

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 15th August, 2012

The House met at 9.00 a.m.

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

PRAYERS

QUESTIONS BY PRIVATE NOTICE

DISTRIBUTION OF SYRINGES TO DRUG ABUSERS/USERS

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

(a) Is the Minister aware that the Government is planning to distribute syringes to drug abusers/users in the country?

(b) How will the syringes help the users?

(c) Could the Minister confirm or deny that distribution of the syringes is a way of demonstrating Government failure to curb drug abuse in the country?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, this Question was initially referred to the Ministry of Medical Services who sent it back to us. We have also sent it back to them because this is a treatment programme. The lead agency is the Ministry of Medical Services.

The funding is by Global Fund. There is a team in place consisting of officers from the Ministry of Medical Services, the Ministry of Public Health and Sanitation, the National AIDS Control Council, the Pharmacy and Poisons Board, the NACADA, the UNAID, the UNDC, the WHO, the CDC and the USAID. As the NACADA, we are merely advisers on this matter.

So, since this is a treatment programme, and the Ministry of Health and Sanitation runs treatment centres, we have referred the Question back to them to deal with it. If they are unwilling to do so, we can explain the part that we understand.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, are you saying that the Question, first, came to you, but then you referred it to the Ministry of Medical Services who referred it back to you? Just clarify!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, the Question was directed to the Ministry of Medical Services, and the Minister referred it to us. We studied it and referred it back to them. We work as a team and we think that as the lead agency and managers

of medical institutions, the Ministry of Medical Services is better placed to deal with the Question.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Shakila Abdalla, you will have to bear with the Assistant Minister.

Mr. Assistant Minister, you are supposed to have, at least, written to Parliament, with a copy forwarded to the other Ministry, so that Parliament could follow the trail of that paper.

Hon. Shakila Abdalla, you may have to wait for another opportunity.

Ms. Shakila Abdalla: Mr. Temporary Deputy Speaker, Sir, this Question has been deferred three times now. Last time, the Minister for Medical Services agreed that it is their Question and promised to answer it this week. I am surprised to hear that he has thrown it to the Ministry of State for Provincial Administration and Internal Security. I think somebody is running away from responsibility! I need your guidance as to who should answer this Question because it has been dragged for quite a while.

The Temporary Deputy Speaker (Mr. Ethuro): Ms. Shakila Abdalla, was commitment made in the House that the answer would be provided by which Ministry?

Ms. Shakila Abdalla: Mr. Temporary Deputy Speaker, Sir, syringes fall under the Ministry of Medical Services. The Minister said that it was NACADA that was providing the syringes, but NACADA cannot come here to answer Questions! So, he said that they needed to consult with NACADA and answer the Question on their behalf, as a Ministry.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Shakila Abdalla, taking into consideration your word that the Question has been deferred thrice, could we give them up to Tuesday and have the Question answered by the Ministry of Medical Services?

Ms. Shakila Abdalla: Yes, Mr. Temporary Deputy Speaker, Sir.

(Question deferred)

The Temporary Deputy Speaker (Mr. Ethuro): Next Question, Dr. Munyaka. Is Dr. Munyaka not here? Let us go to Questions by Ordinary Notice.

MURDER OF KATOLONI SECONDARY SCHOOL WATCHMAN

(Dr. Munyaka) to ask the Minister of State for Provincial Administration and Internal Security:-

(a) Is the Minister aware that Messrs. Stephen Nziku and Charles Mbatha, both watchmen at Katoloni Secondary School in Machakos Town, were attacked on the night of 30th May, 2012, leading to their deaths?

(b) Have any suspects in connection with the murder been apprehended and arraigned in court?

(c) Is the Minister further aware that residents of Machakos Town are living in fear due to increased insecurity in the town and if so, what measures is the Government taking to ensure that security in the town is enhanced?

ORAL ANSWERS TO QUESTIONS

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, hon. Kabogo has an engagement elsewhere. So, I will give him the first chance. I hope you will understand.

Yes, hon. Kabogo!

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, I thank you for your indulgence.

Question No.1612

DISMISSAL OF SUPERFOAM LIMITED EMPLOYEES

Mr. Kabogo asked the Minister for Labour:-

(a) whether he is aware that Superfoam Limited wrongfully terminated the services of seven of its technical workers on 28th December, 2011 without notice;

(b) whether he is further aware that these workers have not been paid their benefits to date despite several attempts to have the same settled; and,

(c) when all the seven workers will receive their benefits and other dues as required by law.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) When we were handling this Question last time, two issues emerged and the Speaker directed me to go and find out. I was to find out whether those employees had lost their benefits during the negotiations. That is not true. The employees were reinstated and I have copies of the letters of reinstatement. They were reinstated to their respective departments without loss of benefits. I, hereby, table all the letters belonging to the employees.

(Mr. Ojaamong laid the documents on the Table)

Mr. Temporary Deputy Speaker, Sir, after the employees were reinstated, some of them were not comfortable and opted to resign. As we speak, seven cheques for seven employees have already been deposited in our labour office in Thika awaiting collection by the employees. So, any time those employees will appear in our labour office in Thika, they will be handed over their cheques for terminal dues.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, you have heard the Assistant Minister contradict himself from the very beginning! The issue that was referred to him to go back and check was whether those employees were being moved from Superfoam to another company called A1 Plastics. They were moving the employees from one company to the other without paying them their dues, and those are two different entities. He has now come back and he is saying that they are being paid their terminal dues. What are they being paid for? I have not seen those letters, but the letters he is referring to - copies of which I have here - are letters moving employees from Superfoam to another company without paying them benefits. When are they going to pay them benefits? In any case, it is their option to leave employment if they so desire because they are being moved to a company that is a new entity. So, let the Assistant Minister not assist rogue employers!

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Kabogo! Ask your question!

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, when will they be paid their terminal dues and why is he holding cheques in the Ministry of Labour?

Mr. Ojaamong: Mr. Temporary Deputy Speaker, Sir, maybe, hon. Kabogo has copies of other letters. If I can just read--- This is a letter from Superfoam Limited to employees and it reads:-

“RE: REINSTATEMENT

Following the reconciliation meeting held at Thika District Labour Office on 11th April 2012, you are, hereby, informed that you have been reinstated back to your positions as machine attendants in Tapage Department as per our earlier letter to you dated 1st November 2011 effective 2nd May.”

Then you go down to the last paragraph which reads:-

“All other terms as per your letter of appointment dated 23rd August 1991 will remain the same.”

Mr. Temporary Deputy Speaker, Sir, if you have seen the copies of the letters, it is very clear. I am assuring hon. Kabogo that the employees will be paid. That is why we are holding the cheques. It is part of our responsibility to get the cheques from the employers and transmit them to the employees. It is part of our working arrangement.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Kabogo, you need to confirm whether you have a copy of the same correspondence that the Assistant Minister was reading, and which the Chair has.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, I need to have a look at them. But my position is simple. If the Assistant Minister could give an undertaking to this House that those employees will be reinstated to Superfoam and not any other company, then I will be satisfied. I may request the Chair to give me time to look into the records that he has brought and I seek your indulgence to move the Question to sometime next week. That way, I will be able to interrogate the documents that he is referring to. In any case, if you listened to the Assistant Minister, he said they have been reinstated, but he does not state to which company. We know how those companies operate. So, I request you to give me time to have a look at those documents, go to the ground and see whether what the Assistant Minister is telling us is true. That is because he has a habit of saying this today and saying the other next time. If you refer---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Kabogo! Mr. Assistant Minister, just give him the assurance!

Mr. Ojaamong: Mr. Temporary Deputy Speaker, Sir, if you looked at the letterheads, it is Superfoam Limited which is reinstating those people. It is common sense. It is not A1Plastics. It is Superfoam through its Human Resources (HR) Manager, Mr. Nyaberi.

The Temporary Deputy Speaker (Mr. Ethuro): Order! I think the problem with hon. Kabogo is that he does not have the copies of your correspondence. The Chair has the same copies that the Assistant Minister is reading from. So, I think, for me, if the Assistant Minister assures the hon. Member as he had already suggested, then we do not need to bring back this matter because it is Superfoam and the names are there. I think once you get copies--- I do not know why you were not provided with the copies. He was just tabled them.

Mr. Ojaamong: Mr. Temporary Deputy Speaker, Sir, I have just tabled them, but I want to assure hon. Kabogo - as I have previously done to him--- He knows I have handled matters related to this constituency successfully. By Friday this week, he will be a very happy person with his affected people. The matter will be sorted out.

The Temporary Deputy Speaker (Mr. Ethuro): Let us conclude this Question. Hon. Kabogo, you have the last one.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, I will wait and hope that it happens and, if it does not, I will raise the matter again. What may appear as common sense to some of us is never common sense at all!

Question No.676

TRESPASS INTO PRIVATE PROPERTY BY ADMINISTRATION POLICE OFFICERS

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, my Question is No.676 and I wish to attend a joint memorial service for the mothers who perished in Tanzania. So, I am just seeking the indulgence of the House to ask my Question.

The Temporary Deputy Speaker (Mr. Ethuro): In fact, you are properly on it now!

