

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 13th September, 2012

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PETITIONS

DISPUTE ON TEACHERS' WAGES

Ms. Karua: Mr. Deputy Speaker, Sir, I wish to present a petition which is duly approved by yourself from the Kenya National Union of Teachers (KNUT) relating to the current dispute on teachers' wages. In particular, it relates to the Legal Notice No.16 of 2003. The teachers state that this legal notice is void and that the notice that should be discussed is the Legal Notice No.534 of 1997. They have set out the particulars in this petition which show that Legal Notice No.16 of 2003 was gazetted without their knowledge and without the requirements of the law, that is consultation with the teachers, and that the Government has already partly performed conditions of Legal Notice No.534 of 1997. As late as 2007 they were still implementing it; the petitioners are, therefore, praying that this Parliament looks into the matter and comes out authoritatively on this issue.

It is to be remembered that for two weeks now the teachers have been on strike. The casualties are our children, who are suffering. The teachers' demands are legitimate yet the Government has failed to take any concrete steps on how to fulfill the teachers' demands which were agreed upon in a bargained agreement.

Mr. Deputy Speaker, Sir, I am aware that this House has a Committee on Delegated Legislation which would be best suited to deal with the dispute on the legal notice together with the Committee on Education, Research and Technology, which is currently handling the matter of the strike.

I am, therefore, praying that this petition, which I am going to lay on the Table of the House be dealt with, by this august Assembly, so that we may find a lasting solution to the teachers' issues. That is the prayer of the teachers.

The petition is supported by 21 signatures and it has been duly approved.

I beg to lay it on the Table of the House.

(Ms. Karua laid the document on the Table)

Mr. Mureithi: Mr. Deputy Speaker, Sir, I am also submitting a petition---

Ms. Karua: No, let this be supported first.

Mr. Mureithi: Mr. Deputy Speaker, Sir, I need your guidance.

Mr. Deputy Speaker: You want to assist Ms. Martha Karua? You see, the problem is that all of you appear on one screen. There is no way the Chair can know who wants to assist and who wants to present another petition. Okay, Mr. Mbadi, please, proceed. We will come back to you, Mr. Mureithi.

Mr. Mbadi: Mr. Deputy Speaker, Sir, let me also support the petition by Ms. Martha Karua. I think it is important for the Government to negotiate with the KNUT and the teaching fraternity from the point of honesty. I think there has been a lot of dishonesty on the part of the Government. The Government needs to be very clear and tell teachers what they intend to do rather than playing cat and mouse game with teachers and our children are at home.

The last comment I want to make is with regard to the powers of the National Assembly. When I see Members calling upon the Government to give teachers money, sometimes I wonder whether we know that we have the capacity and the ability to offer this money to the teachers. Let this matter be taken up by Parliament. We are the ones doing the Budget. If the Executive does not want to respond to the teachers' plight, this Parliament can do it.

Mr. Deputy Speaker, Sir, probably we have been presented now with an opportunity, through this petition, to correct what has defeated the Executive for over two weeks and even beyond. This matter has been with the Government for quite some time. The teachers had even given a warning early enough. This House should rise to the challenge and take up this matter and correct it.

Thank you, Ms. Martha Karua, for bringing this petition.

Mr. Deputy Speaker: This is a petition and there are provisions in the Standing Orders; we cannot turn this into a debate. I will only take one more and then direct it to the right place.

Mr. Olago: Mr. Deputy Speaker, Sir, this petition is timely. I would wish to congratulate my learned sister, Ms. Martha Karua, for bringing it. The plight of the teachers is something that the Government should not put aside. If you go through the petition, you will notice that the thrust of it is that Legal Notice No.534 of 1997 is valid. It was never revoked. There was an attempt to revoke this legal notice by another legal notice by the Government; however, what was not understood at the time was that Legal Notice No.534 of 1997 was a negotiated instrument. The one the Government put up purporting to revoke the earlier legal notice was not negotiated. It was done behind the teachers' backs. It was actually fraudulent on the part of the Government.

Mr. Deputy Speaker, Sir, it was nothing short of fraud on the part of the Government to purport to revoke a legal notice without consulting those who were affected. I am aware that the Committee, which I have the privilege of serving on, the Committee on Delegated Legislation, will be looking at this matter shortly. However, as matters stand now, in view of the fact that Legal Notice No.534 is valid, it is important that both the Ministry of Education and the Ministry of Finance put their heads together and offer leadership to the country.

It is very discouraging when we come to Parliament and you find that teachers have barricaded the entrance to Parliament seeking attention of Parliamentarians. It is my humble view that the Government must rise to the occasion, provide leadership and offer a solution. If the simple solution is to provide Supplementary Estimates to be approved by the House, then the Minister for Finance must carry out consultations in Government and decide on the next course of action.

It is also discouraging that when teachers are meeting Parliamentarians, the Minister for Finance is not keen to provide leadership. Under those circumstances, I urge the House in dealing with this public petition to find that Legal Notice No.534 of 1997 is valid.

Thank you.

Mr. Deputy Speaker: Fair enough.

Hon. Members, I want you to really understand the rules of the House governing petitions. You can make comments in addition to the comments that were made by the presenter of the petition. The Chair may allow such comments, observations or clarifications in relation to a petition. However, those shall not exceed five minutes. Therefore, in future do not turn it into a debate.

Mr. Mureithi Erastus, please, proceed.

Mr. Mureithi: Mr. Deputy Speaker, Sir, thank you very much---

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. I just want to point out that you did not give directions on my petition.

Mr. Deputy Speaker: Oh, yes. Thank you.

I have directed that this petition be committed to the relevant Committee. I believe the relevant Committee is the one on delegated legislation.

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. I believe that it would be fair that this matter be dealt with by three committees, the Implementation Committee, Committee on Delegated Legislation and Committee on Education, Research and Technology jointly.

Mr. Deputy Speaker: This is not an investigation. When you refer a petition to a committee, you cannot do so to a joint-committee. This has to go to the Committee on Delegated Legislation and that is the direction I have given.

Mr. Mureithi, please, proceed.

PLIGHT OF SACKED KENYA CO-OPERATIVE CREAMERIES EMPLOYEES

Mr. Mureithi: Mr. Deputy Speaker, Sir, I rise here to present a petition to this august House duly approved by you with regard to the sacked employees of the Kenya Co-operative Creameries Limited. It concerns over 6,000 members who were fired countrywide.

They would like to bring to the attention of this House that over 6,000 employees reported the matter to the trade union and the Minister for Labour and Manpower Development on 24th December, 1997, who later appointed an investigator.

Mr. Deputy Speaker, Sir, they also took this matter to court and the ruling was awarded in their favour through Dr. Gibson Kamau Kuria in the Milimani Court. Later on Mr. Kioni, the Member of Parliament for Ndaragwa, raised a Question and nothing was done in respect of these suffering employees, who are spread all over the country. The matter was picked up by the Committee on Agriculture, Livestock and Cooperatives, but up to now no report has come. So, these people are still languishing in poverty.

Their prayer is that you give direction as to how these people who had contributed to their SACCO, and whose final dues are still pending, should be assisted. The matter should be dealt with, so that at least they can be awarded what is due to them, for the service they gave to KCC for very many years. The petition is signed by 20 people representing the 6,000 people. I would like to lay this petition on the Table.

(Mr. Mureithi laid the document on the Table)

Mr. Deputy Speaker: Fair enough. I direct that this petition also be committed to the relevant Committee.

Mr. Mututho, you also have a petition?

NULLIFICATION OF REDUNDANCY EXERCISE/REINSTATEMENT
OF KENYA AIRWAYS EMPLOYEES

Mr. Mututho: Yes, Mr. Deputy Speaker, Sir. This is a petition to seek the nullification of the ongoing redundancy exercise and re-instatement of all affected employees of Kenya Airways Limited.

I am rising under Standing Order No.204 on behalf of employees who state “We, the undersigned employees, being employees of Kenya Airways, state that we have been working for Kenya Airways in various capacities and at various times”. The workers go on to state that out of the entire labour force, they constitute about 26 per cent of the payroll. They also go on to say that there is massive fraud, which they have stated in this petition, involving the procurement of airplanes and hiring of expatriates.

I wish to state the following:-

“(i) Therefore your humble Petitioners pray that the Government of Kenya, through Parliament, nullifies the whole exercise of redundancy and reinstates all affected employees unconditionally and without any victimization whatsoever.

(ii) Constitute an *ad hoc* committee to investigate the CEO of the Kenya Airways Limited on issues to do with outsourcing of various functions of external companies, hiring of expatriates to take over jobs traditionally held by Kenyans and other unethical practices.

(iii) Suspend the hiring of expatriates and outsourcing of these functions pending the outcome and findings of investigations.

(iv) Undertake a forensic audit to uncover the truth.”

Mr. Deputy Speaker, Sir, these are serious allegations put forward by these employees; most of them are very shocking indeed.

I am now tabling the petition on their behalf.

(Mr. Mututho laid the document on the Table)

Mr. Deputy Speaker: I direct that this petition also be committed---

(Ms. Karua stood up in her place)

What is your point of order, Ms. Karua?

Ms. Karua: Mr. Deputy Speaker, Sir, mine is not a point of order. I want to support the petition which is raising grave issues. The people of Kenya have a direct interest in Kenya Airways by virtue of the Government shares. We should not be party to preferring expatriates where there is local expertise. We should never be party to discrimination, contrary to the Constitution, especially discrimination of our own nationals and female employees on account of maternity. This is a petition that is deserving and I plead that Parliament looks at it urgently.

Mr. Deputy Speaker: The Chair directs that this---

(Mr. Imanyara stood up in his place)

Yes, hon. Imanyara; is it on the same?

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

Mr. Deputy Speaker: The only problem is that we only have five minutes for this. It actually says "shall." But, anyway, nonetheless, proceed.

Mr. Imanyara: Thank you, Mr. Deputy Speaker, Sir. I will take a very short time also to support this petition. I am a frequent flyer of Kenya Airways. What is shocking is the number of foreign employees you meet in the plane as you fly.

Mr. Deputy Speaker, Sir, it is also quite clear that this petition is well grounded because the retrenchment appears to be directed at a section of employees; mainly the female employees. Thirdly and most importantly, the amount of money that these people are being offered is peanuts. It is not properly computed. In fact, what they are being given is not even equivalent to one month's salary in some cases.

So, I do support that this matter be referred to the relevant authorities for discussion, so that we can resolve these issues without making Kenyan staff at Kenya Airways suffer.

Mr. Deputy Speaker: Fair enough! I direct that this petition be committed to the relevant Committee.

(Mr. Kabogo stood up in his place)

Hon. William Kabogo, are you having a petition? If you want to contribute on this, then you are time-barred. We had five minutes only for all the contributions.

Next Order!

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report of Accounts of Coffee Research Foundation for the two years ended 30th June, 2009 and 2010, and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services (Mr. Kambi)
on behalf of the Minister for Agriculture)*

Annual Report of Accounts and Financial Statements of the SACCO Societies Regulatory Authority for the two years period ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services (Mr. Kambi) on behalf
of the Minister for Co-operative Development and Marketing)*

Financial Statements of Kenya National Commission on Human Rights for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services (Mr. Kambi) on behalf
of the Minister for Justice, National Cohesion and Constitutional Affairs)*

Financial Statements of Kenya Civil Aviation Authority for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services (Mr. Kambi)
on behalf of the Minister for Transport)*

Annual Report and Financial Statements of the National Biosafety Authority for the year ended 30th June, 2011, and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services (Mr. Kambi) on behalf
of the Minister for Higher Education, Science and Technology)*

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

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

Financial Statements of the County Council of Butere-Mumias for the two year period ended 30th June, 2009, and the Certificate thereon by the Auditor-General.

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

Financial Statements of the Municipal Council of Murang'a for the year ended 30th June, 2011, and the certificate thereon by the Auditor-General.

Financial Statements of the County Council of Mandera for the year ended 30th June, 2011, and the certificate thereon by the Auditor-General.

Financial Statements of the County Council of Kilifi for the year ended 30th June, 2011, and the certificate thereon by the Auditor-General.

