly, consider allocating more funds to help establish a centre of excellence within Nyatike District?

Mr. Otuoma: Mr. Speaker, Sir, it is indeed true that I have been to Nyatike several times. My friend can attest to the fact that when I was in the Ministry of Fisheries Development, I gave him a lot of fish ponds. I am still the same person. Especially, under the envisaged new Constitution, there will be no area which will be marginalised in this country. All we have been trying to do is rationalise with the little resources that we have. I want to undertake that, if we will have quite a number of youths recruited and the fields availed, I will prioritise Nyatike, as I rationalise.

Mr. Speaker: Next Question, Member for Kirinyaga Central.

Question No.1520

NON-PAYMENT OF CONTRACTORS
FOR FRESH PRODUCE MARKETS

Mr. Gitari asked the Minister for Local Government:-

(a) what procedure is used in making payments to contractors constructing the fresh produce markets funded through the Economic Stimulus Programme (ESP);

(b) why some contractors in some constituencies have been paid more than the work they have done while other contractors have completed their work and have not been paid; and,

(c) when all the contractors who have completed works will be paid.

The Assistant Minister for Local Government (Mr. Nguyai): Mr. Speaker, Sir, first, let me apologise for not being here when the Question was asked for the first time. I sincerely

miscalculated. If I had come in ten minutes after the House convened, I would have been on time.

Mr. Speaker: Apology accepted. Please, carry on.

Assistant Minister for Local Government (Mr. Nguyai): Mr. Speaker, Sir, I would also like to ask for the indulgence of the House. I have consulted the Questioner, with whom we compared certain figures and facts stated in part “b” of the Question and concurred that, because this matter is before a Committee, where some work is being done, we give it four weeks to see whether the facts we have provided are sufficient. The hon. Member has agreed with me. So, I seek the indulgence of the House for the Question to be deferred.

Mr. Speaker: Hon. Gitari, do I have your concurrence to defer this Question to next Thursday?

Mr. Gitari: Yes, Mr. Speaker, Sir.

Mr. Speaker: Minister, note that the Question will come up again on Thursday, next week, at 2.30 p.m. Is that not good for you?

The Assistant Minister for Local Government (Mr. Nguyai): Mr. Speaker, Sir, what we had agreed is that we defer it for four weeks.

Mr. Speaker: Fair enough, Assistant Minister. I accept your plea for an extension. It is so directed that the Question be deferred to four weeks away from today.

(Question deferred)

Mr. Speaker: Hon. Members, Question No.1731, which I had dropped, is hereby reinstated. It will appear on the Order Paper tomorrow afternoon, at 2.30 p.m.

Question No.1731

SACKING OF MS. ALICE N. MARUI AS
ADULT EDUCATION TEACHER

(Question reinstated and deferred)

Mr. Speaker: Hon. Members, please, be guided that if an hon. Member is unable to be here to ask a Question for any reason, and he deputises his or her colleague to ask it on his or her behalf, our procedure is that the person to whom the Question is delegated must notify Mr. Speaker or the Clerks-at-the-Table; that he or she has been authorised to ask the Question, on behalf of his or her colleague. Hon. Sofia Abdi did not do that. So, she could not catch my eye even as she stood up or tried to login. So, that is the procedure. Please, be guided.

Hon. Members, that brings us to Order No.6.

Next Order!

STATEMENTS

Mr. Speaker: Are there any Statements due for delivery? If we have short Statements, we will take them now.

It looks like there is a point of order. What is it, Member for Kirinyaga Central?

POINTS OF ORDER

PLANNED TEACHERS' STRIKE ON 3RD SEPTEMBER, 2012

Mr. Gitari: Mr. Speaker, Sir, on Thursday, last week, I sought a Ministerial Statement from the Minister for Education, and the Deputy Leader of Government Business gave an assurance to this House that the Minister would deliver the Ministerial Statement by yesterday. This did not happen and, as we all know, the teachers' strike is on. So, I wanted to get assurance that they will bring the Ministerial Statement tomorrow or later today.

Mr. Speaker: Fair enough. This is to the Minister for Education. A request for a Ministerial Statement was made.

(Mr. Mwatela walked towards the exit)

Assistant Minister for Education, I can see that you are walking out. Are you running away from responsibility?

(Mr. Mwatela returned to his seat)

Assistant Minister, you already have the Floor. There is a Ministerial Statement due, which was called for by the Member for Kirinyaga Central. What is its fate?

Mr. Mwatela: Mr. Speaker, Sir, I just wanted to pick up a copy of the Constitution, because while responding to some of the issues that will be raised, I will need to refer to certain articles of the Constitution.

Mr. Speaker: Very well. Pick up your copy of the Constitution. Please, note that for the time being, there is going to be a request for a Motion for Adjournment. So, prepare to make a response as the debate goes on, if it is permitted.

Member for Kirinyaga Central, we will rest your concerns for the moment until we deal with the request for the Motion for Adjournment, which is coming sooner than later.

Yes, hon. Sofia Abdi.

CRITERIA USED TO RETRENCH KENYA AIRWAYS WORKERS

Mrs. Noor: Mr. Speaker, Sir, I would like to request for a Ministerial Statement from the Minister for Transport on retrenchment of staff by the Kenya Airways. I would like the Minister to clarify the following issues:-

- (a) give a breakdown of the top establishment at the Kenya Airways, indicating how many are foreigners and how many are Kenyans;
- (b) explain the wellbeing of locals *viz-a-viz* the foreign employees;
- (c) explain what criteria were used in the retrenchment programme;
- (d) what services are available at the Kenya Airways, and the procedures used to outsource them;
- (e) the relationship between Jumbo Jet Carrier Limited and Kenya Airways, and the names of the directors of both companies and their shareholders; and,
- (f) what measures are in place to address security issues in our airports.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Minister for Transport, when will the Statement be available? Hon. Dalmas Otieno, do you want to indicate when it will be brought to the House?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, the Minister should be able to issue the Ministerial Statement by Tuesday, next week. I will communicate the same to him.

Mr. Speaker: Very well. It is so directed.
Yes, Member for Kisumu Town West.

STATUS OF TEACHERS' STRIKE

Mr. Olago: Mr. Speaker, Sir, I rise to ask for a Statement from the Minister for Education on the status of the ongoing national strike by teachers, mounted by the Kenya National Union of Teachers (KNUT) and the Kenya Post-Primary Education Teachers (KUPPET) union. The Statement should address the following pertinent issues:-

- (a) the chronology of the Collective Bargaining Agreement (CBA) and the legal notice on which the strike is based, and the legality of the strike;
- (b) action being taken at reconciliation or negotiations;
- (c) the legality of the Minister's directive to the County Directors of Education to identify teachers who are on strike, so that their salaries may be stopped; and,
- (d) what steps the Ministry is taking to end the strike and bring normalcy to the public education sector ahead of the forthcoming national examinations.

Mr. Speaker: Fair enough. Once again, those issues are going to be addressed in the Motion of Adjournment. So, Minister, just prepare and in the event that they are not adequately covered, then we may grant an opportunity for that Ministerial Statement to be issued. Otherwise, get up for the Motion of Adjournment.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. It is now two weeks since I requested for the Prime Minister to address the House on what took place during the visit by Hillary Clinton.

Mr. Speaker: Hon. Dalmas Otieno, will you hold brief for the Prime Minister and indicate when those answers will be coming?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I will draw the attention of the Rt. hon. Prime Minister to make this Ministerial Statement next Wednesday during his normal time.

Mr. Speaker: Fair enough. It is so directed. What is it, hon. C. Kilonzo?

INTIMIDATION OF WITNESSES APPEARING BEFORE PARLIAMENTARY COMMITTEES

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. I had forwarded a Question to the Office of the Prime Minister which was to be addressed today. That was last week on Monday. I had hoped that your office was also going to see the Question because it touches on intimidation of witnesses who appear before committees of Parliament. A good case was the Managing Director of Kenya Airports Authority (KAA). After he appeared before the joint committees of Parliament, he was sacked. So, because it has happened before, my interest was to know if the Executive is trying to hold potential witnesses appearing before committees of this Parliament at

ransom and thereby making it difficult for this House to carry out its duties. So, I was expecting the answer to come today but I thought your office may, perhaps, have seen the issue I was trying to bring up the issue concerning witnesses appearing before committees of this House. That is because it appears very well that they are being intimidated by the Executive to ensure that they do not come and give good evidence before any committee of this House.

Mr. Speaker: Yes that is a very worrisome matter. Indeed, if your sentiments are accurate, it will be grave. Hon. Otieno, that is a matter that is urgent as a result of what C. Kilonzo has said and my comments on it. When will the Rt. hon. Prime Minister give the necessary answers to that Question?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, the same time next Wednesday during his normal hour.

Mr. Speaker: So, both questions are pretty urgent and, please, prevail over the Rt. hon. Prime Minister to be ready to answer both of them on Wednesday next week.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I will communicate to that effect.

Mrs. Shebesh: On a point of order, Mr. Speaker, Sir, I want to ask about the status of my Statement that I asked in May about the scandal that was going on at the Mathare Youth Sports Association (MYSA). I know that that Ministerial Statement was ready. I have been waiting for it for the past week. I would appreciate to know from the Minister when that Ministerial Statement will be delivered.

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, let me apologise. I had asked for that Ministerial Statement to be loaded on my iPad but I have been looking for it and I cannot get it. So, maybe, if I could be given a few minutes to get a hard copy, I will deliver it.

Mr. Speaker: Mr. Minister, I want to believe you and so just to be certain that, in fact, that is what had happened, and that they were ready to load it on your iPad, I will allow you 15 minutes just to test the ground. They are hearing you and they should be able to send an e-mail to you right away.

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, I can also go out here and check.

Mr. Speaker: Proceed. We will want to see how this turns out.

(Dr. Otuoma left the Chamber)

Mr. Nyammo: On a point of order, Mr. Speaker, Sir. Mine is to seek your guidance on a matter that has been pending for more than six months. I raised a Question about the non-payment of my people who had worked at the Nyayo Tea Zones. You committed that matter to the Departmental Committee on Labour. The Committee has since given its Report. I had a reason to write to your office. The question is: What do I do and what do I tell my people?

Mr. Speaker: Hon. Noor, do you have any reaction to that? To me, that is a bit strange. I am not aware that there is any report pending in my office.

Mrs. Noor: Mr. Speaker, Sir, we have tabled the Report.

Mr. Speaker: Fair enough. Hon. Nyammo, then you need to deal with that matter, perhaps, differently. If you like, I can have a session with you because if a report has been tabled, then we will have to deal with it differently.

Mr. Nyammo: Yes, Mr. Speaker, Sir. Thank you.

Mr. Speaker: Very well. It remains so guided.

STATE OF HYACINTH IN WINAM GULF

Mr. Olago: On a point of order, Mr. Speaker, Sir. On 7th August this year, I sought for a Ministerial Statement from the Minister for Environment and Mineral Resources about the state of hyacinth in Winam Gulf, and what they are doing to remove it. He was supposed to issue the Ministerial Statement last week but he did not come to the House on that day. I kindly ask for your indulgence so that we can have the Statement sometime early next week if it is suitable to the Speaker.

Mr. Speaker: Hon. Dalmas Otieno, this appears to be too many instances of non-responsiveness.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, similarly, I will communicate this to the Minister.

Mr. Speaker: So, we can expect this on Thursday next week at 2.30 p.m.?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, that will be good enough.

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

Mr. Olago: On a point of order, Mr. Speaker, Sir. With your indulgence, Thursday next week will not be suitable. Could we have it done on Tuesday afternoon or Wednesday afternoon next week?