Ms. Karua asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that a contingent of Administration Police (AP) officers trespassed onto private property that is subject of a court dispute, namely Narok/Nguruman/Kamorora/1, in April 2010 and have remained there since, despite protests by the registered owners; and,

(b) whether he could order immediate withdrawal of the police from the property.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, I beg to reply. I think this is the third time that this Question is coming.

(a) On Tuesday 29th March 2011, I promised this House that I would table a detailed report based on the findings of the Criminal Investigation Department (CID) on the activities of Messrs Kayan and Ponten within Nguruman area of Narok South. A team of investigators was tasked to get information on the following allegations: That there was an AP police base at Nguruman Limited against the wishes of registered owners. That the employees of Kayan, Ponten AND Nelson had trained in masketeering. That there are 70 firearms in Ol Donyo Laro and some are unlicensed. That police officers were also denied entry into the ranch. That, illicit activities are taking place in the ranch which include poaching game sporting, export of wildlife, tax evasion and human traffic.

Mr. Temporary Deputy Speaker, Sir, I just want to read the findings by the team. That, there were two AP officers from Nguruman Chief's camp found at the camp at the time the investigation team visited.

The two officers conducted this operation in the name of training the community on the rule of law. Currently, the officers visit the conservancy when there is a security issue to be addressed.

(ii) The management of Olenyolero Camp has trained 64 rangers on the protection of wildlife and security within the camp. Most of them are ex-KWS employees. There is also a team of 30 men whose main duty is to control the grazing of livestock by neighbouring communities within Olenyolero Camp.

(iii) There is a training field and barracks for the recruit rangers.

(iv) The management of the camp is licensed to have 29 firearms---

The Temporary Deputy Speaker (Mr. Ethuro): What is it, Ms. Martha Karua?

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir. It appears that the Assistant Minister is not aware that this Question had actually been answered by the late hon. Ojode. What he was going to further seek to clarify was that:-

(i) Peter Bonde Nelson is a fugitive wanted by his own country for criminal activities there;

(ii) there are illegal firearms at Ngurumani;

(iii) in spite of a court order, several people, including highly placed Government officials who are Members of this House, were frequenting the ranch even when there was a court order for planes not to land there.

I supplied copies of the court order.

Mr. Temporary Deputy Speaker, Sir, would it be in order for the Chair to direct the Assistant Minister to first familiarize himself with the initial answer, so that we now continue from where we left instead of beginning afresh and omitting to do the things that they had promised to come and answer on?

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Member, the Chair cannot direct the Assistant Minister to do his homework. It is expected of him to have already familiarized himself with the HANSARD, so that he comes here to address your specific concerns. So let the Assistant Minister address the specific outstanding issues.

The Assistant Minister of State for Defence (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, it is true that these matters were being dealt with by the late Mr. Ojode. However, looking at the HANSARD, I do not seem to have come across the issue of a fugitive and the issues that are being raised by Ms. Martha Karua. However, I am willing to go back. What I have is what I am reading, the allegations that were being made, the requirement to put investigations in place and the last investigation. What I am getting now is new to me and I am willing to go back to look at it again.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, since the Member was basically suggesting that she has no problem with you going back, and only the Chair was reluctant about it, when do you want to come back? Remember your own admission that the Question had been deferred three times. I can see from my desk that even a ruling on the sub judice rule was made in March. Therefore, this matter has been pending for a very long time. It needs to be determined.

The Assistant Minister of State for Defence (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, I could come back on Wednesday next week.

The Temporary Deputy Speaker (Mr. Ethuro): Ms. Martha Karua, are you comfortable with next Wednesday?

Ms. Karua: Yes, that is okay, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Wednesday morning.

The Assistant Minister of State for Defence (Mr. Lesrima): Thank you, Mr. Temporary Deputy Speaker, Sir.

(Question deferred)

The Temporary Deputy Speaker (Mr. Ethuro): Next Question by Eng. Nicholas Gumbo.

Question No.1352

PRESENTATION OF CELLULAR MOBILE
PERFORMANCE ASSESSMENT REPORT

Eng. Gumbo asked the Minister for Information and Communications:-

(a) whether he could present and explain the latest (2010/2011) Cellular Mobile Quality of Service Performance Assessment Report for all the mobile phone operators in Kenya;

(b) whether he is satisfied that all the mobile phone operators in Kenya have achieved the minimum set targets for all the eight Quality of Service (QoS) performance parameters as set out by the Communications Commission of Kenya (CCK); and,

(c) what the Ministry is doing to ensure that Kenyans, and all mobile phone users in Kenya, get value for every cent spent on these networks.

The Temporary Deputy Speaker (Mr. Ethuro): Minister for Information and Communications! I will come back to the Question.

Next Question by the Member for Kilome.

Question No.1597

AUTHENTICITY OF ALLEGATIONS MADE BY MR. RANNEBERGER
ON CRIMINAL ACTIVITIES BY KENYAN NATIONALS

Mr. Mwau asked the Minister for Justice, National Cohesion and Constitutional Affairs:-

(a) whether he could clarify whether Mr. Michael Ranneberger filed a formal criminal complaint at the then Kenya Anti-Corruption Commission (KACC) between November and December, 2010, and if so, whether he accused Kenyan nationals of various criminal economic activities; and,

(b) whether comprehensive investigations were carried out by the then Kenya Anti-Corruption Commission (KACC), and if so, what action was taken and whether he could also provide a copy of the KACC report on the criminal activities committed.

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

(a) Between November and December 2010, Ambassador Ranneberger presented to the then KACC documents containing information alleging the involvement of Kenya nationals in drug-trafficking.

(b) The then KACC did not undertake investigations into this report as the Criminal Investigation Department (CID) were supposed to undertake these investigations. There is, therefore, no report available with the Ethics and Anti-Corruption Commission (EACC) on these accusations to present to the House.

Mr. Mwau: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for his answer. I would want him to confirm whether under the Vienna Convention, the Diplomatic Relations (1961), a foreign ambassador is required to communicate directly or through the Ministry of Foreign Affairs; he cannot go directly to Government departments, present

documents and hold a Press conference when doing that. Could the Assistant Minister confirm that?

Mr. Cheptumo: Mr. Temporary Deputy Speaker, Sir, indeed, the procedure is that the ambassador should have dealt directly with the relevant Ministry. However, it is true that the ambassador visited the offices of the then KACC and presented the documents to the Commission. It is true that the right procedure should have been for the ambassador to go through the relevant Ministry and pass information of that nature. I confirm that.

Mr. Nyambati: Mr. Temporary Deputy Speaker, Sir, it is amazing that some foreign missions and ambassadors have more rights in our country than we have. Could the Assistant Minister assure us that in future ambassadors and foreign missions will strictly follow the rules laid down in diplomatic cycles; that they should always pass through the Ministry of Foreign Affairs rather than meddling in the internal matters of this country?

Mr. Cheptumo: Mr. Temporary Deputy Speaker, Sir, I believe all ambassadors know, or ought to know, the procedure for them to follow in dealing with this country or the Government of Kenya. The case of the former ambassador was a bit unique. I believe that most ambassadors really know their roles and how to present information touching on this country. I think I may not be able to assure this House but I am confident that ambassadors know how they should deal with this Government.

The Temporary Deputy Speaker (Mr. Ethuro): Last question, Mr. Mwau.

Mr. Mwau: Mr. Temporary Deputy Speaker, once the criminal complaint was filed by this foreigner, could the Assistant Minister confirm that investigations were carried out and provide copy of the final report of those investigations?

Mr. Cheptumo: Mr. Temporary Deputy Speaker, Sir, investigations into these allegations were, indeed, undertaken by the CID. Undertaking the investigations was not done by the Commission. The right department to confirm that completion of the investigations is the CID. I know we have responsibility to deal as a Government because we have the principle of collective responsibility. However, at this point in time I cannot present to the House a final report on the investigations into these allegations.

The Criminal Investigation Department (CID) will be the right department to give that information; but I would like to confirm to this House that the investigations were not carried out by the then Kenya Anti-Corruption Commission (KACC) or the current Ethics and Anti-Corruption Commission (EACC).

The Temporary Deputy Speaker (Mr. Ethuro): Next Question by the hon. Member for Mvita.

Ms. Shakila Abdalla: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to inform you that Mr. Balala is out of the country. He has gone to Hajj. Therefore, I would like you to defer this Question until he comes back to the country.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Member, while that information is useful, Mr. Balala must know how we communicate to the House!

Question No. 1709

LIST OF PEOPLE ISSUED WITH ALLOTMENT
LETTERS/TITLE DEEDS IN LAMU COUNTY

(Question deferred)

Question No.1582

PROVISION OF ADEQUATE FUNDS TO
MPEKETONI SECONDARY SCHOOL

Mr. Twaha asked the Minister for Education:-

(a) whether he is aware that due to its new status as a national school, Mpeketoni Secondary School has increased its enrolment by 350 students;

(b) whether he is also aware that the increase in student enrolment has strained the school facilities such as dormitories to the extent that students are accommodated in the biology laboratory; and,

(c) what urgent measures he will take to ensure that the school receives adequate funding to expand its facilities to a level befitting its new status.