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

*(By the Assistant Minister for Medical Services (Mr. Kambi)
on behalf of the Minister for Local Government)*

Report of the Joint Committee on Energy, Communication and information and the Committee on Education, Research and Technology on the Status of the San Marco Space Application Centre in Malindi.

*(By Mr. Koech on behalf of the Minister for
Higher Education, Science and Technology)*

Report of the Departmental Committee on Finance, Planning and Trade on Cooper Motors Corporation (CMC) Holdings.

Report of the Departmental Committee on Finance, Planning and Trade on the Vetting of the Nominees for Appointment as Board Members to the Public Procurement Advisory Board.

(By Mr. Okemo on behalf of the Minister for Finance)

Mr. Deputy Speaker: Next Order!

(Mr. Mbadi stood up in his place)

Mr. Mbadi, what is your point of order? Is it on the same?

Mr. Mbadi: Mr. Deputy Speaker, Sir, I expected a Paper to be laid on the Table today with regard to the inquiry by the joint Committees; the Budget Committee and the Finance, Planning and Trade Committee on---

Mr. Deputy Speaker: You expected it to be laid?

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

Mr. Deputy Speaker: In what capacity did you expect it to be laid?

Mr. Mbadi: Mr. Deputy Speaker, Sir, the time---

Mr. Deputy Speaker: The Papers are taken to the Speaker or the Deputy Speaker's Office; they are approved and then laid. Are you a Member of the Committee?

Mr. Mbadi: I am a Member of the Committee.

Mr. Deputy Speaker: Then find out internally from your own Committee Members and Chair why it has not been laid.

Mr. Mbadi: Mr. Deputy Speaker, Sir, the time that the Speaker gave is gone. The Clerks assured me that the Papers would be laid---

Mr. Deputy Speaker: The Clerks have no business in the approval or presentation of Papers---

Mr. Mbadi: Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order! Order! The report is taken by the Chair to the Deputy Speaker's Office in this case; it is approved and brought here. The Deputy Speaker does not remember that kind of a report being brought to his office.

Next Order!

NOTICES OF MOTIONS

ADOPTION OF REPORT ON NOMINEES TO PUBLIC PROCUREMENT ADVISORY BOARD

Mr. Okemo: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motions:-

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the Vetting of the following Nominees for Appointment as Board Members for the Public Procurement Advisory Board laid on the Table of the House today, Thursday 13th September, 2012:-

1. Eng. Reuben Kiplang'at Kosgei,
2. Ms. Ruth Theddesia Gobi,
3. Mrs. Faith Njeri Kimani,
4. Mr. Patrick Mahonga Mtange,
5. Ms. Joyce Muthoni Njogu,
6. Mr. Humphrey Kimani Njuguna
7. Mrs. Martha Karwitha Mugambi
8. Mr. Fred Abednego Odhiambo

Mr. Deputy Speaker, Sir, I have another notice following that.

Mr. Deputy Speaker: Proceed.

ADOPTION OF REPORT ON CMC HOLDINGS

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on Cooper Motors Corporation (CMC) Holdings laid on the Table of this House today, Thursday, 13th September, 2012.

ADOPTION OF REPORT ON STATUS OF SAN MARCO SPACE APPLICATION CENTRE

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

THAT, this House adopts the Report of the Joint Committee on Energy, Communication and Information; and the Committee on Education, Research and Technology on the status of the San Marco Space Application Centre in Malindi laid on the Table of this House today, Thursday, 13th September, 2012.

QUESTIONS BY PRIVATE NOTICE

REPARTITION OF MS. ROSEMARY W. NDUATI FROM SAUDI ARABIA

Mr. Kabogo: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Is the Minister aware that Ms. Rosemary Wariera Nduati is missing and had earlier complained of detention and mistreatment by her employer, of phone number +966551782526, in Jeddah, Saudi Arabia?

(b) What urgent measures is the Minister taking to ensure that she is traced, released from her exploitative employer's custody and repatriated?

(c) What is the Government doing to ensure that Kenyans living and working in the Middle East are safe from such dehumanizing occurrences?

Mr. Deputy Speaker: Where is the Minister for Foreign Affairs? Will the Deputy Leader of Government Business or any Minister respond to this Question?

Fair enough! The Minister is in Mogadishu, for obvious reasons. In the circumstances, this Question is deferred to a moment when it can be disposed of.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. You realize that this is a Question by Private Notice. It was on the Order Paper on 6th September, 2012, and subsequently, it was, again, on the Order Paper on 12th of September. Even though I agree with those of us who know what has happened to him, but he has a very able Assistant Minister. Are we really going to defer a Question by Private Notice a third time when we know that the Ministry is avoiding to answer this Question?

Mr. Deputy Speaker, Sir, I really need your help to make sure that this Question is answered. We have able Ministers and the Attorney-General is also here in the spirit of collective responsibility.

Mr. Deputy Speaker, Sir, a Kenyan girl is held captive in Saudi Arabia---

Mr. Deputy Speaker: Order! Order!

Mr. Kabogo: Mr. Deputy Speaker, Sir, I need your help.

Mr. Deputy Speaker: Order! You do not debate the merits and demerits of the Question itself as it is not validly before the House, in the sense that the Minister is not there.

Is there any senior substantive Minister here who can give us an undertaking that he will go and inform the Minister? We do understand; there are many times that Ministers do not do such a good job, but this time around, we do understand exactly why the Minister is not here.

(Mr. Githae moved to the Dispatch Box)

Proceed, Minister Githae.

The Minister for Finance (Mr. Githae): Thank you, Mr. Deputy Speaker, Sir. We appreciate the urgency and the need of this Question. However, it is in the public knowledge that the Minister yesterday escaped very serious attempts on his life. What I would like to assure this House is that this Question can be answered on Tuesday, next week. I think the hon. Member should---

(Several hon. Members stood up in their places)

Mr. Ethuro: Thank you, Mr. Deputy Speaker, Sir. I heard you talk of a senior Minister and I wondered whether hon. Githae is senior because he is handling money. But more importantly, whatever happened in Mogadishu---

Mr. Deputy Speaker: What is your understanding of a “senior Minister” and a “junior Minister” in here? A “junior Minister” is an Assistant Minister while a “senior Minister” is a substantive Minister.

Proceed!

Mr. Ethuro: Thank you for the clarification, Mr. Deputy Speaker, Sir. From today, I know that Mr. Kosgey is a junior Minister compared to Mr. Githae.

But more substantively, the incident in Mogadishu should not affect the Business here. This House has the position of Leader of Government Business and that of Deputy Leader of Government Business. They should be able to prosecute the matter. Is he in order to give us that excuse?

Mr. Deputy Speaker: Yes, hon. Abdul Bahari. What is your point of order?

Mr. Bahari: Thank you, Mr. Deputy Speaker, Sir. We are aware and we saw what happened in Mogadishu yesterday, but the hon. Members who were with the Minister are all present here in the House. So, the reason given by hon. Githae, therefore, does not hold water. This House should not be taken for a ride.

(Applause)

Mr. Deputy Speaker: Yes, we will take the last point of order by Mr. C. Kilonzo.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I do not know whether you heard clearly the reason advanced by Mr. Githae as to why the Minister for Foreign Affairs is not in the House. He said the Minister escaped death narrowly in Mogadishu. But we know his Ministry has an Assistant Minister. So, we are just curious. What did the Assistant Minister escape from? We expected Mr. Githae to tell us the whereabouts of the Assistant Minister?

Mr. Deputy Speaker: That matter was raised by hon. Ethuro; so, you do not actually have to repeat it. Anyway, Minister, did you give an undertaking on when your colleague will be here to deliver that answer?

The Minister for Finance (Mr. Githae): Yes, Mr. Deputy Speaker, Sir. It will be

answered on Tuesday, next week.

Mr. Deputy Speaker: Fair enough! It is so directed!

(Question deferred)

Next Question by Mr. Duale!

ARREST/DISAPPEARANCE OF MR. ADAN B. ABDI
BY KWS WARDENS IN MAUA TOWN

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

(a) Why was Mr. Adan Billa Abdi (ID No.126139101) arrested by Kenya Wildlife Service (KWS) wardens in Maua Town in Meru on 30th June, 2012?

(b) Could the Minister confirm or deny that the said person was arraigned in a court of law after his arrest and, if so, where?

(c) Could the Minister apprise the House on the whereabouts of Mr. Abdi since efforts by his family members to trace him have not borne fruit?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Deputy Speaker, Sir, you recall that this matter was interrogated on Tuesday and we were to report back today on progress made by the police in this matter.

Mr. Deputy Speaker, Sir, the matter is still being followed up. We do not have the final results yet and we are requesting for more time. We are following some crucial leads that will enable us get to the bottom of this matter.

Mr. Duale: Thank you, Mr. Deputy Speaker, Sir. It is good that you were on the Chair on Tuesday, when you asked him to bring a substantive answer. This is a matter on extra-judicial killings done by the Kenya Wildlife Service (KWS). They killed seven people and one of them was Mr. Abdi from my constituency.

Mr. Deputy Speaker, Sir, I beg for your indulgence because this Government has failed to bring an answer since 30th of June, when Abdi disappeared. That is three-and-a-half months ago! I said yesterday this Government will not turn any stone; it will never take any action.

Mr. Deputy Speaker, Sir, through your indulgence, I want this matter of extra-judicial killings to be investigated by the Departmental Committee on Administration and National Security, so that their families, Mr. Abdi and the rest who disappeared in the hands of KWS, can get a fair hearing and justice.

Mr. Deputy Speaker: Mr. Assistant Minister, if my memory serves me right - the hon. Member and the HANSARD will bear me out - I had given him names of senior officers who were arrested this month, the vehicle which was used to transport him and he was supposed to have done a thorough investigation and come back to the House and say exactly what happened. The answer is akin to the same answer that was brought here last time. The idea was that you were to go and carry out further investigation. Of course, it does not make any sense that you can carry out such exhaustive investigations on that matter just in one or two days. Why have you not done exactly what you had undertaken to do?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Yes, Mr. Deputy Speaker, Sir. Indeed, the Minister promised

to look at the allegations or information given by the hon. Member of Parliament. Indeed, it is very sad that this matter was brought sometime back and the hon. Member was present at the Criminal Investigation Department (CID) Headquarters with a number of witnesses who made statements. But in addition to the names that he has provided, police are looking into other three leads as to who may have been involved in that matter. They are requesting that we be given more time. We do not want to disclose the names of the possible suspects, including the one that the hon. Member has mentioned. We request that we be given more time to give that information. I can assure you that within the next one month, we will reach the bottom of this matter. That is because thorough investigations are being conducted to find out who is culpable so that we can take further action.

Mr. Bahari: Mr. Deputy Speaker, Sir, this matter is very sensitive and hon. Duale is my neighbour. I am aware of that incident and it is already creating an uproar in my constituency. That is because we share the boundaries. Could the Assistant Minister, perhaps, bring forth his deadline from one month - given the timetable of this House - to, at least, two weeks?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Deputy Speaker, Sir, yes, indeed, we can bring a progress report. But I can assure the House that thorough investigations are being undertaken to bring that matter to a logical conclusion. I know that the hon. Member is not satisfied, but there are things which I cannot disclose here because they will prejudice the current investigations. Those people who are being suspected and those with motives of doing whatever they did may get information that they should not get and disappear.

Dr. Nuh: Mr. Deputy Speaker, Sir, this is, again, a case of one Kenyan whose whereabouts we are unable to tell. For two months now, the police are still chasing and following leads. If the Assistant Minister says that disclosure of the individuals under investigation will prejudice the arrests--- If they have been unable to make any arrests for the last two months, we can even help them if they give us the names of the people they suspect. That is because they have been unable to do so. As hon. Bahari has requested, if the Assistant Minister can be a little bit more candid and, even on the face of it, if his expressions would show that they are a serious Ministry doing very serious investigations, we would have taken his words kindly. But they look as if they are not serious and would just want to wish this matter away. This matter will never be wished away.