Mr. Speaker: I took all those many factors into account that on Wednesday, we want the Rt. hon. Prime Minister to answer two very substantive questions. So, you cannot have the time on Wednesday afternoon. Maybe, Wednesday morning. Hon. Otieno, can that happen on Wednesday morning?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I have just changed my notes to say Wednesday morning.

Mr. Speaker: So it is.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. We are having difficulties accessing wifi connections here and yet, it is indicated that there are wifi connections within these precincts. Maybe, that is why the Minister is having difficulties with his iPad. So, maybe your office is not---

Mr. Speaker: Hon. Ruto, if you concentrated on the business of the moment, then we will not have to go into that. I will not want to deal with that now, hon. Ruto. I am afraid. Hon. Chepchumba!

**NOTICE OF MOTION FOR ADJOURNMENT
UNDER STANDING ORDER NO. 23**

THE ONGOING TEACHERS' STRIKE

Ms. Chepchumba: Mr. Speaker, Sir, I rise under Standing Order No.23 to move a Motion for Adjournment of the House this afternoon to discuss the ongoing teachers' strike.

(Several hon. Members stood up in their places)

Mr. Speaker: Fair enough! Hon. Members, you may resume your seats. I am satisfied that the matter is definite, urgent and of national importance. Ms. Chepchumba has the requisite numbers as required by Standing Order No.23. So, I will allocate time to this matter beginning from 5.30 p.m. We will do one hour.

BILL

First Reading

THE SPORTS BILL

Order for First Reading read – Read the First Time and ordered to be referred to the relevant Departmental Committee

Mr. Speaker: Hon. Members, please, note that from now on you are guided by the Supplementary Order Paper.

Next Order!

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD OF THE ELECTIONS (AMENDMENT) BILL

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, allow me to move this Procedural Motion on behalf of the Leader of Government Business.

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

THAT, notwithstanding the provisions of Standing Order 107, this House orders that the publication period of the Elections (Amendment) Bill (Bill No. 45 of 2012) be reduced from 14 days to 1 day.

Mr. Speaker, Sir, we set for ourselves very tight programmes given that the election date has already been indicated as 4th March, 2013. The timelines that we had set for a number of legislative measures has run out against us, and we need to squeeze ourselves to be able to stay up to date. The purpose of this procedural Motion is to enable us immediately hereafter debate the Elections (Amendment) Bill. Therefore, I am begging the House to allow this Procedural Motion. I ask the Chair of the Constitutional Implementation Oversight Committee (CIOC) to second.

Mr. Abdikadir: Mr. Speaker, Sir, I thank the Minister and I second the Motion. This follows the discussions in the *Kamukunji* that you called yesterday. I believe that hon. Members are all aware of the urgency of this matter.

I beg to second.

(Question proposed)

Mr. Ruto: Mr. Speaker, Sir, I rise to support this Motion. Even as I do so, I would like the House to note that the Independent Electoral and Boundaries Commission (IEBC) has also

been a bit lazy in proceeding with its work, and has not been up to the job in terms of consulting stakeholders who would, probably, have ventilated on this issue and sorted it out.

The other issue is that IEBC, for example, is telling Kenyans that they can register in political parties only up to 5th September, while this House actually passed an amendment that allows for that registration to go on up to 4th January. I am wondering whether IEBC is up to the job and whether they actually read the proceedings of this House, including updated laws. This sends some rather dangerous signals. The IEBC has further not managed to quickly procure the Biometric Voter Registration kits. I want to say that the IEBC should pull up their socks.

I beg to support.

Mrs. Shebesh: Mr. Speaker, Sir, I just want to appreciate the statements of Mr. Ruto. As the CIOC Chair said, we deliberated on many of these issues at the *Kamukunji*. Due to the responsibility we have as a House to ensure that we keep the country moving on a positive note on Constitution making, we express our disappointment at having to move this schedule forward. We are up to the task and we shall ensure that these election regulations are in place in time, and that the voter registration exercise is not interfered with. That is what we discussed in the *Kamukunji*. We hope that hon. Members will not bring our *Kamukunji* discussions to the Floor.

Mr. Ethuro: Mr. Speaker, Sir, I also wanted to support this Procedural Motion. You gave us a responsibility to look at what was tabled. In looking at those things, we found that it was very difficult to do a good job. I also want to second the sentiments by Mr. Ruto on the IEBC. The IEBC seems to be pushing us to the wall. It does not seem to appreciate the deadlines that have been provided for by law. The Government must be very clear, and this House should send a very strong message to the IEBC and all other Commissions that have a responsibility to this House and this nation to make sure that work is done in good time.

I beg to support.

Mr. Nyammo: Mr. Speaker, Sir, I also rise to support the Motion. I do not think that it is fair for anybody to want to point fingers at this House, as if we are the cause of delays in passing the laws required to facilitate our elections.

I beg to support.

Mr. C. Onyancha: Mr. Speaker, Sir, I rise to support this Motion. In supporting it, I also want to lend credence to what my colleagues have said, and say that the regulations that came to our Committee arrived on Thursday last week. That is not enough time. We have heard that it is the IEBC which is not up to the mark in doing things, but we also apportion some blame to the Government because there are relevant Ministries, especially that of Ministry of Justice, National Cohesion and Constitution Affairs and also the Attorney-General's Chambers. They were supposed to make sure that these Bills arrived on time in Parliament.

I beg to support.

Mr. Njuguna: Mr. Speaker, Sir, in joining my colleagues in this House, I would urge the IEBC to be more dedicated and come out to allay the fears in the minds of Kenyans that they are ready to conduct fair and credible elections next year.

I beg to support.

Capt. Wambugu: Mr. Speaker, Sir, I also stand to support the reduction of the publication period from 14 days to one day; but I think this is also another time when we want to ask whether there is a deliberate move to delay some of these things because they are brought the last minute, yet some of them are very critical to this country.

Mr. Speaker, Sir, if you look at the timetable even of the Registrar of Political Parties, parties were required to submit their nomination rules by 4th September which was yesterday.

They are supposed to be in line with the Election Bill that we are going to discuss. It is very sad because we do not know whether political parties presented their nomination rules. During the 14 days that we are normally given, we are supposed to consult with our constituents and facilitate public participation in all the discussions. I would urge the Government to be a bit more serious when they bring Bills here. It looks as if it is just a game. Every day, there are delays and Bills are brought to the House in the last minute; then you hear that we have to come back with amendments.

With those remarks, I beg to support.

(Question put and agreed to)

BILL

First Reading

THE ELECTIONS (AMENDMENT) BILL

(Order for First Reading read- Read the First Time and ordered to be referred to the relevant Departmental Committee)

PROCEDURAL MOTION

EXEMPTION OF THE ELECTIONS (AMENDMENT)
BILL FROM PROVISIONS OF S.O.No.111

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, allow me again to move this procedural Motion on behalf of the Leader of Government Business.

Mr. Speaker, Sir, I beg to move:

THAT, notwithstanding the provisions of Standing Order No.111, this House resolves to waive the referral of the Elections (Amendment) Bill (Bill No.45 of 2012) to the relevant Departmental Committee.

Mr. Speaker, Sir, again, this has been necessitated by the pressure and the reasoning is similar to the one on which we moved the Procedural Motion in Order No.9. I was able to appreciate the sentiments of the Members and the matters they raised as to the competence and the timeliness of the performance of the different organs that are charged with responsibility of developing the statutes and regulations that will be implementing the new Constitution.

Members, of course, are aware of how long it took us to make the Constitution itself. The number of these legislations have to be initiated through organs that are, themselves, also new and there are human resource issues. So, the timelines, somehow, have got breached. But I can confirm that they are all committed to implementing the Constitution and ensuring that the right legislative proposals are brought before the House.

Mr. Speaker, Sir, on matters of elections, every organ charged with the responsibility of developing any statute or any regulations for purposes of the next elections are aware of the challenges we faced during the last elections, and have to be extremely careful in putting together the kind of statute and regulations that will make sure that Kenyans will have full confidence and trust in the next election.

I beg to move.

Mr. Abdikadir: Mr. Speaker, Sir, I have the pleasure to second. The relevant Committee; that is the Departmental Committee on Justice and Legal Affairs, indeed, was a Member of the Joint Committees that proposed this process and the Committee is very well aware of this process. Indeed, we discussed this yesterday in the *Kamukunji*.

I support.

(Question proposed)

Mr. Njuguna: Mr. Speaker, Sir, because of the limited time available for this important exercise, and to reduce the anxiety in the minds of Kenyans, it is crucial that we allow this Motion.

I support.

Mr. Ruto: Mr. Speaker, Sir, this Parliament is actually under siege. I do not know who is going to protect us from an Executive that does not do its work; an Electoral Commission that does not do its work and other Commissions that do not do their work. They want us to legislate in a matter of 30 minutes. The history of this country is full of mistakes that we have made because we rush all the legislation.

I do not know who is going to protect the legislative arm. We have a right to do our oversight role. We have a right to do our legislative functions, but we want to say this should be the last time to tell us that we should not go into the committees. You are telling us not to think about the legislation that we make. We owe it to Kenyans that we pass quality laws.

Mr. Speaker, Sir, unfortunately, I am forced to support this particular Motion.

Eng. Gumbo: Mr. Speaker, Sir, I want to echo the sentiments of my colleague, the hon. Member for Chepalungu. I had time to look at the regulations that were presented. As a matter of fact, I am told right now there are four sets of regulations doing rounds here. So, I would not even know which one is to be adopted as the regulations.

Mr. Speaker, Sir, what is of concern is that we passed the Elections Act, in fact, last year. I think I took part in putting this provision in the Act and they knew. The fact that the Executive has dragged its feet until the last moment, when the implications of these regulations are so grave for the country, is a big concern and I ask your office also to put its foot down because the Executive is not superior to the Legislature. We should not be ambushed. Important things are brought here at the last minute and we are forced to rush through them. Some key provisions and omissions are taken through and I think this is not right.

I reluctantly, very reluctantly, indeed, support.

Mr. Mureithi: Mr. Speaker, Sir, I would like to echo the sentiments expressed by my colleagues. I said the other day that, had it not been for you, we would have had such a bad image. But I think we have seen that after we work so hard every year after midnight, the following day, if you read the comments that are made, they are made to ridicule Members of Parliament. We really continue to support you the way you continue to support us. Even sometimes, some commentaries are made against our Speaker. But I think this Tenth Parliament will go into history. It has extended its own energies and worked hard just because the Executive has kept documents for too long. They want us to push them at the last minute. We discussed this matter at the *Kamukunji* and I think you should not relent in supporting us. That is because, sometimes, we do not have the voice out there because it will be self-glorification. But when we

are supported by somebody else, then we shall have authority to talk and see the person who supervises us is able to see the amount of work that we are putting in.

I would like to say like my colleagues that I reluctantly support.

Mr. Speaker: Yes, indeed, Member for Ol Kalou. Thank you for those kind words except to tell you this: That, sometimes, when you are strong and steadfast, the media will still look for something to fault you. For example, I did not use the word anywhere at all that Members of Parliament earn peanuts but some editor found it and gave it to me.

Mr. Nyammo: Mr. Speaker, Sir, I would like to say that you have been known to support this House. You have spoken very proudly of us, the Tenth Parliament, and what we have done. After doing that, you must help us not to appear to be a rubber-stamping House.

We would like to go through Bills and Motions in the time given. So, let us not be pushed to a point where we shall be complaining and complaining. This is not an Assembly of complainants. It is an Assembly of honourable people. Please, get the Executive to put its house in order and give us Bills in good time.