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

(a) I am aware that Mpeketoni Secondary School has registered an increase in enrolment of 57 students and not 350 students as stated by the hon. Member. This has raised the school enrolment to 730 students in 2012, up from 673 in 2011.

(b) I am further aware that for a long time the facilities at the school have been overstretched due to growth of the institution and the number of students accommodated in the dormitories exceed the designated capacity, particularly in the boys' dormitories. This has resulted in some of the boys being accommodated in the laboratory.

(c) The Ministry has initiated the following measures aimed at ensuring adequate funding and expansion of facilities in schools:-

(i) re-registration of school to five-streamed status, which was effected on 18th March, 2012 from the previous status of a single-streamed school;

(ii) the Ministry has conducted an infrastructure gap survey and prioritized the most urgent requirements for the school with a view to addressing the identified gaps;

(iii) as an initial financial intervention by the Ministry, my Ministry will allocate Kshs25 million for infrastructure upgrading to every national schools, once the schools' phase of implementation has been reached. Therefore, Mpeketoni Secondary School will get its allocation of Kshs25 million in 2013/2014 financial year. The school has not been upgraded to national status yet; this will be done during the 2013/2014 financial year;

(iv) the Ministry is encouraging other stakeholders, including Government Ministries, development partners and agencies like the Constituencies Development Fund (CDF), Non-Governmental Organizations (NGOs), Community Based Organizations (CBOs) and alumni of the school to augment the Ministry's efforts in developing the school.

Mr. Twaha: Mr. Temporary Deputy Speaker, Sir, the CDF gets only 2.5 per cent of Government revenue, and 97 per cent still remains with the national Government. This is a national school; so why does the Assistant Minister seek to abdicate his responsibility to the national school and pass it to CDF, which gets only 2.5 per cent of national revenue? Given that the enrolment in the school will be only 15 per cent of students in our county---

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Twaha, I think you have asked your question!

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I did not talk of CDF alone. I also talked of other stakeholders. In the meantime, we have told the schools that given the gaps that

we have, let them formalize the requests for additional funding. They will be given money. This school has overstretched the facilities it has.

Mr. Pesa: Mr. Temporary Deputy Speaker, Sir, I think this is a very serious case. The Assistant Minister should consider a school where children are sleeping in the laboratory. These students ought to use the laboratory during tuition. Could the Ministry put in place some plan to use some emergency funds from the Ministry to put up a dormitory for the students, so that the students can move from the laboratory and use it for learning?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the Ministry is ready to help the school, but they have to make a formal request, as I had said. That has to be done by every school for auditing purposes. We have prioritized what has to be addressed.

Mr. Koech: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to avoid answering the question? The formal request that he is referring to is a formal request through the District Education Board (DEB). The secretary to the DEB is the District Education Officer (DEO), who is his own officer. Is he in order to avoid doing his job?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the secretary of DEB is not the DEO. The DEB comprises several other people, including Members of Parliament.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Prof. Olweny! Do not go that way. It is a fact and all of us are Members of the DEB. Could you respond to the issue?

Prof. Olweny: Mr. Speaker, Sir, what I was responding to is the issue of the DEB secretary. We have the chairman and the members who deliberate on issues together. Sometimes you find that the school that has made a request is left out of a list. I know schools that have made requests through the DEB but their requests have not reached the Ministry.

Dr. Khalwale: Mr. Speaker, Sir, the problem at Mpeketoni affects almost 90 per cent of our schools, because basically with the increase in population of Kenya, the population of most schools is also increasing. Could the Assistant Minister tell us what plans he has to ensure that the infrastructure in all our schools receives development funds from the Budget without involving the DEB, the heads of schools and so on? How much do you want to set aside for every school so as to improve the infrastructure in view of the growing population of Kenya?

Prof. Olweny: Mr. Speaker, Sir, what the hon. Member is requesting is what brought problems to the Ministry recently in regard to money being given to schools which actually did not need it. Previously money was given to schools which actually did not deserve it because of some people bringing in names; the approach that the Ministry has adopted makes the procedure more transparent. Even Members of Parliament themselves will be party to the proposals that will come to the Ministry through the DEB.

Mr. Mwangi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House? Last year in December, I invited the former Permanent Secretary, Ministry of Education to my school called Mogori Girls Secondary School. We visited the school, it was upgraded to a national school and he promised that those schools will get Kshs12.5 million by September. Is the Assistant Minister in order to mislead the House that the Ministry has not budgeted for these funds?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I am not misleading anybody here but what the hon. Member is saying here is what we are avoiding now. The PS and even the Minister have no authority to go out there and pick a school without the involvement of stakeholders in the district.

Ms. Shakila Abdalla: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has just confirmed that if the school requests for funds, they will give them. Could he confirm how soon the funds will be available if they request for it or will it be a merry-go-round business?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, it will also depend on the availability of funds.

Hon. Members: Ah!

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I think we shall have some infrastructure funds to avail to the school. However, Mr. Twaha knows very well that the school which is a mixed school at the moment is phasing out girls and so this year, they did not admit girls. So the girls' dormitory has space but we cannot put the boys there until all of them are phased out and so we are going to have an extra dormitory when the girls are phased out.

Mr. Twaha: Mr. Temporary Deputy Speaker, Sir, you have heard the Assistant Minister state that they will release the funds during the implementation stage. Why do they not release the funds now so that we put up the infrastructure and when the implementation stage comes, we have the facilities ready to receive the students instead of releasing the money when the students come and we still have the bottleneck?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, we have upgraded selected schools to national schools and it is to be done in phases. We have three phases; right now, we have done the first phase while the second phase will come next year. So, every school will receive its allocation when it is being upgraded at the time when it is selected. For example, Mpeketoni is in the third phase and so its money will be there. It will be budgeted for at that phase. They will get the money.

Question No.1711

DISCREPANCIES IN KCSE RESULTS
FOR MR. GEORGE NJOROGE

Mr. Gaichuhie asked the Minister for Education:-

(a) whether he is aware that Mr. George Githanja Njoroge (Index No. 511407/39) sat for his KCSE in 2007 and was awarded a different grade in his result slip from that in the academic certificate, and if so, why;

(b) whether he could indicate the correct grade scored by the candidate; and,

(c) what measures he will take to ensure that the discrepancy in the grades is addressed and that he be allowed to sit for the Kenya National Examinations Council (KNEC) exam on a catering course he has enrolled for at the Coast Institute of Technology on the strength of the higher grade that was on the result slip.

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

(a) Yes, I am aware that Mr. George Githanja Njoroge, Index No.511407/039 sat for his KCSE in 2007 and was awarded a different grade in his academic certificate from that in the initial result slip. This was because of a computation error which was discovered by the Kenya National Examinations Council (KNEC) after confirmation and subsequent release of the 2007 KCSE results release. The calculation of the mean grade for some candidates including Mr.

Njoroge was found to have been faulty and this was rectified and the mean grades for the affected candidates corrected.

Following the discrepancies in the mean scores, the Ministry recalled the KSCE examinations through instructions given to the District Education Officers (DEOs) to recover the slips and print-outs of the results from all the affected schools and candidates. The corrected results by the KNEC were delivered back to the DEOs between 5th and 7th March, 2008 for onward transmission to the schools.

Further, the KNEC gave all the schools and candidates up to 30th April, 2008 to raise any other queries associated with the results of 2007. Based on the above, it appears that Mr. Githanja Njoroge did not return his results slip as per instructions from the Ministry of Education and has continued to hold it knowingly.

(b) The correct grade scored by the candidate is mean score a D-. The initial results slip which was erroneous had indicated a mean grade of C-. The discrepancy in the case of Mr. Njoroge of Subukia Day Secondary School was addressed in 2008 together with those of other affected candidates. The mean grade D- was delivered to the school through the DEO.

(c) To qualify for a certificate course, the candidate should have a mean grade of D plain. For diploma course, the candidate should have a mean grade of C-. Since Njoroge scored a mean grade of D-, he does not meet the minimum entry requirements for the course indicated as per the KNEC Government policy on entry requirements. This will safeguard the quality and integrity of national examinations. I want to table here the results as they are for Subukia Day Secondary School and also the result slip of the candidate.

(Prof. Olweny laid the documents on the Table)

Mr. Gaichuhie: Mr. Temporary Deputy Speaker, Sir, Mr. Njoroge Githanja after getting the results slip which was indicating a C- went ahead and registered at the Coast Institute of Science and Technology to do a certificate course because he had a C- in his results slip. Only when it came for him to go and register for his examination is when he was told that he could do so after faithfully paying for the last two years and studying at that Coast Institute for Science and Technology for a certificate course. What is the Ministry going to do about it because it is the same KNEC that gave him a result slip that was indicating that he had a C-? So he went ahead and registered to do a certificate course using the result slip but when it came to registering for the examination, it is when the KNEC---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Gaichuhie! I think you have been clear.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I have actually covered what the hon. Member is asking me to respond to. The candidate has a D- and so in the first place, he does not qualify for that course. If he wanted something better than a D-, he could have repeated the examination. I do not understand what I should do about it because he is using the wrong result slip.