Ms. Karua: Mr. Deputy Speaker, Sir, I just want to point out to the Assistant Minister that Kenya Wildlife Service (KWS) is habitually taking the law into its hands and even in my own constituency, three weeks ago, a man popularly known as “Bushman” disappeared at the hands of KWS. The police investigators are handling KWS personnel with kid gloves. We want to know that they are not above the law and we need arrests where there is evidence that KWS officers have committed atrocities against citizens. So, as you investigate and accelerate this, if the Assistant Minister is agreeable, I will forward the details of “Bushman” – his full names and the date of the incident. We need to know that KWS officers will respect the rights of citizens as they go about their duty.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Deputy Speaker, Sir, we will follow the other issues concerning KWS. I am aware that poaching is endemic in the country and KWS is facing a challenge. But that is not the reason for not following the procedure. I will take up this matter with KWS and report back to the House.

Mr. Duale: Mr. Deputy Speaker, Sir, I want to bring to your notice that this House has got procedures and Questions by Private Notice have timelines. On Tuesday, you raised that with the Assistant Minister. He is now asking for another one month. That, in itself, breaches the Standing Order that guides the operation of this House. Families of Kenyans out there are agonizing about the whereabouts of their loved ones and this Assistant Minister is taking it very lightly.

Mr. Deputy Speaker, Sir, for the second time, I want your indulgence to involve Parliament as an institution that has an oversight role when such cases arise. I beg your indulgence that a relevant committee must investigate those extra-judicial killings by KWS across the country.

Dr. Nuh: Mr. Deputy Speaker, Sir, what we are asking for are timelines. Despite the Assistant Minister standing at the Dispatch Box close to three times, he is still stuck with the one month. If they are unable to do something in two months, they cannot do it in one month. So, it is only calling for the urgency of the matter and the seriousness as a Ministry. Maybe, you can give the indulgence of one more week so that the Assistant Minister can brief the House on how far they have gone with the investigations.

Mr. Deputy Speaker: Mr. Assistant Minister, are you sure you have information on this or you were just given an answer to read when you came here?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Deputy Speaker, Sir, last time, when the Minister requested to come back today, it was a question of information that he did not seem to have on the progress being made by the police. I have now given and requested that the police be given more time to carry out investigations. I think what hon. Members are requesting is to speed up the investigations. Depending on the co-operation of other agencies, we could bring the investigations to conclusion much earlier. So, I am not reluctant and I am not hiding anything. We are willing to assist the family of this gentleman, who has several children. His family has been very anxious about his whereabouts up to today.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. I would request that you be a little bit patient with us on this. If the Assistant Minister wants the House to take him seriously on this matter, Mr. Duale, gave names of suspected Kenya Wildlife Service (KWS) wardens and the vehicle registration number. The Assistant Minister has not even told us whether they have up to date, recorded statements from the suspected wardens and officers, and whether they have been able to trace this vehicle. He is not disclosing any information. He is bluntly telling us that investigations are going on and expects us to just sleep. So, can you compel the Assistant Minister to give an adequate answer on how far they have gone?

Mr. Deputy Speaker: Under what rules of the House can I compel him? The Chair is just as frustrated as you are. The only thing the Chair can do right now is to direct that the relevant parliamentary committee on security does proceed with speed, investigate this matter on its own and report back to the House. In the meantime, how much more time do you need, Mr. Lesrima? You realize that the Committee does not have a Criminal Investigation Department (CID), a forensic department or any of the machinery at the disposal of the Government. If the Government is unable to conclude an investigation and come and address Parliament's concerns, and instead keeps on postponing the matter, then clearly we have a serious problem.

As a matter of fact, this is a problem that is very unique. As old as I am, I have never seen a government come here and feign weakness, and say that they do not have information. It is sad. Can you also give an undertaking? This time it has to be firm. You should carry out

investigations; you should be able to find clues because this involves the life of a Kenya. You can come back and tell us how far you have gone and whom you have arrested. If you do not find anything, you can equally come back and tell us that the matter can go to some other level of investigation, which will involve whatever you have in mind. In the meantime, I have directed that the relevant Committee moves with speed, investigates this matter and comes back to the House. Where is the Chairman of the relevant committee and his Members?

Mr. Lesrima, give an undertaking on the official Government investigation and when you can report back to the House. These processes will proceed concurrently.

Mr. Kutuny: Bw. Naibu Spika, kuuawa kwa Wakenya kiholela holela na maafisa wa wanyama pori limekuwa ni tukio la kila siku, na ambalo linajadiliwa hapa Bungeni. Sasa umetoa agizo kwamba kamati ya Bunge inayohusika na usalama wa ndani ilishughulikia swala hili kindani. Ni maoni yangu kwamba kamati hii haitaangazia swala ambalo limeletwa na mhe. Duale, Mbunge wa Dujis. Pia ningependa lihusishwe swala ambalo limeletwa na Mbunge wa Gichugu, Bi. Karua, na visa vyote ambavyo vimeletwa hapa Bungeni ili waweze kuleta taarifa moja ambayo itaweza kujadiliwa na Bunge kwa kindani.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. So, that we do not send the wrong signal to the Executive, that they cannot be compelled to answer a Question, I want to refer you to Standing Order No.46, which says that it shall be a disorderly conduct for a Member to fail to ask or for a Minister to fail to answer a Question listed on the Order Paper. That is what Mr. Lesrima is doing. The Standing Orders give you powers to compel a Minister and if they do not answer, you chase them out of the House.

Mr. Deputy Speaker: Dr. Nuh, it becomes disorderly when they fail to answer. The issue is not failing but coming with a very unsatisfactory answer, even in the eyes of the Chair. That is clearly an indictment of the Government itself. Nonetheless, you can use your own machinery, as a House, and get the relevant Committee to move with speed, investigate this matter and bring it back to the House. So, I am giving exactly one week from today for you to come and answer because the Question will be listed on the Order Paper one week from today; I hope that you will do a better job than you have done so far. I am talking to the Assistant Minister.

Next Question.

RELUCTANCE BY ELECTRICITY REGULATORY COMMISSION TO LOWER COST OF ELECTRICITY

Mr. Ochieng: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Energy the following Question by Private Notice.

(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

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

(a) Based on the fuel-cost-charge formula, benefits resulting from reduction in the cost of petroleum fuels used in power generation are passed on to the consumers through their monthly bills. Relative to May, 2012 fuel-cost-charge of Kshs6.97 per kilowatt hour, the fuel-cost-charge

dropped to Kshs5.97 per kilowatt hour in the month of June and further to Kshs5.39 per kilowatt hour in the month of July. These reductions were passed on to the consumers.

(b) As I have stated in part “a” of my answer, the fuel-cost component of electricity bills had gone down in tandem with the drop in cost of generation of fuels. No further reduction can, therefore, be effected unless international oil prices continue to drop. Additionally, any benefits arising from increased hydro-electricity generation during seasons of very good rainfall are also passed on to the consumer.

(c) As I have already explained, any benefits arising from both favourable oil prices and rainfall conditions are automatically passed on to the consumers. Given this situation, the Government cannot, therefore, consider a refund to the consumers.

Mr. Ochieng: Mr. Deputy Speaker, Sir, in the answer that the Assistant Minister has given, he has talked about having reduced the cost of electricity during May, June and July. We remember very well that in April we had sufficient rains and I want to believe that they must have retired several diesel generators, and that cost saving ought to have been passed to the consumers. Can he tell us why this cost saving is not reduced from the month of April?

Mr. Magerer: Mr. Deputy Speaker, Sir, I want to inform the hon. Member that the rain in the month of April did not fill up the dams. So, we were unable to generate power immediately because we had to build up the capacity, so that we could retire some of the generators that the hon. Member is citing. The cost that could have been recovered is as I have already given. That was the best for the previous months.

Mr. Njuguna: Mr. Deputy Speaker, Sir, time and again, Kenyans have been crying over very exorbitant power bills. What measures has the Ministry taken to make sure that when the cost of fuel goes down, benefits are reflected on the bills of the customers?

Mr. Magerer: Mr. Deputy Speaker, Sir, the parameters that I have talked about will lead to significant reduction, which can be passed on to consumers. The significant reduction can only be realized when we complete the power project that includes a 280 megawatt generation at Naivasha; it is supposed to be on by 2014 and another one by an independent power producer. We have also more geothermal power plants that are planned to generate up to around 560 megawatts which are going to be commissioned between 2015 and 2018. At this point, we will have a considerable relief for the consumers of this Republic. I want to assure the hon. Members and the House that we are going to reduce significantly the cost of power from what it is now.

Mr. Pesa: Mr. Deputy Speaker, Sir, the Assistant Minister has rightly said that the benefit that is accruing due to the reduction of oil prices will be passed on to the consumer. Could he tell us exactly how long it will take before we, as consumers, will benefit from this reduction in prices?

Mr. Magerer: Mr. Deputy Speaker, Sir, if the hon. Member was listening, I have talked about “in the immediate to 2014.” Also, we expect a significant reduction between the year 2015 and 2018. That is after we have commissioned the two power plants; 280 megawatts and 560 megawatts generation.

Mr. Lang’at: Mr. Deputy Speaker, Sir, the Energy Regulatory Commission (ERC) has been publishing how the fuel prices are determined on a monthly basis, but they have not been doing the same for electricity. Therefore, it is leaving room for Kenya Power to exploit the consumers. What action is the Assistant Minister taking to ensure that even the determination of the cost of electricity is also published on a monthly basis, so that consumers are aware?

Mr. Magerer: Mr. Deputy Speaker, Sir, if the hon. Member wishes to know, the ERC is basically a regulator. The regulation appears to be more on the fuel energy than it is on

electricity, because the one for power is fixed. I want to inform the hon. Member that Kenya Power charges a fixed charge, which is a fee that is levied to cater for costs like meter reading, billing, printing, postage of bills and customer care. We also have another charge that is fixed, called energy charge. This is a charge for the customers' electricity consumption within the billing period which is usually a month. This is the money that Kenya Power uses to purchase bulk power from electricity generating companies such as KenGen and sometimes, Geothermal Power.

Mr. Deputy Speaker, Sir, the fuel cost charge is a charge that Kenya Power levies to recover the cost of fuel used to generate part of the energy that is consumed each month. So, it is not possible to have a uniform rate like we have for fuel, because the consumption per customer is different. We also have a charge called Foreign Exchange Rate Fluctuation Adjustment. We do not control that. It is a rate that is basically on the currencies and is levied against the Kenya shilling in terms of foreign based payments in the power subsector, for example, the electricity project loan repayments and others. The inflation adjustment is also based on the 50 per cent national underlying inflation for 70 per cent of the component and the remaining 30 per cent is pegged on international inflation.

Mr. Deputy Speaker, Sir, we also have the Value Added Tax (VAT). It is important for this House to know that Kenya Power is a designated collector of VAT for the Government. It is, therefore, charging currently at 12 per cent.

Mr. Deputy Speaker, Sir, finally, there is the ERC Levy. This is a levy meant to support the operations of the sector regulator; that is, the ERC. It is currently three cents per unit.

Mr. Deputy Speaker: Last question, hon. Ochieng!

Mr. Ochieng: Mr. Deputy Speaker, Sir, the high cost of electricity has made consumer products very expensive to the common *mwananchi*. At the same time, it has made quite a number of investors relocate to Ethiopia and other countries, where there is sufficient power. What is the Ministry doing to make sure that they have a short-term measure in cutting costs of electricity, so that the investors who want to relocate can actually remain and produce cheaper products?

Mr. Magerer: Mr. Deputy Speaker, Sir, I want to inform the hon. Member that we do not have shortcuts in trying to determine or sort out the issue of high cost of electricity. But I have indicated that the Ministry of Energy will commission, by the year 2018, enough power that will be generated at a cheaper cost. There will be no need for us to supplement this by using the thermal generators. To the best of my knowledge, I am not aware that many investors are living Kenya for Ethiopia. On the contrary, I think more investors are coming to Kenya because Kenya is a promising economy in terms of the programmes that we have already set in the Ministry of Energy.

Question No.1672

PROTECTION OF LITIGANTS FROM
EXPLOITATION BY STATE/ADVOCATES

Mr. Kutuny asked the Attorney General:-

(a) whether he could outline what his office has done to promote, protect and uphold the rule of law in defending public interest as required under Article 156 of the Constitution;

(b) whether he is aware that members of the public, including litigants who have won court awards are not protected and defended against exploitation and related injustices meted on them by state actors and advocates; and,

(c) what he is doing to ensure that litigants who have won awards against the Government receive their monies directly and not through lawyers.