With those few remarks, I beg to support.

(Question put and agreed to)

BILL

Second Reading

THE ELECTIONS (AMENDMENT) BILL

(By Leave of the House)

Mr. Abdikadir: Mr. Speaker, Sir, I beg to move that The Elections (Amendment) Bill be now read a Second Time.

Mr. Speaker, Sir, indeed, the sentiments of the hon. Members as they approved the Procedural Motions are very clear. That is, indeed, the reason we are amending the law. It is because the Rules and Regulations that were supposed to be approved by this House by 4th September are so critical and the House only had one day to approve those Rules and Regulations. That would have been unfair to this House and the people of Kenya, because it is absolutely necessary that this House, in approving those Rules and Regulations, looks at them, gives the public time to look at them, hears the views of the members of the public, deliberates on them, discusses them, holds Committee hearings and approves them. Since we did not have all that time, we are forced to amend the law so that instead of the Rules being approved six months to the elections, we have about two months, so that the approval period is four months to the elections, which allows us a bit of time to look at these rules and regulations.

[Mr. Speaker left the Chair]

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

Madam Temporary Deputy Speaker, having said that, it is really not our liking that we are doing this. We are forced into the circumstance and the National Assembly cannot have a

way out. The Commissions, the Attorney-General's Chambers and the Ministries concerned really ought to be ashamed of themselves because it is very clear in the law that six months to the elections, we should have had this approved. The House is of the view that it requires about eight weeks to pass a Bill and a number of weeks to approve Rules and Regulations. It is, therefore, incumbent upon those institutions to have done their bit, so that those Regulations are with us. As I speak now, we have four sets of regulations and we did not have time to approve them. We were forced to do this. Mr. Speaker graciously called for a *Kamukunji* yesterday and it is at that point that we agreed to go under this procedure. That is why we have, under Clause 2 of the proposed Bill, that Section 109 of the principal Act is amended by deleting the word "six" appearing in subsection 3 and substituting therefor the word "four."

Madam Temporary Deputy Speaker, the second amendment is to do with Section 5 of the Elections Act. This, again, was agreed on, where the Independent Electoral and Boundaries Commission (IEBC) was to stop registration of voters 90 days to the election. That period is being reduced to 60 days before the election, so that, one, there is enough time for Kenyans to register and, two, to cater for the time lost in the fiasco that was the acquisition of the Biometric Voter Registration (BVR) kits. Both these amendments are very necessary and useful. They are absolutely required and not controversial.

Madam Temporary Deputy Speaker, I beg to move and ask hon. Shebesh, who is a Member of both the Committee on Delegated Legislation and Constitutional Implementation Oversight Committee (CIOC) to second.

Mrs. Shebesh: Madam Temporary Deputy Speaker, I want to second the Chair of CIOC.

Madam Temporary Deputy Speaker, as I second, I just want to bring out some of the issues that we said were fundamental to bring to the Floor of this House. The Chair has mentioned some, but let me just repeat for emphasis and this to be put on record; that it is not this House that is delaying the passing of Bills or seems to be sabotaging the constitutional implementation process. We want it to be put on record that, as a Committee, especially the CIOC, we have not been impressed by the interaction of the IEBC with our Committee. We have called them to our Committee severally and many of the times they come, they send junior officers who come to answer questions that are critical. When they come, they seem to be at crossroads; two mouths speaking for one Commission. We fear that there are two centres of power within the IEBC. As we go towards elections, we think that it is important that this House clearly states to the IEBC that they must sort out their internal wrangles and get their act in order. They must tell us where the buck stops. As far as we know, as the CIOC, the buck stops with the Commissioners and the Chair. However, many times, the Chief Executive Officer (CEO) has also come in front of us, as the CIOC, and they seem to contradict each other with the Chair. So, we are putting it on record that as the Committee that oversees these Commissions, it does not matter. Independence does not mean that you can do what you want. Independence just simply means that you work without interference, but for sure, our mandate gives us the authority to oversee their work.

Madam Temporary Deputy Speaker, as we support and are forced again to burst a deadline set by ourselves, which we were sure we could achieve, because of the ineptitude of the IEBC, the Attorney-General's Office and the Ministry of Justice, National Cohesion and Constitutional Affairs, we are saying that this House will no longer take responsibility for mistakes that are not ours. Anytime we have to do this, we will say clearly like we have said now who is responsible. We will embarrass you until you learn how to do your work right.

Madam Temporary Deputy Speaker, I beg to second.

(Question proposed)

Mr. C. Onyancha: Madam Temporary Deputy Speaker, I rise to support this Bill.

Madam Temporary Deputy Speaker, in supporting this Bill, I also echo the sentiments of my colleagues with regard to the delays which have been previously alluded to. We are at crossroads. The elections will be on 4th March and this means everything to this country, but there appears to be some unseen forces which seem to want to derail the effectiveness of the IEBC and, therefore, the validity of the elections. We have seen this many times; from the delays to non-participation of *wananchi*. When we get a Bill on a Thursday or Friday that is supposed to be passed by Monday and there is no sitting on Monday, there has been no participation by *wananchi*. Actually, that is unconstitutional. It is for that reason that we seek this extension of time, in amending this Act, so that we can have sufficient time to let the public participate in the Bills which are related to the elections; that is, on voter education, registration of voters in the diaspora and election regulations and rules. These are very important for everybody and we must always have sufficient time, as a House, to debate, refer them to the relevant departmental committee and come up with the best suggestions and amendments possible.

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

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Thank you very much, Madam Temporary Deputy Speaker. I rise to support this Bill and thank the Chair and Members of the CIOC, Chair and Members of the Committee on Justice and Legal Affairs, Chair and Members of the Committee on Delegated Legislation, my good friend, hon. Amina Abdalla, for the wonderful input that they put into this particular Bill and for the decision that it was necessary to extend time and come up with these proposed amendments.

Madam Temporary Deputy Speaker, it was absolutely necessary for, first of all, Members of these very critical Committees to have more time to do justice to the three documents that I tabled here on 30th August. Secondly, it was necessary to have this extension to allow public participation. When these documents were tabled, there was a serious public outcry because members of the public have not had time to have their input considered.

Madam Temporary Deputy Speaker, although the Independence Boundaries and Electoral Commission (IEBC) is an independent institution under Section 26 of the IEBC Act, that same section requires that the IEBC must allow public participation and it must consult all stakeholders though it is independent. And though it has powers under Section 109 of the Elections Act to make these regulations, it must, as of necessity, allow public participation. There was a serious public outcry and my office received very many calls. I also received a petition from persons with disabilities who had serious issues with the high and prohibitive fees proposed in terms of nominations. I also received many calls from particularly the youth but amongst all that I received was one from a young man called Philemon Rono from Bomet County. He wrote to me and said he is a student leader at the Kenyatta University (KU) and that he wishes to contest in the next General Elections. He will be graduating but he believes that after he leaves the university, he will not be able to raise the prohibitive fees that have been put in these regulations but most importantly he has been required to clear his Higher Education Loans Board (HELB) loan before he vies as a candidate in the next General Elections.

Under Article 38 of our Constitution, in the political rights enshrined thereunder, there must not be any undue restrictions so as to prevent any Kenyan, including Philemon Rono, from participating in the upcoming historic elections. Such undue restrictions will include high

nomination fees as have been included in these regulations and if the HELB is to ask the young man to clear his loan before he has even tarmacked or got a job, he will have been blocked from the next General Elections. These are some of the issues that we require now with the amendment to Section 109 that instead of six months, we should allow for four months. This would give us two months to include the public input. The Committee's work on this document and the public input will also be taken on board. Through public participation, I believe we will give this country a better set of regulations that will not only regulate the coming elections but all future elections. They must be good regulations.

Elections are very sensitive matters and if anything goes wrong because, perhaps, we have hurried the process and given regulations that are not tenable, we will be held responsible as a House that passed those regulations. I want to thank Committee members for the proposed amendments and to also say to Members of this House - the Back Benchers - that we have all sinned and fallen short of the glory of God. We are doing our best. We have a Constitution that has a very ambitious Fifth Schedule and we are all trying to do our best but we really appreciate the accommodation; the patience that Back Benchers have had and particularly the midnight oil they burnt a few weeks and days ago to beat the 27th August deadline. We want to assure them that we are at the tail end of making sure that we have all the necessary legislations to guide our electoral process.

These regulations are some of the last Bills that we are doing before this House. We only have one other Bill; the Campaigns Financing Bill, that we will be bringing before the House. We urge your support on the matter and your continued patience and accommodation. We also have the Bill on the two-thirds gender principle which will necessitate a constitutional amendment. I wish to take this opportunity once more to call upon all hon. Members to join us in Mombasa on Friday and Saturday. It is a critical Bill that will ensure that we comply with the Constitution. It is not a matter of just the women of Kenya. It is a matter of vital national importance. It is part of the constitutional implementation. It is something that can expose the next House, both the Senate and the National Assembly, to legal challenge if we are unable to abide by that principle. So I want to urge hon. Members, once more, as we move forward, to join us and to pass this Bill with the proposed amendments and particularly Section 5. The amendment proposed there is very critical in terms of allowing us to take voter registration into January. I have assured the House that already the Government of Kenya and the Government of Canada has had a MoU approved by the Cabinet and the process of delivery of the Biometric Voter Registration (BVR) machinery is on course. We believe and hope that by the end of this month---

Mr. Ruto: On a point of order, Madam Temporary Deputy Speaker. Is the Minister in order? I think he is tempting our patience thanking us for being complaint while he continues to delay the Bills. This particular Bill on gender has been on his desk since last year. Public participation was complete by early this year. We have asked him to bring it yet he is busy thanking us and telling us--- He was a Member of the Back Bench the other day; I do not know what happens to Ministers when they are appointed. They get lost! We do not want his song.

The Temporary Deputy Speaker (Dr. Laboso): Mr. Ruto, your point has been made. Allow the Minister to conclude.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Madam Temporary Deputy Speaker, I just wish to emphasize that the amendment that was included apart from the regulations is also necessary to allow for extra time for registration of voters.

With those few remarks, I beg to support.

Mr. Ethuro: Madam Temporary Deputy Speaker, I want to support the Motion and in supporting it, I want to stick to two things because of time limitations. First, I want to speak to the Minister for Justice, National Cohesion and Constitutional Affairs. He must manage the IEBC. I know it is an independent Commission but independence does not mean encroaching the independence of another institution; the independence of our calendar as a Parliament. He has admitted that he tabled the documents on 30th August, 2012 yet he knew that that was the last day for us to work. The next day would have been 4th September, 2012 and so already, he was working out of time. In fact, these rules which make the presidential candidates continue being in office should apply the way they do to civil servants. If you are a presidential candidate like my good friend, he must be relieved of the Ministerial responsibility so that he can concentrate on his campaigns although I have nothing against my good brother.

Secondly, this Bill does not seem to speak on all the issues. If we are going to register our voters up to 4th January, 2013, which provision are we making for the inspection of those registers? You will remember in the last elections, when Mr. Raila went to vote, he realized that his name had disappeared and you know how many other names might disappear including the one of the Minister for Justice, National Cohesion and Constitutional Affairs himself if somebody somewhere does not want him to be voted for or to vote for himself. But I want to give the strongest condemnation to an institution known as the IEBC. I want it to be very clear from this House, again and again, that the rate at which the IEBC is performing is going to create problems. The IEBC must be reminded of the fate that befell to the Electoral Commission of Kenya (ECK). We do not want to go that way. The elections must be credible; the process in which you realize those Elections must, in itself, be credible and supported by the Kenyan people. The Kenyan people must realize and appreciate that from the beginning that process has continued. If the IEBC does not up its game, this House will be forced to ensure that even if it means removing those commissioners, let them go home because there is something called performance. There is something called delivery. The IEBC is not performing according to the timelines within the law. We are just giving them notice. If need be, this country should stand up and say: "The IEBC, you are not up to the task; you are not performing and you may as well just go home."