Mr. Gaichuhie: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has just clearly indicated that they are the ones who gave him a result slip which had a mistake. Why is he saying that he went ahead and registered with a fake a result slip? It is the KNEC that gave him a result slip that was indicating that he had a C- which qualifies him to undertake that course. Is the Assistant Minister in order to say that he should have repeated while

he had a result slip which was indicating that he was qualified to do a certificate course? Is he in order?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I am very much in order according to what I have said here. As I said, the candidate was using the wrong results slip. He was not the only one, but there were many who had wrong results slips. There was a problem. The Ministry admitted there was an error which affected so many candidates, including that particular candidate. However, everything was rectified and he knows very well because he must have been informed by his school. He must have collected his certificate by now. If he has not collected it, he should go to the school and pick it. It shows he had a mean grade of D minus.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Assistant Minister! I think you are really trying to be very evasive this morning. The hon. Member for Subukia says that the candidate had a result slip which he used to enroll for another course and incurred expenses but he learnt about it two years down the road. So, I would have imagined your task would have been to try to find out if that is the correct position. If that is the correct position, then the Ministry has some responsibility. What will you do in the circumstance? I think that is what the hon. Member is asking you to do. Try to be sympathetic to the student. These are your students.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, we informed all those candidates affected through their schools that there were problems. These things were in public domain. It was an issue which was handled by this Parliament.

I am sure that candidate knows that he is holding on to a wrong result slip. If he knew that it was the right one, why has he not gone for his certificate since 2008 up to today, three years down the line?

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, this Government is known to blame things on errors. The other time, it was the Ministry of Finance claiming it was an error, now we have the Ministry of Education. So, we need to know what kind of error was it. Was it a human error or computer error? What action have you taken to deal with the error? If it is computer software error, what are you doing about it? If it is human error, what are you doing to the humans beings who handled it?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I have said it was computation error. That means it was computer error and it has never been repeated because it was sorted out.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, credibility of examinations in any country is very critical and important. I even wonder why the Ministry continues to retain the same management of Kenya National Examinations Council (KNEC) yet every year we have problems with them.

Mr. Temporary Deputy Speaker, Sir, C minus and D minus is just a mean grade. Each subject has a grading tabulated which gives you the mean grade. For one to get a C minus, the grades must be materially different from D minus. Therefore, there could be differences in grading system which then resulted into differences in the mean grade. It cannot be just a coincidence that a grade could change from C minus to a D minus. There must be changes in individual subjects. Could he tell us what happened to the results of this particular student?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I do not think I have the capacity to go into those details in this House as demanded by the Member. The exercise will be tedious because it will require me to analyse them one by one, or subject by subject. I do not have that capacity to do so in the House. That actually lies with examination council itself.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, given that the Assistant Minister is owning up to tell us that he is not even sure, whether the response he has given from the KNEC

is authentic. Is he in order then to come and report to this House with confidence that this student got D minus yet he is not even sure of what he got as his results?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the results from the KNEC are authentic. What I have said is that I do not have the capacity in front of me here. I said I do not have the results of individual subjects for that candidate or the scripts to show what he got. But otherwise, they are there in the results slip that I have submitted. I have submitted the details there. That we have on the table. But this other analysis, he wants me to do, I cannot do it right here.

The Temporary Deputy Speaker (Mr. Ethuro): But Prof. Olweny, you have just tabled the result slip. The individual subject grades are there. I suspected, as you tabled it, you had also looked at it yourself to satisfy yourself according to the question by the hon. Member. I, therefore, rule that this Question comes back next week because I do not think you have satisfied the supplementary questions. Wednesday, next week---

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, you have given a ruling that it comes next week, what in particular do you want to be brought next week, because the results slip is here? If hon. Members want to look at it---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! You have just been asked a question and you admitted you have no capacity! So, I want to give you more time in order to acquire that capacity and then you will come back with full capacity next week.

A ruling has been made. The Question will appear on the Order Paper on Wednesday morning.

(Question deferred)

Next Question, the Member for Mutito!

Question No. 1260

TARMACKING OF CHULUNI-MWITIKA ROAD

Mr. C. Kilonzo, on behalf of **Mr. K. Kilonzo** asked the Minister for Roads:-

- (a) what plans he has to tarmack Chuluni-Mwitika Road in Mutito Constituency, and,
- (b) how much money the Ministry has set aside for the tarmacking of the road.

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

(a) My Ministry through the Kenya National Highways Authority (KeNHA) has awarded contract for the design of Chuluni-Mwitika Road, otherwise referred to as C96 with a view of upgrading it to bitumen standards. The final design report is expected towards the end of this month, August, 2012.

(b) There is no allocation of funds for tarmacking the road this Financial Year, 2012/2013 because the engineering designs for the road have not been completed.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, every time the Government is doing politics and big powers that visit an area, the first thing they promise is the road to be tarmacked. There was a commitment by the Government that this road will be tarmacked. They always do the designs as the first step, but ten years later, nothing is done. Could he tell us which financial year the Government will provide funds for this road?

Dr. Machage: Mr. Temporary Deputy Speaker, Sir, it may not be possible to make that commitment until I see the amount involved as per the design and the amounts available for the construction. It is not too long before I get this report. Maybe it will be prudent that the Member waits for me to get the report to be able to answer that question.

The Temporary Deputy Speaker (Mr. Ethuro): Last question.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, you did hear the Assistant Minister ask for more time. Now that he needs more time to receive these designs so that he can commit the Government, could I ask the Chair that this Question be deferred?

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, you have heard the Assistant Minister ask for more time. Now that he needs more time to receive the design so that he can commit the Government, could this Question be deferred to next month, since the report is coming in August? By then, he could have an answer.

Dr. Machage: Mr. Temporary Deputy Speaker, Sir, it is completely unfair for the hon. Member to make that request. I have answered the Question asked. If he wants to file another Question on that, he could do so. But to bring the same Question to the House, I think is completely out of order.

(Several hon. Members sought interventions)

The Temporary Deputy Speaker (Mr. Ethuro): Order all of you! The Chair agrees with the Assistant Minister that this Question has actually been answered, in the sense that there is no money budgeted for it because they are doing the designs. You will find another way of bringing the matter if you are so desirous.

Next Question, Member for Mosop!

Question No.1645

STALLING OF *JUA KALI* SHEDS PROJECT IN KABOI TOWN

Mr. Koech asked the Minister for Industrialization:-

(a) whether he is aware that the construction of *Jua Kali* sheds at Kaboi Town, Mosop constituency has stalled since 2010; and,

(b) what action he will take to have the project completed.

The Temporary Deputy Speaker (Mr. Ethuro): Is the Minister for Industrialization not here? We will come back to the Question.

Next Question by the Member for Eldama Ravine!

Question No.1622

STALLING OF CONSTRUCTION OF BADASSA,
KISERIAN, UMMA/ CHEMUSUSU DAMS

Mr. Lessonet asked the Minister for Water and Irrigation:-

(a) whether he is aware that the construction of Badassa, Kiserian and Umma dams has taken too long and if so, why; and,

(b) what action he intends to take to ensure that the construction of Chemususu dam is completed by August 2012.

The Assistant Minister for Water and Irrigation (Mr. Waititu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that construction of Badassa, Kiserian and Umma dams has taken too long. However, I am aware that the original completion dates have been extended for various reasons. Badassa Dam was expected to be completed by 9th December, 2011, but it will now be completed by December, 2012. Due to unforeseen dam foundation conditions in Badassa, extra grouting work was required to fill some cavities that were discovered after initial site investigations. This was necessary in order to ensure that there was no seepage through the dam after completion.

In the case of Kiserian, the dam is now complete and filling with water. My Ministry is arranging for a date for commissioning of the dam project.

As for Umma Dam, a dispute between the contractor and the client, who is the National Water Conservation and Pipeline Corporation (NWCPC), has ended up in the High Court. The High Court issued an order stopping the NWCPC from executing works until the dispute is resolved through the arbitration process provided under the terms of the contract between the client and the contractor. The NWCPC has secured a date from the Court of Appeal to commence hearing in order to pave the way for works to resume.

(b) The original completion date for Chemususu Dam was 18th July, 2012. However, the forest site from which the construction material was originally to be obtained turned out to be unsuitable and was objected by the local community. The alternative site took time to access because the Kenya Forests Service did not grant authority to enter the forest in time and this, coupled with heavy rains in the area, disrupted construction activities. For these reasons, the dam cannot be completed in August, 2012. However, my Ministry has taken measures to ensure that the project is completed by 20th December, 2012. These measures include ordering the contractor to add more equipment to construct the dam and, at the same time, to work for 24 hours per day by adopting day and night working shifts. The contractor has complied.

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

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

Mr. Lessonet: Madam Temporary Deputy Speaker, I thank the Assistant Minister for the brief answer he has given to my Question. He has said that Chemususu Dam will be completed by December this year. Could he confirm which budgetary allocation he has given to the dam to top up the costs as per the construction estimates?

Mr. Waititu: Madam Temporary Deputy Speaker, I can confirm that all funds for the Chemususu Dam have been allocated. There is no problem as far as funding is concerned. The

hon. Member knows very well that we had problems because of the heavy rains there and right now, the work is on course. We expect that by 20th December, the whole dam will be completed.