The Attorney General (Prof. Muigai): Mr. Deputy Speaker, Sir, I beg to reply as follows:

(i) Under the current Constitution, the Attorney-General combines the following functions: Principal Legal Adviser to the Government, counsel to the Government in any court or tribunal locally or internationally and any other function that may be assigned to him by Parliament or His Excellency the President. In addition, the Attorney-General is responsible for promoting, protecting, upholding and defending the public interest. In order to achieve these goals, the Attorney-General's Office is structured in six departments. They are the Department of Civil Litigation, Department of Registrar General, Department of the Administrator General who is the public trustee, Department of Treaties and Agreements, Advocates Complaints Commission and Department of Legislative Drafting.

Recently, in order to improve efficiency, we have created sub-departments of the Department of Civil Litigation as follows: Sub-department of Constitution and Human Rights, Judicial Review and Public Procurement, Land and Environment, Commercial Law and Arbitration and General Civil Laws and Claims. We hope that these divisions will improve our service delivery to Government Ministries, departments and parastatals.

(ii) With regard to the payment of court awards, the procedure is as follows: Once a judgement is entered against the Government, the counsel handling the matter prepares a brief which contains the basis of the claimant's claim and the steps of action to be taken by the Office of the Attorney-General.

Next, there is a certified copy of the judgment, a certificate of costs and costs against the Government in the matter. These documents are provided by the successful litigant and the payment process then commences. Next, a recommendation is made to the relevant Ministry to honour the judgment in terms of the court order. Further, the client Ministry, upon receipt of these documents, authorizes or seeks authority from the Treasury. Finally, the Treasury transmits funds to the Office of the Attorney-General and then the payment process is commenced.

It is the private litigant's prerogative either to represent himself or to engage the services of an advocate. In litigation against the Government where a successful litigant has consistently been represented by an advocate, unless otherwise provided by the litigant, the Office of the Attorney-General must pay the funds directly to the advocate on record. It, therefore, falls upon a successful litigant to inform the Office of the Attorney-General how he prefers his funds to be processed. The Advocates' Complaints Commission (ACC) is instrumental in disciplining errant and dishonest advocates and where a successful litigant has difficulty in obtaining funds due to him through the actions of his advocate, the matter should be reported to the Commission.

As hon. Members will recall, when we enacted the Statutes Law (Miscellaneous Amendments) Act two months ago, we strengthened the capacity of the ACC and we made it into an Advocates Disciplinary Tribunal (ADT). We hope that these developments will further bring some discipline within the ranks of the learned members of this profession.

Mr. Kutuny: Mr. Deputy Speaker, Sir, the Attorney-General has outlined the role which his office plays in this case. He has gone further to clarify that it is upon the successful litigant to inform the Office of the Attorney-General of how his dues are to be paid. Is the Attorney-

General aware that between 2010 and 2012, his Office ignored several requests by some litigants who indicated how they should be paid when they had won cases against the Government? A case in point is that of the Nyayo House Torture Chamber victims. After winning the case against the Government, they got an award from the court and they gave directions – I can table the evidence – to the Attorney-General on how they should be paid but surprisingly, what his office did was to pay selectively. Out of all those people, only one person called James Kinuthia Gitua was paid. The rest, up to date, are waiting to be paid.

Mr. Deputy Speaker: Can you ask a question?

Mr. Kutuny: Mr. Deputy Speaker, Sir, what is the Attorney-General going to do to ensure that these people get their dues?

Prof. Muigai: Mr. Deputy Speaker, Sir, first, I must say that I am not aware that there have been cases between 2010 and 2012 where the Attorney-General's Chambers has failed to comply with clear instructions by litigants as to how their monies should be processed. Given time, I would be more than happy to investigate that particular claim. Secondly, I am not aware that in this specific case of compensation to Nyayo House Torture Chamber cases that there has been discrimination and that some people have been paid and others have not been paid. Again, I would be more than happy to investigate that. If that has happened, it would be irregular. There can be no legal basis for a discriminatory payment. However, I would like to place the following on record for the benefit of the hon. Member. The Office of the Attorney-General in protecting the right of a litigant is equally under duty to protect the legitimate fees of an advocate who has represented a client. Therefore, the ideal situation is that both the client and the advocate must agree on the fee payable to the advocate and then we would be more than happy to make two separate payments; one to the advocate and one to the client.

Mr. Kutuny: On a point of order, Mr. Deputy Speaker, Sir. At some point, the Attorney-General indicated that he is not aware while I had said that I have documents here that I can table that can help him to sort out these things.

Mr. Deputy Speaker: Then table them.

(Mr. Kutuny laid the documents on the Table)

Mr. Midiwo: Mr. Deputy Speaker, Sir, the Attorney-General has said as he protects the litigants, he knows he is also under duty to protect legitimate fees charged by the advocates. We have a problem in this country; that the Attorney-General, whom I know is very capable, can help us. The problem is that there is never an agreement of what that fee would be and when the cases are finished. The advocates take what they want. One of the Nyayo House Torture Chamber victims told me only today that he was awarded Kshs1.5 million but the advocate now wants Kshs1.2 million. In the rules that guide lawyers, there is a formula on how lawyers are supposed to charge for work done. Could the Attorney-General commit himself to immediately publish that formula so Kenyans know? It should be an agreement because there is already a formula in law. Could he just undertake to use public and put it in the media so people can know what to expect when they engage lawyers?

Mr. Deputy Speaker: Fair enough; you have made your point.

Prof. Muigai: Mr. Deputy Speaker, Sir, I am quite happy to confirm that no advocate should charge fees inconsistent with the Advocates Remuneration Order. That order is binding and every advocate should render a fee note on the basis of that order. Where there is a dispute between the advocate and his client, there are two avenues for redress. The client can file a bill

for taxation before a taxing master or a registrar of the court and then the registrar will determine what is a fair fee in the circumstance.

Secondly, the client can approach the ADT which itself has authority or power to tax a bill between an advocate and a client. This is one area that I think civic education would assist. I think my office, the Law Society of Kenya (LSK) and the ADT ought to work together and I undertake that we will begin to do that going forward.

Mr. Kutuny: Mr. Deputy Speaker, Sir, now that the Attorney-General has admitted that there are issues when it comes to payment, when will he bring a law for enactment that will provide for a two way cheque payment to shield the litigants from untrustworthy advocates?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, as I have been reminded several times in this House, we need a consultative process. I will be presenting to the profession and other stakeholders the proposal that we can enact into law a procedure that allows the sort of payment process that the hon. Member has said. If I were to impose this unilaterally, you can be sure I would have a lot of problems. You know that I have insisted on a disciplinary tribunal which is very unpopular with the profession itself. I would like, on this particular issue, to commence a process of negotiations. Of course, at the end of the day balancing the rights of advocates and those of litigants, we will uphold the rights of litigants if there is a conflict between the two.

Question No. 1649

STALLING OF WORKS ON THOGOTO-MUTARAKWA ROAD

Mr. Mwathi asked the Minister for Roads:-

- (a) when the contract for Thogoto-Mutarakwa Road was awarded and when the contractor will commence work;
- (b) what the scope of work done on the section of the road between Mutarakwa and Thogoto Road is and how much has been paid so far; and,
- (c) when the contractor is supposed to complete the road works.

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

(a) The contract was awarded on 23rd June, 2011 and the works commenced on 3rd October, 2011.

(b) The scope of works on the section includes side clearance of 3.3 kilometers from Mutarakwa; processing of formation, 300 metres from Mutarakwa; establishment of contractor's camp and Resident Engineer's office at Mutarakwa; construction of an asphalt concrete processing plant in Mutarakwa; and the preparation of sub-grade to receive the pavement layers as per the specifications. A total of Kshs102,153,000 has already been paid.

(c) The contractor is expected to complete the works in April, 2013.

Mr. Mwathi: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer. However, from the onset, I would like to register my disappointment by the fact the Assistant Minister is only saying that the work will be finished in April, 2013; that is, seven months from now. This is a contract which is 18 months. So, 11 months which translate to 60 per cent has been expended. What has been paid roughly represents 10 per cent. What is the Assistant Minister going to do to ensure that in only seven months 90 per cent of the funds will be expended and, therefore, the remainder 40 per cent of work will be done?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I want to agree with the hon. Member that the contractor is way behind schedule and I have already instituted mechanisms to ensure that we give him a notice so that he speeds up the work. More importantly is the fact that we do not have enough contractors to do all our works. This is largely because we have an expanded budget and to get contractors across is a big problem.

The contractor in question has about three or four jobs and he is lagging behind in three jobs. We will be giving him a warning to ensure that he speeds up the work. I also want to assure the hon. Member that we will not give an extension of time in case he requests the same if he does not complete in due course.

Mr. Njuguna: Mr. Deputy Speaker, Sir, this Thogoto-Mutarakwa Road has been neglected for a long time. The community and the commuting public have been complaining for a long time. Could the Assistant Minister consider splitting the remaining contract to allow for faster completion of the project?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I agree with the hon. Member, but the story regarding this particular road is long. Initially, the contract had been awarded to Kundan Singh and he was not able to do the work as per specifications and at some point, we were forced to terminate the contracts. We advertised it and Victory Construction Company won the tender. However, it is not possible to split it further because we have already signed the contract and it has specific terms. We may not be able to change that halfway. I want to assure the hon. Member that we will increase our supervision to ensure that the works are done to specifications including observance of time and quality.

Mr. Mwathi: Mr. Deputy Speaker, Sir, the contractor took one section between Mutarakwa and Limuru. This section had tarmac. He removed that tarmac and brought loads of soil which he purports to be murrum. That is not the issue because there is quality control and I expect that to come from the technocrats. The issue is that that particular section of the road has up to now been closed to the public. Therefore, the public cannot use the road between Mutarakwa and Limuru which is one of the busiest roads leading to the market. I am from the ground now and the contractor has downed the tools. He is actually not working. What steps is the Assistant Minister going to take to ensure that he opens that section to the public so that they can access their commercial centre?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, having heard the concerns from the hon. Member, I wish to assure him that we will be sending our team of engineers to inspect and confirm what he has said and to take the necessary action to ensure that we restore confidence in the public and that usage of the section in question is restored.

Mr. Mwathi: On a point of order, Mr. Deputy Speaker. Going by the history of this road which has taken three years and yet it has not been completed--- Now it is only seven months to go and it looks like it will not be completed. Will I be in order to request that you direct that the Minister and his technocrats come for inspection in which I will also be present so that they can get a comprehensive feel of what needs to be done on the road?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, even before the request came, I had already offered to send a team to inspect this road. I think all we can do is to inform the hon. Member the time and the day we will be going there so that he joins us and then we could address all the concerns jointly.

Question No.1685

IRREGULAR ALLOCATION OF NCPD LAND

Mr. Ethuro asked the Minister the Minister for Lands:-

(a) if he is aware that the “Ndungu Land Report” recommended the revocation of land LR No 209/13332, which had been irregularly acquired by Roseter Enterprises, in favour of the National Co-ordinating Agency on Population and Developments (NCPD);

(b) why he re-allocated the land to a different Ministry and not NCPD; and,

(c) when he will regularize the allocation of the land to the agency.

The Minister for Lands (Mr. Orenge): Mr. Deputy Speaker, Sir, I beg to reply, but in giving this reply, I would like to seek the indulgence of the House and the hon. Member that my written answer is not accurate. That will, however, not stop me from giving the accurate answer.

Indeed as the hon. Member indicated in his Question in part (a), this land was actually recommended for revocation by the Ndung’u Commission. The problem my office experienced was that the number that the hon. Member gave was not the same one given by the Ndung’u Commission. However, this title to the company was revoked on 1st April, 2010 through Gazette Notice No.3460 of that year. This was on the basis that there were public utilities on that plot. Secondly, since that particular land had been reserved for public purpose, it was not available for alienation.

(b) At the time of the allocation, there was no proof that the coordination agency on population was operating on the ground and the Ministry of State for Immigration and Registration of Persons had prefabricated structures on the land. To that effect, having expressed the fact that they wanted to continue using that land, it was allocated to them.