Thank you.

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Speaker, I also rise to support the amendments. However, there has been a lot of bashing here by the Members against the Executive that the Executive has delayed this Bill and the formulation of these rules. According to the Constitution that we passed in this House, the IEBC is an independent body. It has nothing to do with the Executive. It cannot be supervised. In fact, the Executive is doing the IEBC a favour by bending ourselves to support them, so that they can get out of this mess that they find themselves in.

Mrs. Shebesh: On a point of order, Madam Temporary Deputy Speaker. Even as we continue with the debate, it is not fair for the Minister to mislead this House. He should be clearer instead of misleading the House. Is he in order to say that they are saving the IEBC? Through the CIOC, we have begged the Executive to keep off the process of constitutional making. All that they are required to do is to generate that Bill and then move it rather than interfering with every other process. Is it in order for this Minister, who obviously has not sat in this docket and does not know the issues that have been canvassed by the CIOC to then come and rubbish what the Committee is saying here about the IEBC with facts that he is not alive to?

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, we have barely 20 minutes for this. You should remember we are going to adjourn. We can reduce the points of order, so that we can give a chance to more Members to debate. Secondly, we can also reduce, if you are in agreement, the time for each Member to three minutes. I, therefore, wish to put the question that we reduce the time to three minutes.

(Question put and agreed to)

Therefore, it shall be three minutes. Please, let us stick to the time. Minister, proceed to conclude.

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Speaker, my point was very clear that the Executive was being blamed for the delay. I was making the point that the Executive does not supervise the IEBC. The Executive micro-manage the IEBC. The IEBC is an independent body as per the Constitution. Therefore, even the Executive has also been following up on them and asking them when they are going to bring these rules.

Therefore, I support these amendments to enable us to legally fall in line with the schedule given by the Elections Act.

I support.

Eng. Gumbo: Thank you, Madam Temporary Deputy Speaker, for giving me the opportunity. The issue of the independence of the IEBC has been said so many times, but I want to contend that independence cannot be exercised in a vacuum. I agree with what hon. Ethuro has said that Kenyans must be very wary of the IEBC. These guys have been over-praised. When we approved their names here, the feeling was that we were approving the names of nine people who were good enough to be married by Mr. Caesar, but then it has turned out that these are ordinary human beings. They fight over tenders, there is so much nepotism and we must put our foot down. We are the lawmaking body of this country. We know what we have gone through, through bungled elections and if we feel that these nine people cannot do it, we throw them out. We gave them the job. Why are we mincing words on this? To be honest, these fellows have not done anything more spectacular than what the Kivuitu Commission did. That one took us through a more adversarial referendum and they went through. We are praising these commissioners and we continually do so.

As I conclude, I was not here yesterday, but I heard over the radio the Minister for Justice, National Cohesion and Constitutional Affairs defending the BVR. How do you defend the BVR when we do not even have data protection laws in this country? What guarantee do we have that people will not steal our data? I want to urge the Minister to let Canada, for instance, to tell us where they have successfully sold the BVR. We cannot just be swallowing things lying hook and sinker because somebody says it is good for us. Why are big economies like Germany retreating on this BVR business? It is easier to steal using electronics than it is manually because the integrity of any electronic system is as good as the integrity of the people who operate them. We know what people have done in this country. So, we have to be extremely careful, but we must, as a House, collectively, express our disappointment with the IEBC. We have praised these people too much, we are running into an abuse and if we continue praising them, we are preparing ourselves for another 2007/2008.

Dr. Eseli: Thank you, Madam Temporary Deputy Speaker, for this brief chance to contribute to this very important Motion. First, I would like to make it very clear here that the IEBC, as the Minister for Justice, National Cohesion and Constitutional Affairs has said, might

have fallen short of the glory of God. But I dare say that the Executive has fallen even shorter because the IEBC sent the regulations to the Attorney-General earlier on and he failed to table them in this House. Then the Minister for Justice, National Cohesion and Constitutional Affairs ran to sanitize the Executive by tabling a non-signed copy here, which even had some pages missing. He signed them here. Yesterday is when he brought the copy from the Attorney-General with all the necessary pages and it was tabled here.

So, the fact of the matter is that the Executive is sleeping on the job. If it is a question of falling short of the glory of God, the Executive has fallen far short of the glory of God. We are not supposed to sanitize them at all because we have separation of powers as the Executive, the Legislature and the Judiciary. Unfortunately, the Legislature here is in a relationship with the Executive in the sense that the Executive also sits in the Legislature. In the process, when we fail as a Parliament to pass legislation by the mere doing of the Executive, we are blamed collectively as Parliament. The Executive has hidden behind Parliament to continue maligning Parliament's name by making us fear that the population out there will think that Parliament is not performing. The actual non-performers are the Executive. At this point in time, we need to give a clear warning that as we continue implementing this Constitution, the Executive wakes up to its responsibilities and deliver to Parliament the necessary legislation for us to pass on time. Otherwise, if we want this Parliament to be dissolved, we will refuse to this Executive's bidding, Parliament will be dissolved, we will go home and go for the elections whether the IEBC is ready or not.

Mrs. Noor: Thank you, Madam Temporary Deputy Speaker. I want to take this chance to congratulate Parliament and in particular the three Committees that worked overnight to look at those regulations, more so, the Committee on Delegated Legislation. The Members who sit in that Committee pushed so hard for us to discuss today what we are discussing. I want to tell them thank you so much.

I was privileged to sit in the Committee to discuss these regulations. They have serious shortfalls that can complicate the affairs of this country and put us into more dangerous situation than the one we witnessed in 2007/2008. Three documents have been circulating in this House, namely, from the IEBC, the Attorney-General's office and another one from the Civil Society Organization. If we are not careful, hon. Members, these three documents have different issues all together. They are different. They have been circulating here and they have the same title all of them.

The issue of the diaspora voting is a constitutional requirement, but nothing is said about this in these regulations. I am happy that this Bill has been moved, so that we can have time to look at that. There is nothing about the issue of nomination disputes before the second round of elections, if we go for the second round. There is nothing about the nominations. There is nothing about the first election if there will be any dispute. So, what do you do? There are no rules or regulations about that. The issue of Harambees is not clear. We must be very careful, so that we are not victimized on Harambees if those issues are not clear in the rules and regulations. The issue of running mates is not clear. It is not clear on the qualifications that the President's running mate and the governors' running mates should have. Can we have an illiterate person as the President's running mate? What will happen if the President dies? Can we have that illiterate person taking over the presidency? I am happy that we are amending the law, so that we can look at those critical issues that are not there today in the rules and regulations.

Madam Temporary Deputy Speaker, it is not very clear. There is an animal called---

The Temporary Deputy Speaker (Dr. Laboso): Your time is up, Mrs. Sophia Noor! Dr. Bonny Khalwale, use your time wisely. The microphone will go off at the end of three minutes.

Dr. Khalwale: Thank you, Madam Temporary Deputy Speaker. I want to start by thanking the Minister for having come out very clearly yesterday that the exercise we are engaged in should not send a wrong message that we are attempting, through the back door to postpone the election. It is important that the country knows that we are all committed to the election taking place on 4th March, 2013. I have two small points to make.

The first one is as my colleagues have said that IEBC should, again, reexamine its mandate. When they jump and throw to us and the public rules purporting to mean that if you are a presidential candidate, you should pay so many millions and the same for those running for Governor and Senator positions. Who told them? Who gave them that power? We are not going to have a situation whereby leadership of this country is going to be a preserve of the rich. In fact, candidates should not pay anything at all. This is because the cost of doing the election is through the Exchequer. This House has voted for Kshs17.5 billion. The Chairman of the IEBC has that money. What does he want these billions that he wants to collect from thousands upon thousands of candidates that we are going to have for? I believe that during this time, the Minister will have an opportunity to regulate this. We consoled our people so that we get a clear consensus.

The last point is that whereas we are blaming the IEBC, there is something which we should help them. I am afraid that the problems that we were having at IEBC because of the tender are as a result of an apparent two centres of power. Some power is in the hands of the CEO and the other power is in the hands of the commissioners through their chairman. It is important that the Minister, during this period, brings the law so that we sought this matter out. It needs to be clear who the boss is at IEBC.

Yes, the issue of the tender might be important, but I want you to imagine a situation whereby you have a crisis about the results of the elections themselves. If they are unable to sort themselves out on the issue of the tender, are they really able to sort themselves out in the event of a run-off?

The Minister for Gender, Children, and Social Development (Dr. Shaban): Bi. Naibu Spika wa Muda, ahsante sana kwa kunipa nafasi hii ya kuzungumzia suala hili la uchaguzi. Marekebisho haya yanakuja katika muda sawa wa kurekebisha zile sheria ambazo tulikuwa tumepitisha. Hata hivyo, Tume Huru ya Uchaguzi na Mipaka ina jukumu kubwa sana kuttoa katika sifa mbaya tuliyokuwa nayo kutoka 2007 hadi mwanzo wa 2008. Janga hilo lililopata Kenya lilikuwa kubwa sana.

Tukumbuke kwamba siyo jukumu lao peke yao kufanya kazi hii ikiwa sisi pia hatutaweza kuwapatia uwezo na vile vile kufanya kazi nao. Tume hii Huru ya Uchaguzi na Mipaka ina jukumu kubwa sana. Zaidi hayo, inawapasa wakumbuke kwamba maisha ya Wakenya yanawategemea wao. Usalama katika uchaguzi unaokuja utategemea vile kazi itakavyofanywa kwa haki na uwazi.

Tume hii Huru ya Uchaguzi na Mipaka sharti ikumbuke kwamba wao si tume ya biashara ya kutengeneza hela. Hawakwenda pale kutengeneza hela ila wako pale kuwafanyia Wakenya kazi kwa kuwapatia uchaguzi unaofaa na tena wa haki. Wakumbuke kwamba kuwauliza wagombezi viti pesa hizo zote wakiwemo wanawake na walemavu--- Viti vya akina mama na walemavu havikuwekwa pale kuwatesa. Makamishna hawa wafahamu kwamba wana jukumu la kuhakikisha kuwa Wakenya wamefurahia demokrasia na Katiba hii mpya. Muhimu ni tuwe na uchaguzi bora katika hii Katiba mpya.

Bi. Naibu Spika wa Muda, ningependa kuunga mkono sheria hizi ambazo zinarekebishwa ili tuweze kutekeleza kazi na kuwapongeza Wabunge kwenye kamati zao kwa ile kazi nzuri waliyofanya ya kuwezesha kusogeza mbele gurudumu hili ambalo litatuwezesha kupata uchaguzi bora.

Ahsante sana.

Mr. George Nyamweya: Thank you, Madam Temporary Deputy Speaker. I want to take over from where Dr. Khalwale had stopped. If we do not bring an amendment to streamline the IEBC, it has a mandate under the Constitution, but under the Act, we have given the mandate to the CEO. That is truly where the problem is. This is because we now have two centres of power. Literally, you can get a situation where the CEO announces somebody as the President and the Chairman announcing somebody else as the President. It is as serious as that.

I want to ask the Minister for Justice, National Cohesion and Constitutional Affairs to very speedily bring an amendment for us to align the performance of the IEBC. It is clear to me that they are not really prepared to hold an election. We have not even yet started voter registration. They had said that by September, we would have started this. Clearly, we are not going to be ready even by the end of September. How then do you seriously think that by the time we get to next year, we will be ready to hold credible elections?