Mr. Koech: Madam Temporary Deputy Speaker, I want to thank the Assistant Minister for the indication that the dam will be completed. But the Ministry has always been lagging behind in some of the commitments that it makes. I remember it confirmed that a dam in my constituency was going to be completed before July, and we are now in August. Now that he has confirmed that Chemususu Dam will be completed by 20th December, to give those people a Christmas gift, could the Assistant Minister then give an undertaking today that between 20th and 25th, he is going to commission that dam, so that the people of that place can enjoy that water?

Mr. Waititu: Madam Temporary Deputy Speaker, I give a commitment that before Christmas, our Ministry will commission the Chemususu Dam.

Mr. Kiptanui: Madam Temporary Deputy Speaker, indeed, the Assistant Minister has confirmed that, apart from one of the dams which is complete, all the other three are behind schedule. Could he confirm to this House the issue of variation in terms of pricing? Normally, when a project delays, there is some variation in terms of funding. Could he confirm how much money has been allocated for variations for the three dams?

Mr. Waititu: Madam Temporary Deputy Speaker, variations, as far as dam costs are concerned, only come when there are added costs. In this case, as far as Chemususu Dam is concerned, there were no added costs. They were only inconveniences. As far as Badassa is concerned, there was added work because of the grouting. As a result, there was an allowance for variation. Regarding Umma Dam, I have stated clearly that there were complications and dispute between the contractor and the client. We had given enough allowance for the variation.

Mr. Kiuna: Madam Temporary Deputy Speaker, I appreciate the answer given by the Assistant Minister concerning Chemususu Dam. He has assured this House that it is going to be completed by December, 2012. Could he also assure this House that his Ministry is going to complete the other projects, especially dams, and more so, Piave Dam, which is in my constituency?

Mr. Waititu: Madam Temporary Deputy Speaker, that is a different Question. Otherwise, as I have stated here, Badassa Dam will be completed on time. We have clearly stated that by December this year, Badassa and Chemususu dams will be completed. We will also have completed the Kiserian Dam, which is filling with water right now. Therefore, I have no doubt that we are going to fulfill whatever the Ministry has promised.

Mr. Chepkitony: Madam Temporary Deputy Speaker, I appreciate what the Assistant Minister has said about the completion of Chemususu Dam. As they complete the dams, will they also, at the same time, complete the pipeline to the intended consumers of the water from Chemususu Dam?

Mr. Waititu: Madam Temporary Deputy Speaker, the construction of the dam was different from the pipelines. The only guarantee that I can give is for the dam. Otherwise, if the Member requires an answer for the pipeline, he can ask a Question and we are going to answer.

Prof. Sambili: Thank you, Madam Temporary Deputy Speaker, for this opportunity. Will the water that is passing through Mogotio benefit the people of Mogotio?

Mr. Waititu: Madam Temporary Deputy Speaker, we have given that allowance for the locals to benefit from the resources in their area. I am sure the residents of Mogotio will benefit from the water at Chemususu Dam.

Mr. Shakeel: On a point of order, Madam Temporary Deputy Speaker. The Assistant Minister has not dealt with the question whether the integrity issues on Umma Dam have been resolved.

The Temporary Deputy Speaker (Dr. Laboso): Is that a question that has been asked by the Member or is it a different Question?

Mr. Shakeel: Madam Temporary Deputy Speaker, it is the same Question.

The Temporary Deputy Speaker (Dr. Laboso): If you believe it is related, then he can respond.

Mr. Waititu: Madam Temporary Deputy Speaker, with regard to Umma Dam, I said that there is a dispute between the contractor and the client, namely, the National Water Conservation and Pipeline Corporation, at the High Court. The High Court has ordered arbitration to the dispute. Our Ministry has appealed to the Court of Appeal to restart the contract. Therefore, in Umma Dam, there was no issue of integrity as far as I am concerned.

Mr. Lessonet: Madam Temporary Deputy Speaker, the Assistant Minister has indicated that they do not have a problem with the budgetary allocation. When he was replying, he did not indicate how much has been allocated, to date---

(Mr. Shakeel crossed the Floor without bowing to the Chair)

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): On a point of order, Madam Temporary Deputy Speaker. I wish, to seek an intervention. I noticed that hon. Shakeel crossed the Floor without bowing. Could you give us guidance as at what point we bow and at which point we do not bow as we cross the Floor?

The Temporary Deputy Speaker (Dr. Laboso): Hon. Shakeel, you can go to the centre and bow from that point and then you can move. Bow also at the bar at the back.

(Mr. Shakeel moved to the Bar and bowed to the Chair)

Mr. Lessonet: Madam Temporary Deputy Speaker, I want the Assistant Minister to be more candid and clear in his response. To date, how much has been spent on Chemususu Dam? How much has been allocated this year? From my findings as a constituent and as a Member of Parliament for Eldama Ravine, I am aware there is a go slow by the contractor because of lack of budgetary allocations.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Lessonet, it was the last question and I think you have made your point!

Mr. Lessonet: Madam Temporary Deputy Speaker, it is still my last question. I am just making it better for the Assistant Minister. He has not indicated how much he has allocated to the project on the upper side of Chemususu. The projects under the upper side of Chemususu, which were part of the agreement for the Ministry to commence the construction of the dam, have the potential to stop the construction of the dam. Therefore, the deadline of December may not be achievable if they do not do the projects on the upper side of Chemususu. In due course, we are going to court because we are not seeing any signs that they are working on those projects.

Mr. Waititu: Madam Temporary Deputy Speaker, I have addressed the question asked. Part (b) of the Question was asking what action the Minister intends to take to ensure that the

construction of Chemususu Dam is completed by August, 2012. The Member did not ask about the upper part of the construction. However, the whole contract is progressing according to the contract terms as I initially indicated. I have promised, and the Member knows, that the contract is going on. I have clearly indicated that we are going to complete the dam by December this year. If the Member needs more details, I can provide him with all the details that he requires after this session. Otherwise, he should appreciate what our Ministry is doing in this particular project. It is progressing as per the agreement.

The Temporary Deputy Speaker (Dr. Laboso): Assistant Minister, I think that is a sufficient answer for that Question. I will not allow the other interventions. We will move to the next Question because of time.

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

The Temporary Deputy Speaker (Dr. Laboso): Hon. Lessonet, he has answered the Question sufficiently. Next Question, hon. Shakeel!

Mr. Shakeel: On a point of order, Madam Temporary Deputy Speaker. First of all, I have been trying to log in but whenever I insert my card, it tells me that I am delegate No.1. The seat is reserved for somebody and I do not know who delegate No.1 is but I remember last time, hon. William Ruto was seated there. I wanted a clarification whether that seat is reserved for him or somebody else.

Question No.1448

IRREGULAR ACQUISITION OF LAND
BY VICTORIA PRIMARY SCHOOL

Mr. Shakeel asked the Minister for Lands:-

(a) whether he is aware that a section of Victoria Road has been irregularly acquired by Victoria Primary School for over 15 years, thereby causing great inconvenience and affecting accessibility to Victoria Amenity Hospital;

(b) whether he is also aware that half of the adjacent public park has been irregularly acquired by the school for use as exclusive playing field, thereby blocking access to the park; and,

(c) whether the title deed has been issued to the school in respect of the irregularly acquired land.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Mr. Shakeel, have you logged into the system using your card?

Mr. Shakeel: Madam Temporary Deputy Speaker, I am logged in and the red light is on!

The Temporary Deputy Speaker (Dr. Laboso): But you are not registering on my screen! Proceed, Mr. Assistant Minister.

The Assistant Minister for Lands (Mr. Rai): Madam Temporary Deputy Speaker, I beg to reply.

(a) No section of Victoria Road has been irregularly acquired by Victoria Primary School for over 15 years thereby affecting accessibility to Victoria Amenity Hospital.

(b) No portion of the adjacent public park has been irregularly acquired by the school for use as an exclusive playing field.

(c) No title has been issued to the school.

(Mr. Shakeel failed to log in)

The Temporary Deputy Speaker (Dr. Laboso): Hon. Shakeel, just use the Dispatch Box until we sort out your problem!

Mr. Shakeel: Thank you, Madam Temporary Deputy Speaker. Although I do not have a copy of the written answer, I have listened to the answer and it was quite short. The answer given is not in line with what the physical status is. If the school has been built on public land, could the Assistant Minister confirm that in line with his answer, it is illegally occupying that land and that the Provincial Administration should go ahead and have it removed? Could he confirm that it is an illegal occupation?

Mr. Rai: Madam Temporary Deputy Speaker, if there are any illegal structures which are affecting accessibility to Victoria School, then whoever is being blocked needs to pursue the matter either with the police, the Provincial Administration or a court of law.

Mr. Shakeel: Thank you very much, Madam Temporary Deputy Speaker. The main road has been blocked and the park has been taken over as a sports ground. The Assistant Minister has told us the way forward. I will go to the Provincial Administration to have the property recovered by the City of Kisumu.

Thank you.

Mr. Kiuna: Thank you, Madam Temporary Deputy Speaker. It is well known that when the Ministers for Land come to this House, they give very good answers but when you go to the ground, you find that they do not implement what they say in this House. In this regard, I am aware that whatever the hon. Member is saying is true. However, I would like to ask the Assistant Minister, for instance, how many times I have talked about Mau Forest caveats and they have said that they will lift this but so far, they have not lifted it. People are suffering and they cannot access their title deeds. Could the Assistant Minister assure the House that the title deeds which were irregularly acquired have been revoked?