(c) I want to point out to the Member that this land is big enough for the Ministry of State for Immigration and Registration of Persons to share it with this agency. Indeed, we have even advised the Ministry to also accommodate the Ministry of Housing because it is quite a big plot. The comfort is in the fact that the title is in the name of the Permanent Secretary to the Treasury, so that it is not in the name of any particular Government department, but in the name of the Treasury. There is an Act of Parliament known as the Permanent Secretary to the Treasury Incorporation Act which puts all Government assets which have not been registered in the name of the Permanent Secretary to the Treasury.

Mr. Ethuro: Mr. Deputy Speaker, Sir, you will appreciate that the Minister has given a slightly different answer from what I have. Initially, they had disowned the fact that this land was owned by the NCPD. I have a copy of the Ndung’u Report here, which I want to Table, so that he knows exactly what I mean. The whole purpose why we formed the Ndung’u Commission of Inquiry to Illegal/Irregular Allocations was so that public land which had been illegally or irregularly acquired can revert back to the rightful owners. The Minister has just tried to grab the land that Roseter Enterprises had grabbed. He grabbed it and gave it to a friend of his instead of revoking the allocation as recommended in the Ndungu Report and giving it to the rightful owner. In fact, this is not even a case between the two partners. It is a case of one part of the Coalition eating each other. The NCPD is a parastatal in the Prime Minister’s office under the Ministry of State for Planning, National Development and Vision 2030. The Ministry of State for Immigration and Registration of Persons is also on the same wing of the Coalition. There is a problem. The land was 0.63 acres for the NCPD. The allocation should be revoked and the land reverted to the rightful owner. Why did the Minister decide to give it to a different entity?

Mr. Orengo: Mr. Deputy Speaker, Sir, if you go the Lands Office, there is no record that the land belongs to the Ministry of State for Immigration and Registration of Persons. In any case, if it was given to the Ministry of State for Immigration and Registration of Persons, as presently constituted and through the Member's good effort and the current Constitution, the Government will have to pre-organize. We do not know whether that Ministry will ever exist. So, it was advisable to issue the title to the Permanent Secretary to the Treasury. The Member should not be worried because we have talked to the Minister for Housing. The Minister of State for Planning, National Development and Vision 2030, hon. Oparanya, has also talked to me on this issue demanding that this land goes to the agency. I said that since it is nearly three acres in the middle of this town, it can accommodate three or four Ardhi Houses. So, I would plead with the Member that, at least, I know that his desire was to make sure that this land did not go to a speculator. That is what we did.

Mr. Deputy Speaker: Mr. Ethuro, are you satisfied?

Mr. Ethuro: Mr. Deputy Speaker, Sir, you should not be parroting what the Minister is saying. I am not satisfied. The fact of the matter---

Mr. Deputy Speaker: Order! The least you can do is to show your dignity in the House. The Minister says you are satisfied and when the Chair asks you whether you are satisfied, you can say "I am not satisfied or I am satisfied". You do not use any other adjective, otherwise, you will face the full wrath of the House.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I have no intention of facing that wrath. Therefore, I apologize.

Mr. Deputy Speaker: Proceed, then!

Mr. Ethuro: Mr. Deputy Speaker, Sir, this is a matter of flow. This is a matter for which a Commission was established to ensure that public land is in the hands of the rightful owners. I appreciate what the Minister has done. I do not take it away from him, but the land is not with the rightful owners. The rightful owner is the NCPD. The NCPD, which has done a very good job in trying to reduce child and maternal mortality, is spending Kshs17 million every year on rent when they have land on which they want to develop their own offices, so that they can save on rent. Then they can do the good job of making sure that children in Lagdera and Turkana Central can, at least, go beyond the age of five years.

Mr. Orengo: Mr. Deputy Speaker, Sir, the Member is being economical with the truth. This particular agency was given a reservation to this land in 1990 and they never stepped on that piece of land. They actually slept on their rights. When the land was allocated and a title issued to this particular company, again, they never did anything about it. They were just quiet until when they realized that this title had been revoked.

The comfort is that this land belongs to the Government of Kenya. It does not belong to any particular Ministry. I have made it possible for any Ministry to access the land. I know that presently the Ministry of State for Immigration and Registration of Persons does not have funds, but if another Government agency has funds from the Treasury, they can approach the Permanent Secretary to the Treasury, who holds the title, and say: "You have allocated us funds, can we build on this particular land? Just two weeks ago, there was a piece of land in Mombasa which was allocated to the Ministry of Lands. The Ministry did not have funds and the Treasury allocated some funds to the Judiciary. The Ministry of Lands has surrendered that land to the Judiciary through arrangements within the Government. What the Member is saying can still be done, but I would rather not go by the misconception which he is belabouring that this land belongs to the Ministry of State for Immigration and Registration of Persons.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. I am trying to understand the Minister, but at the same time, I do not understand him. I know him as a good lawyer. So, he needs to be very explicit. He is trying to tell me that the NCPD can still own that piece of land when it has been allocated to the Ministry of State for Immigration and Registration of Persons as if the NCPD can go to Ardhi House and claim their portion of the land when the Minister is sitting pretty in the Ministry of Lands. Even the internal arrangement within the Government must be explicit on who is where. That is what I expected him to come and tell us.

Mr. Deputy Speaker: Hon. Minister, I thought you said that this is in the Treasury; the title deed is not in the Ministry of State for Immigration and Registration of Persons.

Mr. Orenge: Mr. Deputy Speaker, Sir, leave alone a title deed, even a temporary occupational licence, he does not have it. The title deed is with the Permanent Secretary to the Treasury. That is the legal owner.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Thank you for indulging me. The issue is not the title deed. In the profession I belong, which the hon. Orenge does not, there is something you call ownership rights and users rights. Yes, the title deed is with the Treasury but who is supposed to be occupying the land? Both the Ministry of Immigration and Registration of Persons and NCPD are public entities organizations within the Government. The Government must allocate the land to the rightful owner, which is NCPD. That is what I am saying.

Mr. Deputy Speaker: Mr. Minister, could you state whether the interest of NCPD has been taken care of?

Mr. Orenge: Mr. Deputy Speaker, Sir, that piece of land has never belonged to this agency. All they had was a plan which was approved and would have formed a basis for issuing a title deed. If I ask hon. Ethuro to produce any document of ownership, I do not think he would be able to produce any document of ownership, except a plan which I have and it does not confer ownership. It is not even a letter of allotment. But I am telling you, having listened to the Minister in charge of that agency, we have engaged into discussions on how, not only the two entities can share this piece of land, but we have said even the Ministry of Housing, which is the only Government agency amongst those three that has some funds to use on this particular plot---

Mr. Deputy Speaker: So, effectively, you mean the interest or rather the rights of this NCPD have been catered for.

Mr. Orenge: Yes, Mr. Deputy Speaker, Sir, it is catered for.

Mr. Deputy Speaker: Next Question by hon. Chachu Ganya.

Where is hon. Chachu Ganya? Is he out of the Chambers today on any Parliamentary business?

He is on a Parliamentary business outside. Indeed, yes, I have just been informed. Therefore, the Question is deferred to the day when the hon. Chachu Ganya can prosecute it.

Hon. Members, I wish to defer the following Questions to Tuesday next week, Question No.1742 by hon. Moses Lessonet, Question No.1748 by hon. Mithika Linturi, Question No.1725 by the hon. Abdul Bahari and Question No.1772 by the hon. Sofia Abdi. They will also be listed on the Order Paper on Tuesday next week and they will have precedence over any other Questions.

Next Order!

Question No.1543

PROVISION OF FUNDS FOR OPERATIONALIZATION
OF NEW ADMINISTRATIVE UNITS

(Question deferred)

Question No.1742

DISBURSEMENT OF FUEL LEVY
FUNDS TO KENYA ROADS BOARD

(Question deferred)

Question No.1748

SHORTAGE OF SURVEYORS
IN IGEMBE SOUTH DISTRICT LANDS OFFICE

(Question deferred)

Question No.1725

STALLING OF WORKS ON
ISILO-MODOGASHE ROAD

(Question deferred)

Question No.1772

ISSUANCE OF IDENTITY CARDS
TO YOUTHS IN GARISSA COUNTY

(Question deferred)

COMMUNICATION FROM THE CHAIR

GUIDANCE ON TWO PRIVATE MEMBERS BILLS
BEFORE THE HOUSE.

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

Hon. Members, you will recall that on Tuesday, 11th September, 2012, when the Alcoholic Drinks (Amendment) Bill, 2012, came up for the First Reading, the Member for Mt. Elgon, hon. Fred Kapondi, rose on a point of order seeking the direction of the Chair, as to whether it was proper to proceed with the First Reading of The Alcoholic Drinks (Amendment) Bill, 2012, Bill No.39 of 2012 by the Member for Naivasha, hon. John Mututho in light of an earlier similar titled Bill sponsored by himself which was awaiting Second Reading.

In summary, the following issues were raised for determination by the Chair:-

(a) Whether the Alcoholic Drinks (Amendments) Bill, Bill No.19 of 2011 published by hon. Fred Kapondi was similar to the Alcoholic Drinks (Amendment) Bill, 2012 published by the hon. John Mututho.

(b) Whether it was procedurally in order for two Bills to be published in respect of the same subject matter.

Hon. Members, you will further recall that the Chair did then make preliminary observations on the issues raised, but was inclined to adjourn debate so as to study the matter in detail and give a comprehensive ruling or direction.

The foundation of the arguments brought forward by the hon. Member for Mt. Elgon is that The Alcoholic Drinks Control (Amendments) Bill, Bill No.39 of 2012 published in the name of hon. John Mututho is similar in content as The Alcoholic Drinks Control (Amendment) Bill, Bill No.19 of 2011, which is sponsored under the Bill by the hon. Mututho must, therefore, be set aside.

Specifically the hon. Kapondi stated and I quote verbatim:-

“I want your direction on this particular order because I have a similar amendment that passed through the First Reading on 21st July, 2011. It is currently pending in Second Reading. It is an amendment to the so-called Mututho Law. So, it is important to give guidance on whether it makes sense to have two private Members’ Bills before the House.”

Before I address the arguments put forward in this matter, it is, perhaps useful to remind the Members of the provisions of Standing Order No.104(2)(3) under which a Bill is published only after the Speaker certifies that a Member’s legislative proposal be proceeded with and be published.

The Alcoholic Drinks Control (Amendment) Bill, Bill No.39 of 2012 was published on 27th August, 2012 under direction of the Speaker and is, therefore, compliant with the provisions of this Standing Order.

Hon. Members, the Standing Order do not contain clear rules regarding simultaneous publication, introduction and disposal of Bills, which relate to the same subject. However, a study of relevant Parliamentary precedence in other jurisdictions is useful. In the United Kingdom, there is no general rule or custom, which restrains the presentation of two or more Bills relating to the same subject and containing similar provisions. But if a decision of the House has already been taken on one such Bill, for example, if the Bill has been given or refused a Second Reading, the other is not proceeded with, if it contains substantially the same provisions.

In the Australian House of Representatives, it is not unusual for Standing Orders to be suspended to enable related Bills to be considered together in order to meet the convenience of the House. A suspension of Standing Orders to enable a Member of related Bills to be guillotined in one Motion has also included provisions to allow groups of the Bills to be taken together.

Hon. Members, a review of the two Bills shows similarity as well as differences. For example, both The Alcoholic Drinks Control (Amendment) Bill of 2011 and The Alcoholic Drinks Control (Amendment) Bill of 2012 contain different provisions to amend sections 29, 12, 24,32, 47, 68 and 70 of the Alcoholic Drinks Control Act of 2010.

In addition, The Alcoholic Drinks Control (Amendment) Bill, published by the hon. John Mututho contains addition sections; namely, 1, 3, 4, 5, 6, 7, 10, 11, 13, 14, 15, 16, 17, 18, 19, 21, 25, 26, 31, 34, 37, 45, 60, 65, 66 and 67 of the Act. There are, therefore, areas of convergence as well as divergence in both Bills.