We are doing these strange things in Kenya. We want to do everything at the last minute and at night time we are *wachawis*. This is because we are forced to sit here up to midnight when we have not even read these Bills or laws and then we are bulldozed into saying so in the public interest. We are forced to say things that put us in this position. This is what is going to happen unless the Minister sits down in the Cabinet and also with all stakeholders and ask what we need in order to prepare the country for elections. We need to put aside all other things so that we have the necessary laws, rules and regulations that can enable us hold a credible election.

If we do not do so, unfortunately, the life of Parliament expires and there would be nobody to recall it. If we are not able to hold elections, what have you asked yourselves? What will happen to the country? There will be no Parliament and no way of legislating new laws. The President will be stuck there. He will not be able to go home even if he wanted to because how do you get in the next one? Surely, the reason for us to take time off and prepare ourselves---

Madam Temporary Deputy Speaker, with those few words, I support. I would also like to ask the Minister to quickly bring amendments for us to deal with the IEBC. Otherwise we are going to have a very serious crisis.

Mr. Ruto: Thank you, Madam Temporary Deputy Speaker. I think we will continue to make mistakes and I do not know who will save us. Apparently, the Executive has no idea that it has a role. I was shocked to hear the Minister for Finance tell us that they have nothing to do with this and it is only the IEBC which is concerned. We kept on reminding them about the provisions of Article 261, that, that is the business of the Attorney-General and the CIOC to prepare the Bills. This does not absolve them from ensuring that Bills related to the IEBC are published. I am shocked to see that the Minister for Justice, National Cohesion and Constitutional Affairs appearing to still be ambivalent on this matter. I want to ask the Executive to be more serious. This is not enough. They are saying that they are almost through with the Bills, yet there is still so much that has to pass through this House for us to implement the devolved governments. It is this Government that ought to put in place such systems. Unfortunately, they are unwilling to bring some Bills. For example, where are the Bills to sort out the Provincial Administration? Where are the Bills on education?

With regard to education, for example, we are about to adjourn the debate and there are matters that touch on that. In this Bill, we are talking about matters that touch on continuous registration of voters. Although it is a constitutional provision that there should be continuous registration for practical purposes, at what stage will you stop it, so that you can inspect the voters register? What access do the voters have to the register to confirm that even the person who registered one week before voting has been captured? How do we know this? We are not saying anything about identity cards and registration of persons. These are definitely going to impact heavily on the voting. They can easily disenfranchise a very huge portion of our population in this country.

Currently, identity cards are taking up to six months to come out and some up to one year. Some of them come with the wrong faces. Your names may be there but the face may belong to Dr. Boni Khalwale. There is a serious problem. Because of this, I would have preferred that we bring a Bill only to deal with the matter of the regulations. However, we have brought in much more than that. Unfortunately, we have to go through this in a hurry. The same Minister is busy thanking us even after we brought the Bill on 4th.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the Whole House today by leave of the House)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE ELECTIONS (AMENDMENT) BILL
(By Leave of the House)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! We are at the Committee of the Whole House Stage to consider the Elections (Amendment) Bill, Bill No.45 of 2012.

Clause 2

Eng. Gumbo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 2 be amended by inserting the following provision at the end of the clause.

“ provided that this applies to the first general election under this Act.”

(Question of the amendment proposed)

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I do not know why the hon. Member would want to limit these rules to the next elections. If the next Parliament or the IEBC want to amend, they can bring further rules. Why would you want to make rules for the next six months?

Eng. Gumbo: Mr. Temporary Deputy Chairman, Sir, I think the background to this regulation is very clear. Even with the two months we are asking for to go through them and do a thorough scrutiny, I think it should be possible that we look at them even if those amendments added two months; to me, that would be interim because what we are looking at here is a scenario where unless we take precautions such as this, I dare say that we are looking at a situation where the elections may not be what Kenyans expect them to be. So, I am proposing that we make that amendment to apply, so that we look at them as being applicable in the interim so that we can give them a thorough scrutiny.

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I think the hon. Member misunderstands the amendment. These rules or regulations were supposed to have been passed for posterity. What we are seeking the amendment for is the time within which they should have been passed. We should have passed them six months before the elections. The amendment says that they should be passed four months to the elections. The rules were supposed to be there for an eternity. If he has an issue with that, there should have been an amendment to the substantive section because we are just amending the time lines. The rules themselves are supposed to be for good. If the next Parliament will feel that some things should be changed, there is a window in the rules. We passed an Act to manage the elections. That Act should come with regulations. Those are the regulations that we are dealing with. Our amendment just deals with the fact that this Parliament did not have time to look at the rules. So, we are giving ourselves more time. Once we pass the rules, they will be for good.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members. If you look at the period that hon. Gumbo is referring to, you will see that he is principally talking about the 90 days and the amendment Bill is reducing that period to 60 days, because of the fact that we already have a fixed date. My understanding is that this is for the next elections. The original spirit of the Act should prevail. We are just managing an interim arrangement. So, I do not know what the Chair will say and the Minister too.

Mr. Namwamba: Mr. Temporary Deputy Chairman, Sir, I just wanted to add my voice to this, so that we understand the background that informed this particular proposal. Perhaps, Members want to remember that the IEBC set a precedent with regard to the timeframe for the voters register when they realized that they might not beat the deadline given the delay in acquiring the biometric register system. They, indeed, brought a proposal to reduce the time required from, I believe, 60 days to 45 days.

We borrowed a leaf at the Committee after realizing that the time we had to conclude these rules was not sufficient to enable us to fall within the timeframe provided for in the statute. That is why we sought an amendment just for this particular election, because the delay is specific to the coming elections. In fact, Members ought to appreciate that what we are doing now is unprecedented, that is having these rules considered, debated and approved by the House. It has not happened before. Previously, the Electoral Commission prepared these rules, gazetted them and proceeded to implement them. However, under the new system, the rules will have to come here, they have to be debated and approved before the IEBC can proceed to publish them.

Mr. Temporary Deputy Chairman, Sir, the rationale really was to seek an extension specific only to this particular election, the first election under the new Constitution.

The Temporary Deputy Chairman (Mr. Ethuro): So, are you agreeing with Eng. Gumbo or you are negating his amendment?

Mr. Namwamba: Mr. Temporary Deputy Chairman, Sir, forgive me but I do not seem to have got the gist of Eng. Gumbo's proposed amendment. But really the idea is that this amendment is specific to this election.

The Temporary Deputy Chairman (Mr. Ethuro): So, you are agreeing with Eng. Gumbo?

Mr. Namwamba: If that is where he is headed, then we are in the same boat if not in the same stream.

The Temporary Deputy Speaker (Mr. Ethuro): I think even Mr. Abdikadir is in agreement.

Mr. Namwamba: Thank you, Mr. Temporary Deputy Chairman, Sir.

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

(Clause 2 as amended agreed to)

Clause 3

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

THAT, Clause 3 be amended by deleting the following provision at the end of the Clause:-

“Provided that this applies to the first general election under this Act.”

It is for the same reason that as Mr. Namwamba has eloquently stated, given the fact that we are debating---

The Temporary Deputy Chairman (Mr. Ethuro): Eng. Gumbo, since we have ventilated on the same issue in Clause 2, I am sure it is for the same reasons.

(Question of the amendment proposed)

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

(Clause 3 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Elections (Amendment) Bill, Bill No.45 of 2012, and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

**REPORT, CONSIDERATION OF REPORT
AND THIRD READING**

THE ELECTIONS (AMENDMENT) BILL

Mr. Ethuro: Madam Temporary Deputy Speaker, I beg to report that the Committee of the Whole House has considered the Elections (Amendment) Bill, Bill No.45 of 2012 and approved the same with amendments.

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

(Question proposed)

Mr. Affey: Madam Temporary Deputy Speaker, I want to, first of all, congratulate the mover but also to say that there is a lot that needs to be done on the management of the next general elections.

I just want to alert the House that I have already alerted the Speaker and the Office of the Clerk as we speak now, of a draft Bill regarding further amendments to the Elections Bill particularly on the voting of Kenyans in the diaspora. As you know, regulations alone are not enough. As it is, they are so insufficient. We do not know how the thousands of Kenyans outside in the diaspora who want to participate in the next general elections will vote. Therefore, as I bring amendments to this Bill I hope that the House will in the same spirit support me so that we can have proper laws regulating elections come the year 2013.

I beg to support.

(Question put and agreed to)

Mr. Abdikadir: Madam Temporary Deputy Speaker, I beg to move that the Elections (Amendment) Bill, Bill No.45 of 2012 be now read a Third Time.

(Question proposed)

Mr. Njuguna: Madam Temporary Deputy Speaker, very briefly I wish to thank the mover of this Motion and secondly register a very strong determination that this time round, the two million dead voters who woke up one morning queued and voted, this time, they will not be allowed to do so and the IEBC should not be a replica of the previous electoral commission.

Eng. Gumbo: Madam Temporary Deputy Speaker, from what has transpired in the House today, I think it is incumbent upon us as a House to thoroughly re-look at all the elections laws that we have passed here so that we avoid pitfalls that we have experienced in the past.

There are problems with the IEBC Act. There are problems with the Elections Act. As the National Assembly of the Republic of Kenya we owe it to the people who brought us here that we go into the elections with as minimal doubts about its success as possible.

Thank you.

(Question put and agreed to)

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

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.23

THE ONGOING TEACHERS' STRIKE

Ms. Chepchumba: Madam Temporary Deputy Speaker, I rise under Standing Order No.23 to move a Motion of Adjournment that this House discuss the ongoing strike by teachers and the events that have taken place since Monday when it started.

Madam Temporary Deputy Speaker, the teachers strike has brought learning throughout the country to a standstill and the Government seems to be enjoying every episode of it without any clear cut agenda on how the suffering can be brought to an end and pupils to resume their classes, given that this is a crucial time when final exams will be starting in a few days. These exams will determine the future of our children and the country.

This House is competent to discuss the above pertinent issue and come up with a lasting solution that will see normalcy return to our schools and indeed the institutions of higher learning.

But you will ask why teachers who are exercising their democratic rights are being beaten, harassed and penalized for going on strike yet they gave ample notice of the same and that constitutionally, they obeyed the law of the land. Why has the Government not seen it fit---

The Temporary Deputy Speaker (Dr. Laboso): Ms. Chepchumba, Mr. Mwatela is on a point of order.

The Assistant Minister for Education (Mr. Mwatela): Madam Temporary Deputy Speaker, I most vehemently object to the language that "the Government is enjoying the suffering of both teachers and pupils" of this country. The Government is not "enjoying".

The Temporary Deputy Speaker (Dr. Laboso): There is a further point of order by hon. Olago.

Mr. Olago: Madam Temporary Deputy Speaker, the issue we are debating is quite grave. I know that hon. Simam would wish to refer to all that she can refer to, but is it in order for her to read out a prepared speech, and not just refer to talking notes?

The Temporary Deputy Speaker (Dr. Laboso): Hon. Perris Simam, as you move the Motion, please, desist from reading from the text of your document. Just pick out the points.

Ms. Chepchumba: Madam Temporary Deputy Speaker, I am not reading a speech. I was just referring to the points I have made. So, allow me to move on.

Why has the Government not seen it fit to come up with a policy of implementing the 1997 teachers' pay deal, given the important part that teachers play in the country? Why did the Government deem it fit to wait for a special Cabinet session to get Kshs13 billion to pay

teachers, instead factoring the increment into the annual Budget Estimates over the years? Why can the Government not bring a Supplementary Budget to provide for the teachers' deal? Can they explain why funds that have been returned to Treasury cannot be used to pay the teachers?