Mr. Rai: Madam Temporary Deputy Speaker, while that is a totally different Question, I answered it. I said that some of the areas that the hon. Member has talked about are water catchment areas. He should tell me which caveat he wants removed or what title deed he wants revoked and I will deal with it.

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

(Laughter)

Mr. Shakeel: But I am hon. Shakeel!.

The Temporary Deputy Speaker (Dr. Laboso): But you are coming up as Mr. Olago. I suspect that you have lost your card.

Mr. Shakeel: Madam Temporary Deputy Speaker, no, this is my card! The Question has been answered fully. However, I had a point of order to the effect that I am sitting next to a bag and I am very worried! I wonder what the policy of leaving handbags in Parliament is. Can one leave a bag unattended in Parliament especially in this Chamber?

(Mrs. Odhiambo-Mabona entered the Chamber)

Mrs. Odhimbo-Mabona: You can!

Mr. Shakeel: There you are! Thank you very much!

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

The Temporary Deputy Speaker (Dr. Laboso): What is your point of order, Mr. Abdikadir? There seems to be a problem with the system guys because the name that is coming up with intervention is Hussein Mohammed Abdikadir!

Is that you, Millie who is requesting?

Mrs. Odhiambo-Mabona: Yes, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Well, you have become Abdikadir and you can go ahead!

Mrs. Odhiambo-Mabona: Thank you, Madam Temporary Deputy Speaker. Because this is the month of Ramadhan, this is the second time I have been referred to by a different name. The other day I was called Hon. Amina. However, my point of order is this: Is the hon. Member in order to be very keen on women's handbags? What is his preoccupation with women's bags?

The Temporary Deputy Speaker (Dr. Laboso): Please, let us move on to the next Question by Eng. Gumbo!

Eng. Gumbo: Thank you, Madam Temporary Deputy Speaker. For the second time this morning, I rise to ask Question No.1352 on the Order Paper.

Question No. 1352

PRESENTATION OF CELLULAR MOBILE
PERFORMANCE ASSESSMENT REPORT

Eng. Gumbo asked the Minister for Information and Communications:-

(a) whether he could present and explain the latest (2010/2011) Cellular Mobile Quality of Service Performance Assessment Report for all the mobile phone operators in Kenya;

(b) whether he is satisfied that all the mobile phone operators in Kenya have achieved the minimum set targets for all the eight (8) Quality of Service (QoS) performance parameters as set out by the Communications Commission of Kenya (CCK); and,

(c) what the Ministry is doing to ensure that Kenyans and all mobile phone users in Kenya get value for every cent spent on these networks.

The Assistant Minister for Information and Communications (Mr. Ogari): Madam Temporary Deputy Speaker, may I take this opportunity, first, to apologize for coming late.

The Temporary Deputy Speaker (Dr. Laboso): Mr. Assistant Minister, you are coming up as Prof. Olweny!

The Assistant Minister for Information and Communications (Mr. Ogari): No, I am hon. Ogari, Madam Temporary Deputy Speaker. Then there is something wrong with the system! This is my card!

The Temporary Deputy Speaker (Dr. Laboso): Just continue!

The Assistant Minister for Information and Communications (Mr. Ogari): Madam Temporary Deputy Speaker, I wish to beg for your indulgence, that of the House and the Questioner that this Question was to be responded to by my substantive Minister who is well acquainted with the matters raised therein. Unfortunately, my Minister is stuck upcountry. So, I request the Chair and the Questioner if we can have this Question being deferred maybe to this

afternoon or any earliest opportunity like tomorrow so that the Minister can make it to this House to answer it.

Eng. Gumbo: Madam Temporary Deputy Speaker, the implication of this Question is very grave to the country because the truth is that all the mobile phone service providers in Kenya have gone to sleep. I have discussed this with the Assistant Minister. In fact, I even discussed this with Mr. Speaker. This Question needs the substantive Minister to address the matters raised because this country is being taken for a ride. The mobile service providers have diverted to other business and they have reneged on their prime duty of providing voice service to the people of Kenya. I oblige to the Assistant Minister's request and request the Chair to direct the substantive Minister to come and answer this Question.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Assistant Minister, because we have been informed that this Question has been repeatedly asked without an answer, I direct that you will not transact any business until you come up with a substantive answer to this Question from your Ministry.

The Assistant Minister for Information and Communications (Mr. Ogari): I oblige, Madam Temporary Deputy Speaker.

(Question deferred)

The Temporary Deputy Speaker (Dr. Laboso): Who is asking for an intervention? Yes, Hon. Abdikadir! It is Millie Odhiambo!

Mrs. Odhiambo-Mabona: Thank you, Madam Temporary Deputy Speaker. I will oblige to be hon. Mr. Abdikadir for today. In any case, he is my Chair in the CIOC. I will oblige for this morning until the system catches up. I urge that we take more stringent action because the duty of this House is to protect consumers. I raised this issue when we were discussing the Consumer Protection Bill last week and, indeed, I had given Safaricom as an example. A day after that, I loaded my Safaricom network with Kshs1,000 for internet and within a minute, it was all gone. When you ask them questions, they connect you to automated call responses on their 100 number line. It is difficult working with machines that are not functional but it is worse dealing with human beings at Safaricom who are not functional and give you automated answers.

Madam Temporary Deputy Speaker, I told them I would raise it in Parliament and I would want the Minister to come urgently because we cannot have service providers ripping off Kenyans of their money. I really want that you take more stringent action on the Ministry so that they take this issue very seriously and provide an answer very urgently to this House.

The Temporary Deputy Speaker (Dr. Laboso): Thank you, Mrs. Odhiambo-Mabona. We have clearly stated that this Ministry will not transact any other business until this Question is answered. I think that is sufficient sanctions for the moment. Let us wait for their action.

Question No.1645

STALLING OF *JUA KALI* SHEDS IN KABOI TOWN

Mr. Koech asked the Minister for Industrialization:-

- (a) whether he is aware that the construction of *Jua Kali* sheds at Kaboi Town, Mosop Constituency has stalled since 2010; and,
- (b) what action he will take to have the project completed.

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

Mr. Ogari, are you on a point of order?

The Assistant Minister for Information and Communication (Mr. Ogari): Madam Temporary Deputy Speaker, I was just trying to find out when this Question that we have just left will be coming back. When have you ordered for it to be on the Order Paper?

The Temporary Deputy Speaker (Dr. Laboso): It will come at the earliest opportunity including tomorrow. Is it possible to get the answer this afternoon?

The Assistant Minister for Information and Communications (Mr. Ogari): No, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): The Question will be on the Order Paper tomorrow afternoon and we expect an answer.

Regarding the Question by Mr. Koech, where is the Minister for Industrialization?

Again the Minister for Industrialization is not here. We are again being let down by the Executive. Is there a Minister that can give an undertaking on when this Question can be answered? I think we have given enough rulings in the House on Ministers not turning up on Wednesday to answer hon. Members' Questions.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Madam Temporary Deputy Speaker, this is a very important Question to the youth of this country. I do not know where the Minister is but I would appeal to the hon. Member that we request the Minister to come up with an answer on Tuesday afternoon, since I cannot guarantee that I will get him today.

Mr. Koech: Madam Temporary Deputy Speaker, this Question touches on the youth of this country. I have filed so many Questions and it has taken quite a long time for even one Question to appear on the Order Paper. So, Tuesday would be a little bit late. I would request that you direct that this Question be on the Order Paper tomorrow.

The Temporary Deputy Speaker (Dr. Laboso): I direct that this Question be on the Order Paper tomorrow and that the Minister be available to answer it.

QUESTION BY PRIVATE NOTICE

MURDER OF KATOLONI SECONDARY SCHOOL WATCHMAN

(Dr. Munyaka) to ask the Minister of State for Provincial Administration and Internal Security:-

(a) Is the Minister aware that Messrs Stephen Nziku and Charles Mbatha, both watchmen at Katoloni Secondary School in Machakos Town were attacked on the night of 30th May, 2012, leading to their deaths?

(b) Have any suspect (s) in connection with the murder been apprehended and arraigned in court?

(c) Is the Minister further aware that the residents of Machakos Town are living in fear due to increased insecurity in the town, and if so, what measures is the Government taking to ensure that security in the town is enhanced?

(Question deferred)

The Temporary Deputy Speaker (Dr. Laboso): Is Dr. Munyaka still not here? The Question was asked earlier.

The Question is dropped!

(Question dropped)

Hon. Members, that brings us to the end of Question Time. We will now move to the next Order.

BILLS

Second Reading

THE COCONUT BILL

Mr. Mungatana: Madam Temporary Deputy Speaker, I beg to move that the Coconut Bill (Bill No.58 of 2011) be read a Second Time.

Madam Temporary Deputy Speaker, this Bill has various targets that it wishes to achieve. But before I say a few things, I wanted to thank the Minister for Agriculture with whom we have consulted and Mr. Ndambuki. They have absolutely no objection to this Bill. Already the Kenya Coconut Development Authority exists. It exists, not as a statutory body but as a body that was set by an Executive Order of the President. The board has been functional and its activities have been successful so far.