Hon. Members, as you may be further aware, we currently have a number of Bills which relate to the same broad subject matter and which are in cognizance at various stages of consideration by the House. This include the Sugar (Amendment) Bill, Bill No.17 of 2012 by the hon. John Mututho, which is awaiting Second Reading and the Sugar (Amendment) Bill, Bill No.62 of 2011 by the Minister for Agriculture, which was read a Second Time yesterday and is awaiting Committee of the whole House. Two, Traffic (Amendment) Bill, Bill No.8 of 2012 by the hon. Jakoyo Midiwo, which awaiting Committee of the whole House and the Traffic (Amendment) Bill, Bill No.29 of 2012 by the hon. Minister for Transport, which is awaiting Second Reading. Three, the Public Procurement and Disposal (Amendment) Bill of 2012 by the hon. Olago Alouch, published last week and the Public Procurement (Amendment) Bill, 2011 by the hon. Eugene Wamwalwa, which is pending Committee Stage.

Hon. Members, you may also recall that in the year, 2007, the Tobacco Control Bill, 2007 published by the hon. John Gor Sungu was almost word for word with the Tobacco Control Bill, 2007 published by the Minister for Health.

Hon. Members, having reviewed the submissions made by hon. Kapondi and the relevant precedents including comparative precedence that he has just cited, the Chair rules that the existence of The Alcoholic Drinks (Amendment) Bill, 2012, Bill No.19 of 2011 by hon. Kapondi does not by and of itself stop The Alcoholic Drinks Control (Amendment) Bill, Bill No.39 of 2012 by hon. Mututho from proceeding to the First Reading.

The case would have been different if as it has happened before, the text of amendment was exactly or substantially the same in both Bills. In such events, the Chair would have no alternative but to rule that the second Bill be not proceeded with in the present case, observing some similarities but noting that on the whole, the Bills are different. I rule that in such a case, there is no bar to the publication and progress to the second Bill. However, in respect of each state of the legislative process, the House shall dispose of the Bill that is first published before dealing with the second or subsequent published Bills on the same subject.

Hon. Members, the foregoing notwithstanding, the Chair is in receipt of a letter dated 11th September, 2012 from the Member for Naivasha, hon. John Mututho, in which the Member indicates that the Government has expressed willingness to take over his Bill and that he has subsequently surrendered the Bill to the Minister for Public Health and Sanitation who should handle the Bill from the First Reading to conclusion. In terms of Standing Order No.123, the Member in charge of a Bill may, without notice, move that the Bill be withdrawn, either before the commencement of the business or on the order of the day for any stage of the Bill being read.

Hon. Member, as the Bill in question has not been read the First Time, and the House is, therefore, not seized of the Bill, the import of the letter by hon. Mututho is to withdraw from sponsorship of the Bill and the Bill can, therefore, come up for First Reading on republication by the Government as indicated in the letter by hon. Mututho. As far as the House is concerned, it is not seized of any Bill by hon. Mututho at this stage. He has opted to surrender it to the Government which can process it from the start.

ASSENT TO BILLS

Hon. Members, I have another communication to make regarding returns of Bills received from the hon. Attorney-General pursuant to the relevant Standing Orders. Standing Order No.125 requires the Attorney-General to present to the President within 14 days of receipt from the Clerk every Bill passed by this House. Thereafter, at the expiry of 14 days, the

Attorney-General is required to file a return to the Speaker indicating the time and date that the Bill was presented to the President. The returns received now indicate that the following six Bills which were all passed by the National Assembly on 24th August were presented by the Attorney-General to His Excellency the President for assent and were duly assented to on 27th August, 2012 at 5.30 p.m. The Bills are:-

1. The Assumption of the Office of the President Bill of 2012
2. The Petitions to Parliament (Procedure) Bill, 2012
3. The National Security Council Bill, 2012
4. The Leadership and Integrity Bill, 2012
5. The National Intelligence Service Bill, 2012
6. The Kenya Defence Forces Bill, 2012

Thank you very much, hon. Members.

POINT OF ORDER

DISAPPEARANCE OF MR. MARTIN KIRIMI AND MS. MARY MWANGI

Mr. Linturi: On a point of order, Mr. Deputy Speaker, Sir. I have realized that we are getting out of the time that is slotted for Statements. I remember three weeks ago, I sought a Ministerial Statement from the Ministry of Foreign Affairs with regard to a couple from Meru that is feared to have died in Zanzibar. This Statement should have been issued. I have waited for a long time and there is a lot of pressure from the village. I was seeking your guidance because the Government has an obligation and duty to tell us exactly what is happening.

Mr. Deputy Speaker: Let us get direction with regard to the Ministerial Statement sought by hon. Linturi. The Leader of Government Business or the Deputy Leader of Government Business, what is the status of that Statement which was sought from the Minister for Foreign Affairs?

The Minister for Transport (Mr. Kimunya): Thank you, Mr. Deputy Speaker, Sir. Indeed, that Statement was due and I am aware that the Ministry of Foreign Affairs has been very involved with matters within the region, state visits and the Minister going to Somalia. Could I request that we have the Statement on Tuesday, next week?

Mr. Deputy Speaker: Fair enough! Maj. Dhadho Godhana, you intimated to the Chair that you had a Personal Statement to make. The Chair told you that you take the Personal Statement to the Clerk's Department and onward for my approval but I have not seen it up to now.

Maj. Godhana: I brought it, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Where did you take it? Did you take it to the Clerk?

Maj. Godhana: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Which clerk because they do not seem to have that information? The procedure is very simple. The Personal Statement is taken to the Clerk, it is brought to me, I go through it, I approve it and then you rise on the Personal Statement.

Maj. Godhana: Mr. Deputy Speaker, Sir, what I have is a copy but---

Mr. Deputy Speaker: Yes, but I need to see it first. Can you bring it to the Chair?

(Maj. Godhana presented the documents)

to the Clerks-at-the-Table)

MINISTERIAL STATEMENT

BUSINESS FOR THE WEEK COMMENCING 18.09.2012

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I would like to take this opportunity to make the following Statement with regard to business for next week.

Let me once again applaud hon. Members for once again demonstrating commitment at the core of our legislative duty since the House resumed on 31st July, 2012. During the period, we managed to pass some key Bills especially those implementing provisions of the Constitution with the 27th August, 2012 deadline. These Bills include the ones that were reported on by the Attorney-General, which you have communicated to this House.

We expected to discuss this afternoon the Constitutional (Amendment) Bill, Bill No.51 and hopefully conclude on the same. As hon. Members may be aware, following discussions in the *kamukunji*, this will not take place. Also following further consultations within the Government, we have decided that we need to postpone the Motion of Adjournment that was supposed to come subsequent to us concluding the constitutional debate to another date to give ourselves more time to conclude the various issues of national importance that have a bearing on the General Elections. These include The Campaign Financing Bill and the Constitutional (Amendment) Bill on Gender Compliance plus others that are still pending. It will be good that we finish these Bills before we take our break.

Accordingly, we will be withdrawing the Motion at No.8 which was to extend time so that we could discuss adjournment. We will also be withdrawing Motion No.9 on the Supplementary Order Paper because we will have more time next week. We can discuss these matters and make more consultations.

Mr. Deputy Speaker: Order, Mr. Minister! We have not moved to the Supplementary Order Paper. First, exhaust the programme for next week and then we move to the Supplementary Order Paper after the Statement.

The Minister for Transport (Mr. Kimunya): I stand guided, Mr. Deputy Speaker, Sir.

Accordingly, because the House will not be moving the Motion of Adjournment, the House will be meeting again next week and we will meet as the House Business Committee to prioritize business for next week which will then be communicated in the normal way through the Order Paper. This will involve concluding the various Bills that are at the Committee Stage.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Ruto: Mr. Deputy Speaker, Sir, much as I want to concur with the Deputy Leader of Government Business that indeed the adjournment is not necessary, he needs to respond to certain serious issues of concern; that Parliament is concerned that the Government is not showing any seriousness in ensuring that they facilitate the elections to take place in March or on any other date, at all.

There are several facilitating arrangements that should have been concluded by this Government but they wanted to ambush Parliament with an adjournment. The Deputy Leader of Government Business should tell us what is happening regarding the issuance of identity cards. Why are the youth not getting their identity cards on time? Why is there a mess in the registration of persons? Why is it that the same Government has not facilitated the commission that is supposed to oversee the transition to devolved governments? We hear that they have got

no funds at all; not even a salary, no office, no facilitation. Could the Deputy Leader of Government Business tell us whether the Government is serious? We have noted that kind of laziness in terms of publishing Bills and there are so many other facilitating arrangements they are not doing. Could the Deputy Leader of Government Business confirm to this House that the Government is serious?

Mrs. Noor: Mr. Deputy Speaker, Sir, yesterday you gave a direction on a Ministerial Statement that I had requested from the Minister of Transport and he alluded to the fact that he would bring the Statement today.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, on the second issue regarding the Statement by Mrs. Noor, I came straight from a Cabinet meeting but I have asked for the Statement to be delivered to me. The other copy was with my Assistant Minister. If he comes I will be happy to read it at any one time. It is ready; it is just the timing.

On the other issue by Mr. Ruto, I want to state the commitment of the Government in ensuring that the elections are held at the time that they should be held with all the conducive environment that is required to hold free and fair elections. It is against that background that we are even asking that we do not go home today so that we can clear whatever is left by next week and go home to campaign with a very clear mind set in terms of; that we are having elections within a conducive environment to facilitate free and fair elections.

Mr. Deputy Speaker: Order, hon. Minister. You are now transacting the business on the Supplementary Order Paper. I have not gone to the Supplementary Order Paper yet. Anybody who is rising on a point of order because of the areas that the hon. Minister mentioned, you had better wait until we are seized of that business.

Mr. Minister, have you given an undertaking to Mrs. Noor on when you will have the Ministerial Statement available now that you have said that you have come straight from a Cabinet meeting?

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I was informed by my office that they have sent it across.

Mr. Deputy Speaker: Now that you do not have it, just give an undertaking for the way forward.

The Minister for Transport (Mr. Kimunya): Mr Deputy Speaker, Sir, I will be happy to deliver it on Tuesday and I will give a personal copy even before that.

Mr. Deputy Speaker: Mrs. Noor, you can pick your personal copy before that.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. This opportunity by the Deputy Leader of Government Business to report to this House is not just an exercise in futility. It is in our Standing Orders, specifically, Standing Order No. 36(4). In fact the Deputy Leader of Government Business is supposed to lay on the Table these Statements he has read which he has not done for a long time. Laying the documents on the Table is not the same as keeping it to yourself.

Secondly, if you look at Standing Order No.38 (2) on how business should be coming especially for Private Members, it states as follows:-

“Bills sponsored by parties, committees or Members other than Ministers shall take precedence in that order.”

I must condemn all Members of the House Business Committee (HBC), including Members we have sent there to represent the Back Benchers, that our Bills and particularly--- I am referring to the Internally Displaced Persons Bill, 2012, which has always been put off and many other Bills as you can hear the hon. Members saying.

Mr. Deputy Speaker, Sir, I want the Deputy Leader of Government Business to tell us how they conduct business that is contrary to the provisions of Standing Order No.38(2) where preference is given to Motions or Bills not sponsored by either the Government or parties in that order. Why have they systematically been giving preference to other business and not as per the provisions of the Standing Orders?

Finally, I have it on HANSARD, last week the Vice-President in the presence of his able deputy - and I must commend him; he is able but incapacitated - they promised that the Internally Displaced Persons Bill, 2012 would be here on Wednesday morning. It did not even appear on the Order Paper so that you can say there was no time to transact that particular matter. Our people are still living in camps and this Government is playing the game they know best, burying their head in the sand like the ostrich.

Mr. Deputy Speaker: Order. Mr. Ethuro, if you are going to use your authority as Standing Order No.38 (2), it addresses Wednesday mornings. It goes further and says:-

“Unless the House resolves otherwise.”