Teachers have, indeed, been taken for a ride. It is high time that the Government addresses this matter with urgency, so that students can get back to school. Teachers need to be listened to but the Government seems to be sleeping on the job.

Madam Temporary Deputy Speaker, Sir, I beg to move and humbly request hon. Affey to second the Motion.

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

Mr. Affey: Madam Temporary Deputy Speaker, I thank you for giving me the opportunity. I want to congratulate hon. Simam. You know, there is something very special with teachers. Even in this House, there are quite a number of us who have been teachers. I was a teacher. The Mover of the Motion was a teacher. Dr. Khalwale might have taught at one stage in life. Most of us were teachers.

Therefore, this is not a matter we can joke around with. Teachers are pursuing a legitimate right. They are pursuing an agreement they reached with the Government. It is not out of the blues that teachers have gone on strike. The Government knew that they had entered into an agreement with teachers, but the same Government has refused to implement it. It is, therefore, the fault of the Government, and not that of teachers.

Madam Temporary Deputy Speaker, I was very surprised when I saw teachers on television, being chased around and tear-gassed by the police as if they were criminals. It is the height of shame for the Government to do this kind of thing to teachers. I want to request the Commissioner of Police to look at those television clips, carry out investigations and arrest the police officers who have been beating up teachers for trying to exercise a right provided for in the Constitution. Let police officers look for criminals to deal with, and not teachers, who are mentors of our children, and who mentored all of us in this House.

I want to plead with the Minister, who is my party's Secretary-General, to handle this matter with a lot of care because we do not want to lose the support of teachers by virtue of the way he approaches this matter. He should get the Cabinet or the President or the Prime Minister to respond to this matter, which has arisen as a result of failure by the Government to play its role and not as a result of failure by the Minister, as an individual.

Madam Temporary Deputy Speaker, hon. Mutula Kilonzo did not sign the agreement with the teachers in 1997. The agreement was signed by another Minister who may or may not be in this House. It was a Government decision. It was not Mutula's decision. So, I want teachers to understand, when they see hon. Mutula Kilonzo speak; that, he speaks because the President and the Prime Minister have asked him to speak that way.

Therefore, there is need for this House to assist hon. Mutula Kilonzo. For that matter, I want the Minister for Finance to bring a Supplementary Budget to the House for approval to provide for money with which he can pay the teachers of this country what is due to them. On the other hand, I want to plead with teachers that, because we are approaching the national examinations, they give dialogue a chance.

With those few remarks, I beg to support.

(Question proposed)

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

Mr. Olago: Madam Temporary Deputy Speaker, this matter is, indeed, very grave. I did not see the Minister for Education this afternoon. He was not present but I requested for a Ministerial Statement, in which I wanted four specific items addressed. For his benefit, I will repeat them. I wanted the Minister to address the following:-

(a) The chronology of the Collective Bargaining Agreement (CBA) and the Legal Notice on which the strike is based, and the legality of the strike;

(b) The action the Ministry is taking to reconcile or negotiate with the teachers;

(c) The legality of the Minister's directive to the County Directors of Education to identify teachers who are on strike, so that their salaries may be stopped; and,

(iv) What steps the Ministry is taking to end the strike and bring normalcy to the public education sector, ahead of the forthcoming national examinations.

Madam Temporary Deputy Speaker, it is a pity that the House is not as full as it should be when a matter of this magnitude is being debated. Time has come for my learned senior friend, the Minister for Education, to show leadership in the Ministry, not by issuing threats and giving directives but by engaging his expertise as a lawyer and arbitrator of many years standing to get the KUPPET and KNUT officials round the table and let them understand that what they are claiming is rightfully theirs.

The CBA they entered into, and the Legal Notice, are as valid now as they were then. It cannot be said that the CBA and the Legal Notice were issued by "that Government". No! The Government that we have now is the successor to that Government. This Government must carry out its responsibility by meeting the liabilities of the previous Government. So, in my view, the teachers are right to strike, but what do we do to get ourselves out of this stalemate? That is the most important thing for us to understand and look at, as Parliament.

Madam Temporary Deputy Speaker, as the teachers go on with their strike, which they are entitled to do under the law, it is only fair that they do so with decorum. What we saw in the media yesterday, where some teachers were frog-marching other teachers and stripping them semi-naked, thus humiliating them in public; is not the way to get the sympathy of Kenyans. Teachers need to conduct themselves with decorum.

Teachers need to conduct themselves with decorum but as they do so, I wish to concur with hon. Affey and hon. Peris Simam for saying that the only way out of this crisis is for the Ministry of Education to co-ordinate very closely and urgently with the Ministry of Finance so that a supplementary budget is brought to the House and approved, and arrangements are made to pay the teachers what is due to them. If this is not done, then this country runs the risk of sliding down slowly to management of affairs of staffing by strikes. That is not what we want to do. Already, we have had enough strikes and we do not want any more. But on this occasion, the teachers are entitled to what they are asking for. The only thing that the Government should do is to invite them on the table and have them accept the mode of payment of what is due to them.

Madam Temporary Deputy Speaker, I wish to support the Motion.

Mr. Ogindo: Madam Temporary Deputy Speaker, I rise to support this Motion. I want to start by saying that, indeed, this country is constrained in terms of budgetary provisions. But that is an agreement that was signed in 1997. I thought it was incumbent upon the Government--- That is because the Government of the Republic of Kenya is a going concern. There shall always be the Government of the Republic of Kenya and all the contracts that are entered into by the Government are binding on the Government.

Madam Temporary Deputy Speaker, I believe my friend, hon. Mutula Kilonzo, came in late in the day in the Ministry. But I also believe it is still possible to bring the teachers' union to

a round-table discussion. We must not make this a populist agenda. I know my party, the Orange Democratic Movement (ODM), believes in education and adequate, commensurate remuneration to the teachers. But our budget, as it stands today--- Bringing in a supplementary budget may not be the solution because we will need additional revenue to fund additional expenditure. However, I strongly believe that within the budget, there can be some little tidying up that can raise some revenue that will make the teachers and the Government meet somewhere in the middle.

The demand that has been put by the teachers is quite mind-boggling and, in as much as somebody would want to honour it, the legality is against that kind of demand. There is bound to be a spiral effect of honouring such a demand. However, we must appreciate the role that teachers have played in this country. I am a beneficiary of one late Peter Allan Atonga who taught me in Marindi Primary School. That made me what I am today. I must extend the same commendations to my former teacher Samuel Sawa Maneno who taught me at Alliance High School. Those teachers did a great job. We must realize that this country needs the manpower resource. That is a function of the teaching fraternity. It is with the quality of the children that pass through the hands of the teachers that we have the quality of the country that we want to see.

Madam Temporary Deputy Speaker, I want to plead that several pupils and students are just about to sit for their exams. We must not deny them the chance of last minute teaching because of budgetary constraints. Teachers are all adults. They should be able to come to the negotiating table with open minds, so that we can make the best out of the circumstances. However, having said that, I must point out that the teaching profession is a noble one. Teachers are role models to a majority of children in this country. What a few of them did must be condemned because it borders on criminal activities.

Madam Temporary Deputy Speaker, we do not want the good teachers who are in their strike peacefully--- That image must not be destroyed by the few among them who have criminal inclinations. I know the Minister is a negotiator. I know the Minister for Finance is another good Minister. The two of them put together with the teacher's union will always work out an agreement that can take teachers and children back to school.

With those remarks, I support.

Mrs. Noor: Thank you, Madam Temporary Deputy Speaker for giving me this chance to contribute to this very important Motion of Adjournment. I want to support the Motion and from the onset, I want to declare my interest. I have been a teacher and I was among those people who negotiated in 1997. So, I feel betrayed by my own Government. That is the case with all the other teachers in this country. It is important that the Government owns up that it has not taken up that responsibility seriously. We should not say that it was the Government of 1997. Governments do not work in vacuums. Governments work in continuity and the Government that entered into that agreement with the teachers is still the same Government of Kenya.

So, mine is just to emphasize the important role the teachers play in the society. They are the role models at the grassroots for the society, children and for everybody. We must respect them. We should give them the resources that are equivalent to the key role that they are playing in the society. Our children are suffering. The poor and vulnerable parents in the villages are suffering because they cannot take their children to private schools. All of us who are able in this country have taken our children to school and they are comfortable. But for the vulnerable and poor grassroot mothers – mothers who are household heads in the family - are suffering today. I am at pain standing here and seeing that our children are suffering and our teachers are on the

streets asking for something that is their basic right. The Government entered into an agreement with them. It is very sad.

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. Would it be in order, given the amount of interest that this matter is raising, to reduce our contribution time to three minutes to allow hon. Members to talk?

The Temporary Deputy Speaker (Dr. Laboso): Is that the feeling of hon. Members? That is because, currently, what is allowed is five minutes. But we have about 40 minutes before we adjourn. I have a full list of hon. Members who want to contribute. So, shall we reduce the time to three minutes?

Hon. Members: Yes.

The Temporary Deputy Speaker (Dr. Laboso): So, three minutes it shall be. Hon. Sophia Noor, just conclude.

Mrs. Noor: Madam Temporary Deputy Speaker, I will conclude by saying that we have given ourselves a new Constitution. We are in a new country and all Kenyans who participated in the Constitution making process in this country were looking for changes. It is not right for us to sit---

The Temporary Deputy Speaker (Dr. Laboso): Hon. Sofia, unfortunately, your five minutes are over. So, please, allow the next speaker. The Minister for Justice, National Cohesion and Constitutional Affairs!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Madam Temporary Deputy Speaker, I also rise to support the Motion. I start by also declaring my interest as Mrs. Noor did. I am a son of a former primary school teacher. I do know when teachers think about their salaries and have to strike to get their welfare addressed; I also assure them that they have every right under---

Mr. Ruto: On a point of order, Madam Temporary Deputy Speaker. The Speaker who has just left is a Member of the Kenya Government; he is a Minister. He is part of the problem but he is coming here to tell us that he supports the teachers' strike. So, where is the solution? Are you giving them a solution?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Madam Temporary Deputy Speaker, if my brother was a little bit patient, probably, he would understand what I am talking about. I am a Kenyan, a Member of Parliament as well as a Minister in the Cabinet and above all, I am the Minister for Justice, National Cohesion and Constitutional Affairs. I know that this Constitution gives every Kenyan under Article 41(2)(d) the right to strike. I believe that the teachers have every right under our Constitution to strike. As the Constitution gives you the right to strike, it equally gives you the responsibility to enjoy and exercise that right within the confines of the law. We were all very disturbed at the scenes of barbaric violence that we saw; we saw principals being stripped and kicked like thieves at the market place. We want to urge teachers that, indeed, they have the right to enjoy their rights under Article 41 but they must do so in a decent, dignified and lawful manner.

The violence we have witnessed in the last few days---. Apart from the teachers, what we saw in Mombasa, Wajir and Mandera showed there is a culture of violence that is growing in this country and that is very worrying. We need to do something to stop this culture and practice from growing and getting out of hand. We know that we are still recovering from the post-election violence, but we are already witnessing pre-election violence. So, we must do everything to say no to the culture of violence and to encourage Kenyans to exercise their rights, but do so decently and within the law. Above all, we must look at the culture that is increasing,

namely the disrespect for the rule of law. I heard one of the teachers speak. He said that they would not obey the court order because the Government did not obey the court order on the county commissioners. We saw the National Hospital Insurance Fund (NHIF) commissioners also say that they would not respect the court ruling because the Government had not respected the order on the county commissioners.