Madam Temporary Deputy Speaker, the Coconut sub-sector is a very important sub-sector for the economy of the Coast. Right now the information that we have is that there are about 8 million coconut trees that are currently growing in the Coast. They have a potential to generate an annual income of Kshs23 billion to the Exchequer if properly exploited. This plant is very unique because it has so many uses of economic nature. The uses of this plant are specifically beneficial to the economy of the people of the Coast because this tree needs certain climatic conditions for it to be able to breed, grow and reproduce. It needs the kind of climatic conditions that are specifically found in the Coast region. Therefore, in bringing this Bill, what it will be doing is that we will be creating the first statutory body that will help grow the economy of the Coast region.

Madam Temporary Deputy Speaker, if you go to countries like Indonesia, Malaysia and other eastern countries they have been able to do a lot of research. They have been able to generate huge economies around the coconut tree. The climatic conditions which are found in those areas are very similar to the conditions that are found along the Coast Province. When KCDA tells us that they are able, with an investment from the Government of at least Kshs1 billion to generate potentially Kshs23 billion, we are talking about big money.

From Kwale County all the way along the Coast to Tana River and all the way to Lamu County, this tree grows and many people have been exploiting it but just in a local way. If this tree is properly exploited, we can be able to help lift the lifestyle of the people in the area.

Madam Temporary Deputy Speaker, lately, there has been a lot of talk about the marginalization of the coastal area. Mere talk, belligerence and demonstrations will not solve the problems that the people have in that region. The people have potential in tourism and

agriculture. The problem that has been there, which continues to exist to date, is lack of political commitment by successive governments to invest in the coastal economy.

In fact, if you look around, you will see that apart from tourism, where the Government put up facilities a long time ago, but which have since been sold off; there has not been serious investment in the economy of the coastal region, save for the sea port. The investment in the cashew nut industry that used to exist in the region collapsed. It was cannibalised and it died. The bixa industry also died. The coconut tree, which has not been exploited to its full potential, is the only industry that can resolve all the issues that have been affecting that region.

Madam Temporary Deputy Speaker, just to make a clearer understanding of what this plant can do, copra, which is the flesh that develops inside the coconut fruit, can be used for oil production. The oil industry can benefit a lot. Nowadays people are health conscious. They want to use oil that is for cooking and other body uses. There is demand for organic oil. We have been told that if we develop the coconut oil industry in the coast, apart from the jobs that it will create and the other investments that it will attract, it will save this country a lot of money, in foreign exchange, which would have been used to import things.

We have statistics from the Coconut Authority itself, which show that we can save up to the equivalent of Kshs835 million, if we invest in this industry appropriately. The water inside the coconut itself can be used as a health drink. It has been used in the Eastern countries not only as refreshment but also as healing water since it has medicinal values. The healing and medicinal value that is found in the coconut water is a whole industry in India. I have personally used it.

Madam Temporary Deputy Speaker, if you crush the coconut and dry those things nicely, if you drink it when you have stomach ache, the problem disappears. If you have a bloated stomach problem, it will also disappear. Apart from that, there are several other medicinal uses of coconut products. That is also another industry that can be developed, like it has been developed in India, Indonesia, Malaysia and in other parts of the Eastern world.

The husks that come from the coconut fruit can be used, and have been used extensively traditionally in the coast, for decoration. Right now, there are many homes in villages within the coastal region, where they live in *makuti* thatched houses. That is a whole industry which uses the material for roofing and decoration. Even traditionally, the wood is used for creating furniture.

Madam Temporary Deputy Speaker, in our villages, we have used the coconut fruit and other products for religious and other cultural activities. That is another whole industry which if proper investment is put into, we can create employment. The charcoal that comes from the coconut kernel is very special. It burns for longer, thus saving energy. It burns efficiently. This is another area which can be utilized for purposes of creating a green economy in this country. There are very many ways in which coconut can be utilized, including for cosmetics making and industrial purposes.

The coconut plant can be exploited in this country but we have a problem because when the President agreed to set up this Authority, we had expected, as a people in that region, that serious investment would be put into this Authority, and that we would start seeing the fruits of the existence of that body. However, up to now, the maximum amount of money that the Authority has been receiving from the Exchequer, in terms of support, has been Kshs80 million per annum. This has not, in any way, been a reflection of the expectations of the people of the coastal region. As a result, there has been under-utilization of the potential for the maximization of the economic activities.

Madam Temporary Deputy Speaker, that is the reason as to why we have a problem with this body existing in the way it is. First of all, as it stands today, the Board can be dissolved at any time. It is at the mercy of a presidential order. It is not properly established in Statute. This means that if we have a change of regime, as we surely shall have, the new administration may want to do things differently.

Therefore, if this order is revoked by an action of the Executive, what will happen is that all the little gains that have been made to date, in terms of research, preparatory work and creation of the little capacity with the Kshs80 million that has been going there annually; all this will be lost. So, this is a little Bill which seeks to entrench the Authority in law. The Authority will be known as the Coconut Development Authority, and will be responsible for the development and promotion of the coconut industry in Kenya.

Madam Temporary Deputy Speaker, the Bill also has licensing provisions. It has imposed requirements for licensing of persons involved in various activities involving coconuts and coconut by-products. So, the Board that has been set out herein can collect licence fee, control quality, conduct research and develop the industry out of the licence fee collections.

We believe that once we have this Authority on the ground, when it executes its mandate, as it surely will, the people of that region and the entire country will benefit. It will help this country earn a lot of money. As I said, it has the potential of contributing Kshs23 billion to the Exchequer. It will help this country to earn a lot. It has a potential of injecting Kshs23 billion to the Exchequer.

Madam Temporary Deputy Speaker, without belabouring the point, if you look at all the agricultural sectors that have tremendously grown in these other parts of the country, they have all been based on statute. There is the Tea Act which set up the Tea Board of Kenya and all those and because of the fact that they have been anchored in statutes, they have been able to develop and take tremendous steps to help the economies of those regions.

Madam Temporary Deputy Speaker, coffee, itself, has also been anchored in law. The development, research, marketing and everything that has anything to do with coffee has been anchored in law. Because of that, we do not begrudge those that have been able to develop that side of the economy. We do not begrudge tea or pyrethrum growing but the one common thing that has been running in all of this, is that they are anchored in law and, therefore, the Government is able to engage. Potential partners outside are able to engage. If they want to get loans and move in certain ways, they are able to engage because there is a statutory body that is working within a legal framework and any investor who wishes to go into that industry is able to engage in a certain way.

Madam Temporary Deputy Speaker, in the industries at the Coast, be it cashewnut, bixa or whatever, there is nothing that has been anchored in the law. This will be the first time that one crop that is unique to Coast will be anchored in the law. I do not want to begrudge others. Even in the sugar industry, there is a law. That is why those areas have grown so well because there is a framework under which any investor is able to engage. However, even today, as we are talking about coconut, there are very few people who would be interested as you can see. However, if today we are debating even a single clause amending tea, you would see the people who are interested. The reason is because nobody really knows about the potential of the coconut tree, fruit and all its products. We people who live in that area know. We have gone out and seen what capacities exist in other countries. We have given the statistics and, therefore, it is my humble prayer this morning to this House and to my fellow colleagues that, for the first time, let us make a statement as a Parliament that we shall support, anchor and frame one crop that has

the potential of developing or generating Ksh23 billion for the Exchequer in law. The crop is from the Coast. That way, at least, it will be on record that this 10th Parliament was able to finish the journey that started long time ago.

Madam Temporary Deputy Speaker, the late hon. Karisa Maitha brought a Motion to this House a long time ago in the 8th Parliament and it was carried. He served as a Minister in the 9th Parliament. However, a Motion alone urging the Government to do this or that is not enough. That is because the Government, sometimes, will not move if it is not given authoritative legislative framework within which to move. We are seeing this time round that unlike the 8th Parliament, we will not just pass a Motion, but we want to, instead, pass a law that will force the Government to look seriously into the issue of investing in the industry of coconut and helping the marginalized people of the Coast so that we can say that we have taken one step forward. Then, the other people who will come from there to take on the leadership can take the next step forward.

Madam Temporary Deputy Speaker, I want to conclude by saying that we are not ungrateful. We are very grateful because through the Presidential Order, the Kenya Coconut Development Authority (KCDA) exists right now. But the President is going and some of those orders can be rescinded. So, we want to go to the next logical step which is anchoring that body in law and helping the people to achieve the economic capacity that exists, but is unexploited as of today.

Madam Temporary Deputy Speaker, there has been this notion that the people of the coast are not hardworking and all that – a very unfair notion. If you look at the level of investment in Government particularly in areas such as agriculture, it is very minimal. If you look at the kind of monies that are being pumped into rice, coffee and tea, you will expect obviously certain returns. Now, in the same manner, we want to create a legal framework in which if the central or national Government wants to engage with the people down there, then there is a framework within which they can actually pump in investment. It is not enough to give people money or relief food; we should provide investment that will help the people to achieve the potential that exists.