Any time a Government business comes on the Order Paper and it is transacted on a Wednesday morning, the House must resolve. I think that has been pretty much in line. Any business that was transacted, that is the Standing Order that gives preference to private Members and then gives the second preference to party sponsored business and any other business. But when the House resolves to do something else like pass a constitutional Bill or other Government Bills, in this case I believe in most cases it has been to operationalize the Constitution, then it is the House resolution that basically reigns supreme. So, the business for Wednesday morning is not set by the Leader of Government Business or the Deputy Leader of Government Business.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. First I want to thank you for coming to the aid of the Deputy Leader of Government Business because he may not do as much as you have done. But my point, to some extent, is actually to say not all the Government business that has been brought on Wednesday morning has been resolved by the House to take precedence over the other business. But when the House Business Committee has persistently not allowed individual private Bills to come to the Floor of the House on Wednesday morning, which is a day allocated to our business--- that is my concern. I am entitled to it because the rest of the days are not ours. They are for this Government.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. The concerns of Mr. Ruto and Mr. Ethuro are not wild. This House has proven beyond reasonable doubt that this Government only moves when it is moved and especially the Executive side.

Mr. Deputy Speaker, Sir, this “wheelbarrow” we always refer to has proved to be a real wheelbarrow. When three months ago we raised the alarm that there were constitutional Bills which had not been presented to Parliament and whose time would lapse any moment, we were advised and, in fact, promised by the Leader of Government Business, and the Attorney-General; that they would publish the Bills in good time, and that this House would deliberate them in the right moment. What did the Government do? They had to rush this House through sleepless nights to pass close to five critical Bills in a span of two days. Standing Order No. 36(4), on which hon. Kimunya relied while giving the Statement, state as follows:-

“36(4) The leader of Government Business shall, every Thursday or the last sitting day of the week before commencement of business, for not more than fifteen minutes, present and lay on the Table, a statement informing the House of the business coming before the House in the following week.”

Mr. Deputy Speaker, Sir, he has been vague. He has not even told us which specific Bills we should expect to come, on which specific day. Even as hon. Members, we are not pushing for any recess, but we would hate to be rushed at the last minute just because the Government, again, wants to meet a deadline.

In anticipation of debate, hon. Kimunya alluded to the fact that they want to withdraw the Procedural Motion seeking to shorten the publication period of The National Cohesion and Integration (Amendment) Bill. What is the implication of doing so? It may not be ready for Second Reading again even next week. They will rush us again through the Second Reading and even the Committee Stage on the same day of that critical Bill, the amendments of which we may discuss next Thursday, when we might, again, need to go on recess.

Mr. Deputy Speaker, Sir, let the Government Leader of Business, or whoever is representing the Government, be serious. Let them tell us today, what specific Bills we should expect on Tuesday, Wednesday afternoon and Thursday. That is not asking for too much.

Mr. Deputy Speaker: Deputy Leader of Government Business, that is, indeed, a very valid point of order. You are not only supposed to come and enumerate, explain and expound, but you are supposed to also lay on the Table the programme of the business for the coming week. "Laying" means placing the programme on the Table of the House, in the same way you do when you lay Papers.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, indeed, every time I read the Statement, I lay the Paper on the Table. In this case, I am waiting for clarifications from hon. Members because I might need to refer to it. I will then table it. So, that has always been the requirement, and we have never failed to comply with it.

On the concerns raised by hon. Ekwe Ethuro, let me say that, indeed, we promised to have the Internally Displaced Persons (IDPs) Bill prioritised for yesterday, Wednesday. It was the first item on the listing of the Bills on the Order Paper, but we had a Motion for Adjournment to discuss a matter of great national importance, and specifically the Tana Delta tribal clashes. Hon. Members will appreciate that our Standing Orders do not allow us to transact business on Bills, following a Motion.

So, we suffered that situation. All the time was allocated to the Motion. The Motion was debated until 12.30 p.m. So, we could not have discussed the Bill even if the Standard Orders allowed us to do so. However, the Bill is still the first one on the list of Private Members Bills. It will be the first one on the Order Paper next Wednesday.

Mr. Deputy Speaker, Sir, that is our undertaking. I just wanted to clarify that we had actually prioritised the Bill, if the Motion had not come in.

Mr. Deputy Speaker: Conclude, Minister.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, now that I am here, I want to confirm that I have received my Statement. If you allow, I will be happy to issue the Statement, so that hon. Sofia Abdi---

Mr. Deputy Speaker: No, not now. We have given an undertaking. Already, a direction has been given on that Ministerial Statement. So, you will issue it on Tuesday, next week. Can you just conclude? There is other important business to be transacted.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, in terms of the business for next week, as I said, we will be meeting, as the House Business Committee, to agree on the business that we need to schedule for next week. I would like to ask for the indulgence of this House that, rather than commit myself on specific Bills, I consult with the rest of the

Committee Members and publish the Order Paper for Tuesday, Wednesday and Thursday, next week.

Mr. Deputy Speaker: Fair enough!

Hon. Dhadho Godhana, you have a Personal Statement to make.

PERSONAL STATEMENT

CLARIFICATIONS ON ALLEGATIONS OF INVOLVEMENT BY HON. GODHANA IN TANA RIVER TRIBAL CLASHES

Maj. Godhana: Mr. Deputy Speaker, Sir, I stand here to make a Personal Statement, pursuant to Standing Order No.76.

Mr. Deputy Speaker, Sir, I wish to, firstly, join the people of Kenya and Tana River County in mourning the loss of human lives and loss of property in Tana Delta District, and also to condemn the skirmishes and killings between the Orma and the Pokomo communities in Tana River County. I strongly urge them to stop the clashes and resort to negotiations towards a permanent peaceful solution to the issues as earlier agreed between me and the elders of both communities; an agreement which was disrupted by escalation of the skirmishes.

It is sad that before we could commence our second phase, we succumbed to this unfortunate situation. I wish to ask them to consider the recent flare ups and assaults as the height of the challenges facing us, which can now offer us the opportunity to remain focused on our roadmap towards a long-lasting peaceful solution.

Mr. Deputy Speaker, Sir, secondly, the inflammatory remarks by the Minister of State for Defence and Acting Minister of State for Provincial Administration and Internal Security, hon. Yusuf Haji, which were aired across television and radio stations across the world, reflected me as a person behind the clashes. The utterances were not only intimidating but they also injured my person and character. They portrayed me as a murderer and put my life at risk.

I am quite disappointed that on that day, the debate about me in this House escaped the attention of Standing Order No.79(4) to the extent that I was discussed without a substantive Motion. I, therefore, wish to, honourably, request for an apology by the hon. Members of this House, through the Chair. Yesterday, another attempt was made by hon. Sugow, to drag my name into the tribal clashes. I want to state that both hon. Sugow and hon. Yusuf Haji are my neighbours to the East. The utterances made by the two hon. Members against me were personal, and could have been informed by existing issues amongst us.

Mr. Deputy Speaker, Sir, I am a serious advocate of democratic principles. I believe that any democracy cannot survive without the rule of law. Immediately the Minister directed that I be investigated, I wrote to the Criminal Investigations Department (CID), the Office of the Speaker, and to the Truth, Justice and Reconciliation Commission (TJRC), inviting investigations. I am glad to report to the House that I have recorded a statement with the CID and, yesterday, I was arraigned in court.

I appreciate the action taken by the CID and the court in holding me responsible for my actions and as such, I responded to the court. I want to invite all hon. Members and all advocates of justice to come out clearly and follow my steps in accepting to be held accountable for their actions and/or omissions. I also wish to request that the rule of law be applied across the board rather than selectively.

Mr. Deputy Speaker, Sir, I want to thank His Excellency the President, and the Prime Minister, for their decision to have me suspended from my Ministerial duties until I am proved innocent. However, I want to bring to your attention the fact that immediately His Excellency the President, and the Prime Minister, made the decision, there was, in my belief, a misinterpretation of the directive to the extent that my personal security detail was disarmed and withdrawn. I read mischief in this move and request, through the Chair, that my security detail be reinstated and reinforced, given the circumstances I am in.

Lastly, I want to confirm to this House that the allegations leveled against me are malicious, intimidating, defamatory and misdirected. I am a polished, trained---

Mr. Deputy Speaker: Order! Order, hon. Godhana! You have been given an opportunity to the extent that you avoid any matter that could be interpreted as *sub judice*. If there are areas in respect of which you have a case pending in court, you avoid them. Keep it as personal as the Statement should be.

Hon. Members, Standing Order No.76 is very express and explicit about Personal Statements. There shall be no public debate on Personal Statements.

Hon. Godhana, proceed, but avoid matters that could be translated as *sub judice*.

So, proceed and conclude your Statement.

Mr. Godhana: Mr. Deputy Speaker, in conclusion, I want to confirm to this House that the allegations leveled against me are malicious, intimidating, inflammatory and misdirected. I am a polished, trained and experienced peacekeeper and will remain committed to pursuing peace in Tana River.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Fair enough. Next Order!.

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

Mr. Deputy Speaker: Is it on the Statement by the hon. Godhana?

Mr. Ruto: No, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Okay. What is your point of order?

Mr. Ruto: Mr. Deputy Speaker, Sir, last week, you directed Madam Minister of State for Special Programmes to issue a Ministerial Statement on the question of Internally Displaced Persons (IDPs) and, in particular, the Mau evictees. She had undertaken to issue it this afternoon. This House really expects that we hear from her.

Mr. Deputy Speaker: Hon. Minister, you gave an undertaking. Do you have the Ministerial Statement?

The Minister of State for Special Programmes (Ms. Mathenge): Yes, I do. Mr. Deputy Speaker, Sir, in your directive, if you look at the HANSARD, you said: "The Chair directs that this be delivered on Thursday next week." But I do have the Statement.

Mr. Deputy Speaker: Fair enough. If the direction was for this Ministerial Statement to be delivered on Thursday next week, then you will deliver it on Thursday next week.

The Minister of State for Special Programmes (Ms. Mathenge): Thank you, Mr. Deputy Speaker, Sir.

An hon. Member: On a point of order, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Order! Hon. Murugi, if I had directed that this Ministerial Statement be delivered on Thursday next week and the order was given last week, then it means this week.

The Minister of State for Special Programmes (Ms. Mathenge): Mr. Deputy Speaker, Sir, this Ministerial Statement was requested for this week and not last week. It was on Tuesday this week. I thought that is what you said, Mr. Deputy Speaker, Sir.

Hon. Members: No, it was on Tuesday last week!

Mr. Deputy Speaker: Order!

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

Mr. Deputy Speaker: Do you want to take the place of the Chair?

Mr. Ethuro: No, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Then you freeze! If, indeed, the Ministerial Statement was sought this week and the Chair directed that it be delivered on Thursday next week---

Hon. Members: No, it is this week!

Mr. Deputy Speaker: The HANSARD! Order! The hon. Minister seems to remember very well, and she has a copy of the HANSARD. Do you have a copy of the HANSARD?

The Minister of State for Special Programmes (Ms. Mathenge): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Can you bring it to the attention of the Chair?

(Ms Mathenge gave a copy of the HANSARD to the Chair)

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. As you look at the HANSARD, you also know that when the HANSARD is usually printed, it is given back to the author to correct. So, it is not cast in stone. I sought the Ministerial Statement because three Ministers and one Backbencher come from a Committee that is overseeing the resettlement of the Mau IDPs and we are concerned that the plight of those IDPs will be left in limbo and the Speaker directed that it be issued this Thursday and not next week.

Hon. Members: On a point of order, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Order! Hon. Members, for God's sake, maintain your dignity and honour as Members of Parliament. This is the HANSARD. This was done on 11th September, which was on Tuesday this week. Here, it says that the Deputy Speaker - and not any other Chair, directs that this be delivered on Thursday next week. Thursday next week is next week.

Hon. Members: No! On a point of order, Mr. Deputy Speaker!

Mr. Deputy Speaker: Order! You are the ones who are supposed to protect this country's probity, integrity and dignity, and your words are "No". When the Chair gives a direction and you, as a Member of Parliament, you have got the audacity to come here and say: "Mr. Speaker but we can change this." You change on what basis? You are encouraging corruption in the country.

(Laughter)

Hon. Members, we are now shifting to the Supplementary Order Paper.

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. I know you to have a very good heart. You know that what you have fought for, all your life, as long as I have known you, is justice. I know you. I do not agree with my colleagues on the direction that they are going. But the plight of IDPs is so important. It is even much more important than any business before us. So, since the Minister has the Ministerial Statement, let her deliver it.