This is a worrying situation. As we speak, we must find a way of saying we cannot accept this confusion on one hand, enjoy our rights under Article 41, and at the same time disrespect the rule of law. We need to promote the culture of constitutionalism which is all about fidelity to the spirit and letter of the law. It is important for the future of this country. We believe that there is a way out and threats, either from the Government side or from the teachers, will not do. Violence is not the answer. We are saying that through dialogue, these matters can be addressed.

I am very grateful to hear from my learned senior, Mr. M. Kilonzo, the Minister in charge that already dialogue has started. We want to urge all parties to embrace dialogue and to also develop some calm ahead of the coming elections. If we are going to have our teachers get violent and the students are seeing the scenes of violence on national television---. If we cannot tell the difference between a principal, a teacher and the young “destroyer” who was roughing up Miguna Miguna, then this is a very worrying situation.

Let us embrace the culture of dialogue and it has begun. I want to assure Kenyans and the teachers that Mr. M. Kilonzo will be addressing these issues.

Mr. Namwamba: Madam Temporary Deputy Speaker, Richard Whitney once said that a man is called selfish, not for pursuing his own good but for neglecting his neighbours. What the House is doing this afternoon is to rise up and address the good of the teachers of this country. I just want to go on record, and it is good that this Ministry is headed by an eminent senior counsel; he needs to put on record - I believe he has done so - that Article 41 of the Constitution is emphatic and express. It is unequivocal that what teachers are doing right now is their Constitutional entitlement. I want to read it verbatim for the record.

“Every person has a right to fair labour practices. Every worker has the right to fair remuneration, reasonable working conditions, to form, join or participate in the activities and programmes of a trade union and fundamentally to go on strike.”

That is the law; the Constitution of the Republic of Kenya. Therefore, for this Government to attempt to prevaricate and circumlocute and behave in a manner suggesting that what teachers are doing is anything other than constitutional is unacceptable. It is actually an aberration and against the spirit and letter of the law.

It is interesting to listen to the Minister for Justice, National Cohesion and Constitutional Affairs urging teachers and the people of this country to obey the law. It is said that you must say what you mean and mean what you say. If , *Bwana Waziri*, you meant what you said and you have said what you meant, please advise the Cabinet and the Government to lead the way in obeying the law. If everybody in the country watches as the Government flouts, disregards and disobeys court orders left, right and centre, what motivation would they, or any ordinary Kenyan, have to obey the law?

So, can the Government start obeying the courts today as we speak? Today, county commissioners still sit in their offices. They are still earning salaries as county commissioners against a court order. So, please, could you get that log out of the Government’s eye before you point at the little speck in the eyes of the teachers of this country?

Madam Temporary Deputy Speaker, let us not belabour the point. The teachers of this country are a great resource, but they have suffered greatly since 1997 when this agreement was entered into.

The Temporary Deputy Speaker (Dr. Laboso): Mr. Namwamba, unfortunately we had agreed on three minutes.

Mrs. Shebesh: Madam Temporary Deputy Speaker, Sir, I do not want to repeat to the Minister what he has heard eloquently said by my colleagues. As much as the Constitution has been quoted for teachers, and I respect what they are doing, I do not want to belabour the point. I also know that teachers are a great source of votes. So, let us not also pretend that all this good will is just about teachers.

In the Bill of Rights of the Constitution, every child has the right to free and compulsory basic education. It also says that a child's best interests are of paramount importance in every matter concerning the child. We may love to talk about teachers or hit at the Government, but we ourselves in this House passed that Teachers' Service Commission Act to make the commission independent. We also know that the teachers' strike will not stop until the agreement of 15 years is dealt with. It will never be about the current Minister or the Minister who was there before him or any other Minister who will come after them.

What is fundamental is that as the media are following teachers to the streets, they do not go to the empty classrooms and in the villages to see children who are doing nothing in their homes. They are not going to look at the cost of what those children are not getting in terms of education. Mrs. Odhiambo-Mabona, will tell you that those children have a right and can sue because their rights have been violated. Even as we speak for teachers, we must always remember that two groups here have rights and the other's rights are being violated; we are quiet on them and yet they do not have unions and have no ability to strike. Those who have unions and are under a commission--- I want us to get it right once and for all as a country, because we did not provide for the power of striking to stop everybody from negotiating, or building consensus; it is just about them holding people to ransom all the time.

Mr. Minister, the dialogue that is continuing must be fair, and must have in mind the right of the children of this country. I am speaking as a legislator and also as a mother of the children of this country.

With those few remarks, I beg to support.

The Assistant Minister for Labour (Mr. Ojaamong): Madam Temporary Deputy Speaker, I also beg to support this Motion of Adjournment. I think it is long since teachers started demanding for their fair deal. I remember almost four months back, I was with Prof. Kamar in my constituency, when teachers told her to tell hon. M. Kilonzo that the Government owes them their arrears.

In fact, they were circulating a list. They just wanted to balance because if you looked at the civil servants, despite them having similar education, they get more allowances than the teachers. I saw that as a very genuine case. But I must also confess that the Government has taken long to address this issue. This is the opportunity it will now have. Even if it means taxing Kenyans more to reward the teachers, let us do it because in so doing, our pupils in schools will be able to get quality education that has been lacking all along. In fact, the Government has run away from most of its responsibilities such as building schools and supplying desks. Even supplying text books in schools is now in a mess. So, let us use this opportunity to correct the wrongs that have been caused so far. I appeal to hon. M. Kilonzo to be brave enough and take those principles head on.

Thank you.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, thank you for giving me this opportunity.

First of all, I want to agree with my colleagues that what the Government is doing is violating the rights of teachers. We can cite all manner of Articles in the Constitution, including Article 41 on the right to strike and Article 37 on the right to picket. Unfortunately, I think the Minister for Justice, National Cohesion and Constitutional Affairs has just spoken and left. He needed to hear this because it is not just an educational issue. It is also a justice issue. We need to educate our Ministers that with the new Constitution, we provided those rights so that they are not violated. So, when teachers actually go on strike, let them be. But I also want to encourage teachers – just like the way hon. Olago has done - that for us to empathise with their situation, they must also obey the Constitution. So, they should not also mistreat their fellow teachers who may not agree with them.

Madam Temporary Deputy Speaker, the other thing that I want to encourage this Government to do is: Do not scream integrity at us and quote Chapter Six when, as a Government, you do not know what it means. If you look at Chapter Six, it talks about integrity. Integrity is about honouring your word. You gave your word to teachers and you must respect that word. It does not matter even what the law says because I agree with the position of the law that they have a legal right. But even if they did not have a legal right, first of all, they have a right under the letter of the law. But they also have a right in equity. They also have a right under Chapter Six of the Constitution because we must protect that.

Madam Temporary Deputy Speaker, by the legal notice that was done, they have a right. If you are in doubt, go and ask the Vice-President and Minister for Home Affairs, who is a very senior Member and senior lawyer in Government. He can give you a legal opinion instead of doing those other things that I do not want to say.

Madam Temporary Deputy Speaker, I want to say that hon. Rachel Shebesh has spoken about the right of children, which I agree with wholly. This is a situation of two rights, which are conflicting and it is the Government that can help us. For me, the way the Government can help us is by taking responsibility. That is because it is the one that has failed to exercise due diligence to stop teachers from going on strike.

I know that the hon. Minister for Education is an excellent person. He is a human rights person. He taught me law. So, I know that. He was doing excellent as the Minister for Justice, National Cohesion and Constitutional Affairs. I know you have been put between a rock and a hard place. In your heart, you want to do the right thing. But you have all those people behind you; who are pushing you.

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

Mr. Njuguna: Madam Temporary Deputy Speaker, mine will be very brief.

First, let me say that we have seen teachers being harassed, arrested----

The Temporary Deputy Speaker (Dr. Laboso): Why are you doubting? He is hon. David Njuguna Kiburi Mwaura.

Mr. Njuguna: Madam Temporary Deputy Speaker, I am the only Member with so many names in this House. I am happy that you have been able to tell the Members.

We have seen teachers being harassed by the police. Some of them were arrested and locked up. This being a civilised society, those experiences should not be seen. I urge the Ministry that is responsible to make sure that teachers, who are now languishing in cells, are released immediately.

Secondly, I urge the Minister for Finance, who is here with us, to make sure that the way he is paying the external debt; he should also pay the internal debt. It is the obligation of the Government to make sure that teachers are paid their dues. That is key to harmonizing the education sector in this country.

The Minister for Finance should immediately stop illegal payments the Government is making to unknown bodies such the KenRen Fertilizer Factory. We have wasted a lot of resources which should be directed to teachers----

The Temporary Deputy Speaker (Dr. Laboso): There is a point of intervention from hon. Kaloki.

Prof. Kaloki: On a point of order, Madam Temporary Deputy Speaker. I am just wondering whether the Minister for Finance is here, as is being said here.

The Temporary Deputy Speaker (Dr. Laboso): Hon. C. Kilonzo, what is your point of order. Do you have a similar point of order? The Minister for Education is here.

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, it is a point of information to the hon. Member who has just sat down. Of course, the Government is not serious. As far as they are concerned, it is public relations. That is why the Minister for Finance is not here. It is because we are talking about money. So, it is all about public relations.

Mr. Njuguna: Madam Temporary Deputy Speaker, to conclude, we should sympathise with the plight of our kids in primary schools who are now preparing for their final examinations, and even KCSE candidates. If we are not careful as a Government, we are likely to compromise the standards and quality of education in this country.

Finally---

The Temporary Deputy Speaker (Dr. Laboso): Your time is up. Hon. Odhiambo.

Mr. Odhiambo: Madam Temporary Deputy Speaker, I also wish to support this Motion. I am glad that the Minister for Education is here. We are showering praises on the Minister for Education. But I do not believe we should do that. He is a very intelligent man; very wise. The moment his colleague, the Minister of State for Public Service raised salaries for civil servants, why did he not think that it was also necessary for him to consult the teachers union in advance and negotiate with them? He could even have promised them that as children of Kenya - because all of us are Kenyans - now that we have raised salaries for civil servants, be patient. We are going to raise your salaries as well. After all, civil servant salaries were only increased by a maximum of 22 per cent. He could have done that and saved the situation. It was evident that the strike was going to come. It was even raised on the Floor of this House. I remember the Assistant Minister for Education denying that he was not aware of the warning that the teachers union had given, as if he is not part of this country. Are Kenyans trying to show that teachers do not belong to Kenya, and other civil servants are more Kenyan than teachers? We are all the same. So, we should treat teachers equally. The other day, when the teachers who are on strike tried to conduct holiday tuition, the Government said they are mercenaries. They are trying to use their position to get money from parents. But we know very well that there is a shortage of teachers. So, teachers are actually working extra hours.

For those extra hours nobody pays them. To make it even worse, when they ask for their rightful money which was awarded to them in 1997, they are still being told to go the Salaries and Remuneration Commission. But when hon. Dalmas Otieno was awarding the civil servants, nobody went to the Salaries and Remuneration Commission. Why are we applying double standards for the same people who belong to this country? It is very important that the Minister acts immediately and saves our innocent children from suffering, because when two bulls fight, it

is the grass that suffers. Right now, it is the children who are suffering. Some of even those Union members can afford to take their children to private schools. What about the ordinary Kenyan who cannot afford? This is very urgent because the children are suffering. Minister, please, listen to the voices of Kenyans, particularly poor Kenyans.

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Madam Temporary Deputy Speaker, I rise to support.

Madam Temporary Deputy Speaker, first of all, all of us have a duty to respect the rule of law, be it teachers or Members of Parliament. The teachers should come out and negotiate with a clean heart. If you check the history, anytime we have had elections, teachers have gone on strike. It happened in 1997, 2002 and 2007.

Mr. Ruteere: On a point of order, Madam Temporary Deputy Speaker. Is the hon. Member in order to mislead the House that this is not a negotiated package that teachers are fighting for, when it is true that in 1997 they negotiated for a 200 per cent salary increase, 300 per cent responsibility allowance and, therefore, what they are fighting for is what was negotiated and gazetted?

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Madam Temporary Deputy Speaker, what I am saying is that in every election year, teachers go on strike. It is a fact. I am not talking about whether or not the negotiations were there. I know that they were there, but why do they always wait for third term to go on strike? It is a right to ask for salaries and for the Government to pay them. The Government has got money. There is extra money that we have from the Independent Electoral and Boundaries Commission (IEBC); Kshs36 billion. We do not need an extra Budget. The Government needs to be serious and talk to the teachers. They should negotiate in good faith. The teachers should come out and negotiate in good faith.

Madam Temporary Deputy Speaker, finally, they should also understand that there is a limitation on the Budget. The Government will not print money. It will only raise taxes and we will pass the Budget here. So, the critical thing here is: Let us understand each other as Kenyans and agree that this country belongs to all of us. None of us would be here if it were not for the teachers. We were taught by the teachers. The businessmen, engineers and lawyers in this country have been taught by teachers. So, teachers have a critical role to play in this country. They are the pillars of development in this country. They have a genuine issue which will be supported by the Government. The Government cannot say that it does not have money. The money is there and I have given an example where the source is. Let the negotiation be done in good---

The Temporary Deputy Speaker (Dr. Laboso): Your time is up!

Hon. Ruteere!

Mr. Ruteere: Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity to support this very critical debate.

Madam Temporary Deputy Speaker, I was part of those who negotiated the 1997 salary agreement. I am one of those who went to the Kabarak home of the former President where we were given the greenlight that we would get the salary increment. But after that, it is being achieved through a series of strikes. The teachers have a basic role to educate the children, but they cannot do it when they are hungry and their children are not going to school. Let me correct the impression that teachers' union officials take their children to private schools. During the strike no teachers' union official will have his or her child in a private school. Even if they are there, they are told to go on strike. I was one of those who had children in private schools, but during the strikes, all our children were home together with the others.

Madam Temporary Deputy Speaker, the teachers are asking for one simple thing: Feed us well and we will teach the children. The Minister should be ashamed that the teachers are being beaten by the police. The issue of thuggery emanates from the way the police are handling the teachers. Why will the students not start fighting and cause havoc in schools, when their own teachers are being beaten and displayed in public? Is this the peaceful process that we want this country to have? It is the teachers who will impart the kind of knowledge that these children will have responsibilities for.

Madam Temporary Deputy Speaker, I am urging the Government not to waste time because teachers will not go back to classrooms empty handed. Teachers are ready to continue with their strike until they achieve what they want to achieve. It does not matter whether you tell them they are not obeying court orders. Court orders have been put aside by the Government itself. The Office of the President has put aside court orders. So, why should the teachers be the first ones to show an example of obeying court orders when they are angry? It is a shame that the children of the rich are accessing education in private schools here and abroad. They have enough teachers while the children of the poor do not even have enough teachers. One teacher teaches between 55 and 60 pupils, yet the maximum should be 40. When you ask for tuition to---

The Temporary Deputy Speaker (Dr. Laboso): Your time is up! Hon. Members, the Minister would like ten minutes to respond and there is a whole list here which I am unable to execute.

Just two minutes, hon. Kiunjuri!

The Assistant Minister for Public Works (Mr. Kiunjuri): Madam Temporary Deputy Speaker, there is an impression being created that teachers always go on strike every election year. That is not true, because teachers have been agitating for their rights throughout. Even last year they were on strike.

Madam Temporary Deputy Speaker, the other question that we must ask ourselves is: Did teachers give notice to this? Did they try to negotiate with the Government before they went on strike? They answer is: Yes, they tried to negotiate.

Mr. C. Kilonzo: On a point of information, Madam Temporary Deputy Speaker. I just want to inform the good hon. Assistant Minister – and I pray hard that he becomes the next Governor – that the teachers have been conned by the Government. They are being beaten by policemen, who have been conned by the same Government. They are taken to hospital and received by nurses who have been conned by the same Government and treated by doctors who have been conned by the same Government. All that is reported by the Kenya Broadcasting Corporation staff who have been conned by the same Government.

(Laughter)

The Assistant Minister for Public Works (Mr. Kiunjuri): Madam Temporary Deputy Speaker, the question that we must ask ourselves is: Are teachers responsible? The answer is that teachers are so reasonable. They are the foundation and beasts of burden of this country. They work under the worst conditions in this country. In fact, what teachers are claiming for is not even an eighth of their right. Today if teachers were to call for their rights, from their working conditions onwards, they would require to be paid even 1,000 times what they are being paid today. They are so reasonable that all they are asking the Government is to fulfill its obligation. All they are asking is: “We negotiated with you and you promised that you were going to fulfill your obligation. Please, pay us.” You can imagine the way we wake up every

morning and say the Lord's Prayer. The Government has subjected the teachers to even forget God in the morning and pray for the Government to pay their salaries.

Madam Temporary Deputy Speaker, we must make sure that teachers are no longer subjected to this kind of treatment. We must pay them well. Teachers wake up every morning to read newspapers and hear from radio of how corrupt this Government is: That 30 per cent of the money goes to corruption. That is over Kshs300 billion every year. You wonder when the Government says that it cannot get money to pay teachers and we are not able to fight corruption which is now official---

The Temporary Deputy Speaker (Dr. Laboso): Mr. Kiunjuri, sorry, your time is up. Hon. Members, I have to allow the Minister. So Mr. Ruto, Dr. Khalwale, Capt Wambugu, Dr. Mwiria, Messrs. I. Muoki, Lagat and M'Mithiaru; Prof. Kaloki and Mr. Washiali, you will have to allow the Minister.

Mr. Ruto: But there is no Government here!

The Minister for Education (Mr. M. Kilonzo): The Government is standing here!

The Temporary Deputy Speaker (Dr. Laboso): Mr. Ruto, what do you mean there is no Government yet the Minister is here?

Mr. Ruto: Allow me to explain.

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, allow me to put facts on the table as opposed to---

(Several hon. members stood up in their places)

Please, protect and defend me so that I can put the record straight.

First, Articles 218 and 221 are the ones which provide for Budget making in Kenya and that responsibility rests in this House. When I was appearing before the Departmental Committee and in this House fighting for the Budget of the Ministry including the money to recruit more teachers, not a single Member of Parliament, not even the Committee raised the question of increasing the money in respect of the 1997 agreement. That is a fact!

Fact No.2 is that unless the country follows Articles 218 and 221 and gives me money, it is not fair to bash the Government; to bash the Minister because I have no access to the country's resources except through Parliament. That is a fact!

This House enacted the Teachers Service Commission (TSC) Bill and it was assented to on 24th August, 2012 and the commencement date was 31st August, 2012. This Act has a procedure---

(Several hon. members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Please take all the points of orders. Mr. Ruto, please take a minute!

Mr. Ruto: On a point of order, Madam Temporary Deputy Speaker. The Minister did not present to Parliament a pending agreement with the teachers. We asked the Minister to increase the number of teachers but he did not. The Minister for Finance refused. Teachers have no allowance; even if you are a headmaster, there is nothing to go with it. There is no need even to be a headmaster. The same Minister has done nothing to tell Parliament about these issues and the whole Government has denounced him. There is no Government here. He is the only person

in the Government here today. Even Mr. Kiunjuri, Oyongo Nyamweya, everybody else including Mr. Ojaamong and so there is no Government.

Mr. I. Muoki: On a point of order, Madam Temporary Deputy Speaker. The Minister is not in order to say that this House did not approve because the process is that the Ministry proposes the Budget and Members either endorse it or otherwise. I am a Member of the Budget Committee and I remember that in Naivasha we fought for this issue. So it is not in order for the Minister to say that Members of this House did not support the Budget provision for teachers.

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. Is the Minister in order to mislead the House by suggesting that the budgetary process is done in a *jua kali* manner; that we all come here and start writing it at the Table, when in actual fact, the Minister proposes and we accept? Is he in order?

Dr. Khalwale: On a point of order, Madam Temporary Deputy Speaker. I would like to appeal to the Minister that he seems to be missing the theme of this Motion. The theme of the Motion is for him to come and explain to us what he is doing to return the country to normalcy. We would like him, kindly, to change his tone. The strong points that he is giving us are important, but he will give them to the teachers during negotiations. Right now, let us have a tone that will return our children to class.

Prof. Kaloki: On a point of order, Madam Temporary Deputy Speaker. As the Minister makes his remarks, he needs to note that in 1997, the Budget for this country was Kshs250 billion. At the moment, it is Kshs1.4 trillion. That means that the Ministry of Education should be able to cater for the salaries of these teachers.

Mr. Wambugu: On a point of order, Madam Temporary Deputy Speaker. Is the Minister in order to continue misleading this House about the Budget issue? He should come out very clearly and cleanly to indicate what steps he is going to take to make sure that the teachers go back to class. Before I sit down, is he also in order to order policemen to go and beat teachers in Murang'a? Some of them are already in hospital and one of them has a broken leg.

The Minister for Education (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, allow me to say that I called a meeting of all the interested parties including the unions for three o'clock this afternoon, so that we could negotiate as we are required to do. I am very disappointed that the union walked out because they are taking advantage of the misinterpretation of the facts on the table. I called that meeting out of the realization that the country needs negotiations and discussions, which I have encouraged. In addition, I have already presented to the Cabinet Office a Cabinet memorandum requesting that the Cabinet considers some of these issues including the fact that the Civil Service was given a rise ignoring the teachers, thereby generating this problem.

I am waiting for the Cabinet to meet to discuss these matters. If they agree with me, then I will come and present these matters to the House and if you give me money, I will pay it. So, you should look at me as a man who loves teachers and so long as you give me money, I will pay them. If you give me 300 per cent, I will pay them. If you give me 500 per cent, I will pay the, but I will not pay a penny until you give me the money.

Allow me to table in this House the agreement between the Government, which is being maligned and which is not being spoken about, and the unions and it has been implemented in full. So, when somebody suggests that the Government disregards teachers, they are mistaken. I want to call on the teachers as they continue to exercise their right to strike to respect the right of the Kenyan child under Article 52 and I want to salute hon. Shebesh for raising it. I would also like to call on them to stop walking out and to come and sit with us if they are men and women

enough to convince us where we will get the 300 per cent. If we get it, because it is taxes, we will pay them.

(Mr. M. Kilonzo laid the document on the Table)

Allow me also to say that the child's voice has been buried in this fiasco where the teachers are molesting their fellow teachers. I want to call on the teachers and the police to respect the human rights of all Kenyans to participate in strikes, to assemble and also to be treated with dignity. Therefore, I also want to remind this House, although they were objecting that, that they enacted the law on the Salaries and Remuneration Commission. It is that Commission that should advise the national Government on what to do with the teachers' benefits. It is not something to be treated politically and to create an impression that the Government does not like the teacher. We love the teacher, but we love the child even more.

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, it is now time to adjourn the business of the House. The House, therefore, stands adjourned until tomorrow, Thursday, 6th September, 2012, at 2.30 p.m.

The House rose at 6.30 p.m.

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