Mr. Deputy Speaker: Order! The Chair would be the last institution to break the rules of this House. This is a law making body. We are the ones who are supposed to be more law abiding and more in line with our own Standing Orders and the pronouncements from the Chair. You cannot just say: "Because of this and that, let us vary this." This Chair is not just about to do that. You had an opportunity at that time to rise and say that because of the urgency of the matter, it be delivered today. Maybe, the Chair would have varied that direction. But the direction given by the Chair is not going to be varied by the same Chair. My heart is very personal, but this is an institutional function that I am performing today. Magnanimity is there, hon. Members. It is not the generosity of the individual; it is the dignity of the institution itself. Under those circumstances, I do not wish to entertain any further interventions. Why do you, hon. Members, suddenly become so sensitive that you feel two or three days more delay will cause havoc? Let us discuss that at another time and you can approach the Chair in his own Chamber with the Minister. Let that be the case. There is business to be transacted. Can we shift now to the Supplementary Order Paper? Proceed!

PROCEDURAL MOTIONS

EXTENSION OF SITTING TIME OF THE HOUSE

Mr. Deputy Speaker: Deputy Leader of Government Business, can you move the Procedural Motion?

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, with your permission and with the indulgence of the House, I would like to withdraw the Procedural Motion at Order No.8 because the anticipated business that was occasioning the need to extend the House is not on the Order Paper.

(Applause)

Mr. Deputy Speaker: Okay. Fair enough. That Procedural Motion is withdrawn.

(Procedural Motion withdrawn)

Mr. Deputy Speaker: Kindly now proceed onto the next Motion. I presume you want to also withdraw the next one. Do you wish to withdraw or you want to move? Why should you want to withdraw? Next Order!

REDUCTION OF THE REFERRAL PERIOD OF THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, again, with your permission and the indulgence of the House, I wish to withdraw the Procedural Motion at Order No.9 because this matter requires further consultation. We have agreed that we might very well wait until next week to have it, but with further consultations having taken place.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I would not have any serious objections with the withdrawal of this Motion except for the Minister to pronounce himself on the fate of that

Commission. My understanding is that it has expired and the period between the expiry and when it is starting, it might just decide to engage in hate speech.

Mr. Deputy Speaker: Okay; there seems to be concurrence on the withdrawal of Order No.9. In my opinion this is just a Procedural Motion to accelerate the business, so that you do not have to do it again. It does not necessarily mean that you have to bring this business before the House. You keep on complaining about the Government not being ready with business all the time.

What is the harm in having this referred to the Committee?

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. In as much as the Minister is withdrawing the Motion, perhaps, he should have told us why because this is basically procedural. It has come to the attention of this House that there are some elements within the Government who are doing whatever it takes to ensure that elections are not held in March. That is why we are seeing all these delays, and withdrawing of Procedural Motions. Is this not an attempt by the Government to ensure elections are not held in March, but sometime next year in August?

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, indeed, it would have been our desire to have this Motion debated and the matter concluded. I seem to get the feeling that, perhaps, there is need for consultations. This was to open the door for the Bill that came through the Committee; it is sponsored by the Committee and was brought by Mr. Baiya to be read a Second Time and a Third Time today. I would have had no problem in moving this if the House wanted to accelerate the business and then the debate can begin next week or at an appropriate point.

Mr. Deputy Speaker: that should be so, because they keep on complaining that the Government is not bringing business before the House.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, perhaps, let us go on with the Motion but in terms of timing for the Second Reading, we would like to have some consultations; at least we have cleared the way.

Mr. Deputy Speaker: So, could you proceed and move it?

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. I am lost because we just spoke to the Minister and this matter also came up in the House Business Committee. I quite agree that we all must go out because the subject of this Bill is contentious. I was hoping that we could consult without raising those issues here, so that we all arrive at a consensus. I would plead with the Minister and the Chair that we first agree on these issues before we do anything to this Bill.

Mr. Deputy Speaker, Sir, it was attempted in the House Business Committee to reduce time, so that we could put this on the Order Paper on Tuesday, but we said “no”. So, the House Business Committee made a decision that we would not reduce the publication time of this Bill. I would plead with you that we follow what the House Business Committee agreed.

Mr. Deputy Speaker: Could you proceed and confirm that again? This is Mr. Baiya’s Bill; so let me hear him.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I would wish---

Mr. Deputy Speaker: Just a second, Mr. Kimunya. Mr. Baiya is the sponsor of this Bill.

Mr. Baiya: On a point of order, Mr. Deputy Speaker, Sir. Thank you for giving me an opportunity to contribute. I would really wish to make it clear that the National Cohesion and Integration (Amendment) Bill is sponsored, or has been brought here, by two Committees of this House, that is, the Constitution Implementation Oversight Committee (CIOC) and the

Committee on Justice and Legal Affairs. This is actually a body whose time expired in September; it was felt that there would be a gap if we did not extent this Bill. I am not moving this amendment Bill, but I just want to indicate that the effect of not allowing this Motion to proceed is that the National Cohesion and Integration Commission will not have the mandate to be in office. The effect of this, especially at the time of electioneering, is that we will have created that gap. It needs to be pointed out how the situation is evolving in the country, especially around this election time; we need to think about maintenance of peace. These are institutions that were set up as a result of the negotiations, following the 2007/2008 election fiasco. I would really want to urge the House that even if we delay this, let it be on the Order Paper at the earliest opportunity next week.

Mr. Deputy Speaker: Mr. Kimunya, I think we have given this enough time. What is your problem, Dr. Nuh!

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. I do not have a problem.

Mr. Deputy Speaker: Do you have a solution?

Dr. Nuh: I have a point of order and maybe a solution. Mine would be that when Mr. Kimunya withdraws the Procedural Motion on this Bill, the import of which was to reduce the number of days of publication, so that we are able to go to second reading, he better tell us what will be the impact of withdrawing the procedural Motion; when will the Bill be due for Second Reading again. This will enable us to know if it is important that the days be reduced. Mr. Midiwo says that we want to have it on Tuesday on the Order Paper, the import of which is still okay. Even if we reduced the time to two days, we can only debate it on Second Reading today; this does not take away the fundamental right of Members to move further amendments or shoot it down. So, let him tell us when it will be due for Second Reading if and when he withdraws the Procedural Motion.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I fully agree with what Dr. Nuh is saying and also what Mr. Baiya has said. I just want to have some regard for the institutional structures that we have put in place. The House Business Committee needs to deliberate on this and have some consensus. I would wish that we withdraw the Motion and have the House Business Committee looking at it; when we have consensus we will bring it to the Floor of the House.

Mr. Deputy Speaker: So, have you withdrawn the Procedural Motion? It stands withdrawn.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, Order No.9 stands withdrawn, and so are Order Nos.11 and 12, which were premised on the passage of the withdrawn Procedural Motion.

Mr. Deputy Speaker: Yes; they also stand withdrawn?

The Minister for Transport (Mr. Kimunya): Yes.

Mr. Deputy Speaker: It is so directed.

How about Committee Stage at Order No.10? Are you prepared to proceed on with it?

The Minister for Transport (Mr. Kimunya): Yes, Mr. Deputy Speaker, Sir. We are prepared to proceed with Order No.10 except for the first item on the Breast Milk Substitutes (Regulation and Control) Bill. My understanding is that the Committee is still meeting and agreeing on the amendments. For the Central Bank (Amendment) Bill and the Capital Markets (Amendment) Bill, we can proceed.

(Procedural Motion withdrawn)

BILLS

THE BREAST MILK SUBSTITUTES (REGULATION AND CONTROL) BILL

(Consideration of Committee Stage deferred)

THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL

(Bill withdrawn)

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Order, Ms. Karua! We are in the Committee of the whole House. At the Committee of the whole House, we will consider two Bills. The first one will be the Central Bank of Kenya (Amendment) Bill and the second one is the Capital Markets (Amendment) Bill.

THE CENTRAL BANK OF KENYA (AMENDMENT) BILL

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

(Clause 6 agreed)

(Clause 1 agreed to)

(Title agreed to)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Central Bank of Kenya (Amendment) Bill and its approval thereof without amendment.

(Question proposed)

Prof. Kaloki: On a point of order, Mr. Temporary Deputy Chairman, Sir. I do not wish to take you back, but it was the understanding of the Committee on Finance, Planning and Trade that there will be some amendments. The Committee must consult with the Treasury, so that it

can bring the amendments. So, I am pleading with the Chair to allow the Committee to bring the amendments, so that we can make this particular Bill conclusive.

The Temporary Deputy Chairman (Mr. Ethuro): There is not really much to entertain at this point, although I know that hon. Midiwo is interested, given that he is a Member of the Committee on Finance, Planning and Trade. My problem is really procedural. We have gone through each Order on the Order Paper. Any hon. Member who had in an interest in a particular Order, would have raised those objections at that particular time. So, for Prof. Kaloki to come at the end of business--- To use your words, that you do not want to take us back, that is exactly what you wanted to do and the Chair cannot allow that. We will proceed!

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): We will proceed to the next Bill, which is, The Capital Markets (Amendment) Bill (Bill No.24 of 2012).

THE CAPITAL MARKETS (AMENDMENT) BILL

(Clauses 2, 3, 4, 5 and 6 agreed to)

New Clause 8(1)

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

THAT, the Bill be amended by deleting Clause 8(1) of the Act and substituting it as follows:-

8(1) There shall be a Chief Executive of the Authority who shall be appointed by the Minister and who shall, subject to this Section, hold office on such terms and conditions of service as may be specified in the instrument of appointment, or otherwise from time to time.

Mr. Temporary Deputy Chairman, Sir, this is basically empowering the Minister to appoint the Chief Executive of the Authority.

(Question of the New Clause 8(1) proposed)

(New Clause 8(1) read the First Time)

(Question, that the New Clause 8(1) be read a Second Time, proposed)

(Question, that the New Clause 8(1) be read a Second Time, put and agreed to)

(The New Clause 8(1) was read a Second Time)

(Question, that the New Clause 8(1) be added to the Bill, put and agreed to)

(Clause 1 agreed to)

(Title agreed to)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Capital Markets (Amendment) Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

THE CENTRAL BANK (AMENDMENT) BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole house has considered The Central Bank (Amendment) Bill and approved the same without amendment.

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

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Transport (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Central Bank (Amendment) Bill be now read a Third Time.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, while lauding the Minister for doing a good job, I would urge him to make resources available for teachers and lecturers who have been demonstrating in this country. I know the Minister is capable of doing so, and that will address the cry that is being expressed by Kenyans.

With those few remarks, I beg to support.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, let me also add my voice in thanking the Minister. I have only two issues: To tell the Minister that this country is going to improve or even have proper economic growth with good financial policies; a good capital market and a good central bank policy. I want to urge him to keep bringing legislation after legislation and we shall support because it is only by streamlining that sector that we are going to succeed. Lastly, I want to ask the Minister to urge the President to immediately now make the Central Bank of Kenya (CBK) operational because now the ball is in his court.

Thank you.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I now have two roles: I am now a Back Bencher but I was the Chairman before so let me speak from where I belong. I also want to thank the Minister and he must appreciate that, the reason why this House is not even proposing any amendment to his Bills is because he has generated sufficient goodwill within the House. I encourage him to maintain that spirit and I am sure he knows what I am talking about.

(Laughter)

Mr. M'Mithiaru: Mr. Temporary Deputy Speaker, Sir, mine is on the CBK (Amendment) Bill. I will say that I want to be on record that I have supported that and I am sure even the Minister will, with the passage of time, realize that he could have caused a more lacuna than what we have now.

(Question put and agreed to)

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

THE CAPITAL MARKETS (AMENDMENT) BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole house has considered The Capital Markets (Amendment) Bill and approved the same with amendments.

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

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Capital Markets (Amendment) Bill be now read a Third Time.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, in the past, we have had experiences in this country where the stockbrokers and dealers have misappropriated funds for shareholders. This law will now stabilize the market and attract more investment necessary for job creation for our youth in this country.

With those few remarks, I beg to support.

(Question put and agreed to)

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

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, there being no other business, the House stands adjourned until Tuesday, 18th September, 2012 at 2.30 p.m.

The House rose at 5.27 p.m.