Madam Temporary Deputy Speaker, if people can see what India has done, then, surely, they will support this Bill. So, I am humbly requesting my colleagues to support and I beg to move that this Coconut Bill to be read a Second Time and I will ask hon. Millie Odhiambo to second this Bill.

Thank you.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, thank you for giving me this opportunity and before I second, I want to take this opportunity to send a message of condolences to the families of the bereaved women who died in the Tanzania tragedy. I pray that God may give them peace at this difficult time.

Madam Temporary Deputy Speaker, I want to congratulate hon. Mungatana for bringing this Bill before the House and for seeking to include the coconut industry within our economy. The only thing I regret is that even as we are discussing this critical Bill, the Government side does not seem to take this issue seriously. It is no wonder that you have the Mombasa Republican Council (MRC) always saying: *Pwani si Kenya* and really, if they were serious, they would be here to show that *Pwani* is in Kenya.

Madam Temporary Deputy Speaker, I want to thank hon. Mungatana especially because he is also bringing this Bill at the point that we are looking at the Seeds and Plant Varieties Amendment Bill. I think it is coming in the afternoon. I want to thank hon. Mungatana because,

indeed, one of the things that as a country we have not put a lot of energy in is our plant genetic resources. When we hear there is oil in Turkana, there is a lot of excitement and energy and people buying land. But we do not realize that our plant genetic resources probably are of more value than gold, oil and all the other natural resources that we seem to put ahead. Therefore, I, indeed, thank hon. Mungatana for taking care of this sector. Kenya would be a much richer nation if we would not only focus on the coconut industry, but all other plant genetic resources.

Indeed, Mr. Mungatana has indicated a lot of the beneficial properties of coconut; they range from medicinal to practical properties; the tree is even used to make furniture and all that. I want to also focus a lot on the aspect of the medicinal value. I will be speaking to it when we will be talking about seeds and plant varieties.

Madam Temporary Deputy Speaker, this is one sector that, as a country, we have not put as much effort and energy as we ought to have put. There are countries that have put a lot of energy and efforts in this sector and have benefited a lot. People from other countries come to Kenya, get our plants and patent them. In Kenya when we want to get it back, we really cannot. The other day we saw Kenyans were beaten at the Olympics. The Ugandans who beat Kenyans at the Olympics--- If you looked at their names you became very suspicious. It was not just that somebody was trained here; their name was very Kenyan. I have not sought to know whether he was originally Kenyan but I highly suspect he was a Kenyan. You do not have names like Kipng'etich and Kipkeino and other such names in Uganda. I know we have similar tribes but I highly suspect that guy was originally a Kenyan.

What we are doing as a country is that we are taking away the opportunity of Kenyans to benefit from the plants that are important to us as a country; our resources that are of importance to us, we do not seem to take them seriously. I am glad that this Bill seeks to regulate this industry which is important; it also just profiles the coconut as a product that we can use for a whole lot of things. Indeed, I want to urge that we must put a lot of emphasize on research, so that we know what other additional and beneficial value this plant has or can give us as a country.

If you look at the coastal region--- Recently as a Committee on equal Opportunity we were in the coastal region to look at the issues of the MRC. One of the things that came out very clearly was the issue of exclusion. One of the things that the coastal people are told is that they have a culture of sitting and waiting for the coconut tree to fall and they eat it. Therefore, that is why a lot of energy is not put there. Again, for some of us who come from marginalized areas, many of us are told that we have a tendency of sitting, taking a hook and putting it into the lake and waiting for the fish, and that we are not hard working.

Madam Temporary Deputy Speaker, it may be true that we are not hard working or it may be false; even if we are not hard working and God was gracious and gave us the fish and the coconut--- If we are lazy, and that is what we are, then put money into what God gave us naturally, so that we see how lazy we are with what we were given naturally. Therefore, I want to urge that a lot more money needs to be put there. We should disabuse the notion that communities are lazy when we have not put resources into the things that God has given them naturally like the coconut and the fish. The only thing I would like to urge is that we need to diversify. I know when Mr. Mungatana was moving the Bill in his mind he seemed to focus on the coast. However, there are a lot of areas like where I come from where coconut would grow very well. Indeed, in Takawiri Island in Mbita Constituency there is coconut already growing---

The Temporary Deputy Speaker (Dr. Laboso): Hon. Lucas, are you on a point of order? You are now Lucas Chepkitony?

Okay, Mr. Shakeel, please, proceed.

Mr. Shakeel: On a point of order, Madam Temporary Deputy Speaker. There seems to be changing of our names.

Is the speaker, my dear friend Millie, in order to suggest that the people of the lake are lazy and just wait for the fish? It is a very tedious exercise; people go to the lake at 3.00 a.m. in the morning to go and fish. I have never known that to be a very lazy way of collecting fish.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I was an excellent student of literature and I have just used one of the tools of literature. If the hon. Member was listening keenly he should have heard that I have used several tools and not just one; one of them is called sarcasm. Perhaps he picked it up; I do not need to state at one point that at this point I am being sarcastic. We are not lazy, but I am saying even if somebody thinks we are lazy, then please invest in our laziness and let us see whether our laziness can actually produce money.

I was encouraging the hon. Members that we need to diversify this industry. I was giving the example of Mbita Constituency and specifically Takawiri Island; there is a very beautiful hotel. In that hotel there are already many coconut trees that are growing there. That shows the potential; if only the Government invested and actually showed that area has the capability of growing coconut trees. If the government invested in coconut growing, there would be an initiative by the ordinary members of the public to invest. You should not put in so much energy to produce for only domestic consumption. I am very happy with what the hon. Member has suggested. The only things I would want to suggest in relation to this Bill are one or two amendments. I want to talk to Clause 4. Clause 4 says the authority shall not issue a license under this Act unless it is of the opinion that the applicant is a fit and proper person to hold such a license. If you do not indicate the conditions for being "fit and proper person for holding a license" then it may be subject to abuse. It would be nice, or fitting, if the hon. Member could indicate that.

Again, I want to urge the hon. Member in the establishment of the board--- I know that even though it is provided for constitutionally, we shall respect the gender rule; where it is not specifically provided for by law there is a temptation to disregard it. I want to encourage the hon. Member, being a young person that he provides very specifically for the gender rule. Even though the Constitution talks about five per cent for persons with disabilities and young persons, again, unless it is provided for specifically we never seem to provide for young people and persons with disabilities. We can very specifically say that at least we provide for one person with disability and a young person; that would be very beneficial.

Madam Temporary Deputy Speaker, I would also want to urge the hon. Member under the functions of the Authority, he could provide that one of the functions is to facilitate further research on the beneficial properties of the coconut plant; further there should be a connection with either the Industrial Property Act or the Seed and Plant Varieties Act that I talked about earlier to protect the intellectual property rights in the beneficial properties of the coconut plant.

I would also want to say that even in relation to the staffing, you provide that any future appointments, especially in the transitional provisions, shall observe the one third gender rule and shall also take into account the need to have young people.

I had a comment on the Second Schedule. I am happy that the hon. Member has included the issue of disclosure of interests by board members. I have spoken on this before and I will speak on it again. In this country we talk to certain principles but we do not seem to understand or internalize them. One of those principles is the issue of disclosure of interest. The law does not preclude me as a Member of Parliament, or my relatives, from holding public offices. The

law does not exclude members of my family from entering contracts with the government, so long as when I am sitting in a board or in a position of influence, I disclose that the person is known to me or is related to me, and that is so long as I do not in any way influence the appointment or the grant of any contract. What we seem to be doing as a country is to criminalize the work of members of public figures. One way to deal with it is to legalize the way we are doing it, which is through laws on disclosure of interests.

As a country, if we do not want members of families of public figures to be involved in whatever capacity in affairs of a public nature then we must by law provide for salaries for them to stay at home. Therefore, you will have to provide a salary for my husband, children, cousins, aunties or uncles to stay at home. Sometimes we overstretch our imagination in relation to public officials. It is not a crime to be a public officer; it is not a crime to be in the public domain. Indeed, one of the things that we always forget as a country is that public leaders come from the public and not from us. So, let always remember that even as we define ethical standards or standards of integrity that will push this country forward.

With those remarks, I second.

(Question proposed)

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Thank you, Madam Temporary Deputy Speaker, for giving me the opportunity to support this important Bill and to congratulate Mr. Mungatana for bringing it up. First, I would like to see this as issue about reviving and supporting agriculture across the country, because coconut is part of that. Therefore, as we look at issues related to promotion and legalizing by making law with regard to coconut farming, we also need to look at other crops that have been forgotten, and that will need similar support, so that communities and regions benefit from a potential that may have been neglected for a long time.

I would like to agree with Mr. Mungatana and others who have spoken, including the Seconder that coconut has almost been forgotten, yet we know that in the 1960s it was a very high value crop. Those who exploited it then and made their money did not remember to make the point very strongly to the Government that there was needed much more involvement by the Government, so that whatever was being achieved could have been expanded to more people at the Coast region and elsewhere in Kenya.

In this regard, we need to identify other crops that are sometimes considered orphaned. These include traditional foods like sorghum and millet and the more modern ones like macadamia nuts, fruits and other horticultural products that have not received the support that they could have received to the point that farmers are almost giving up. A good example are mangoes that are rotting in our farms, because farmers do not get the support for value addition to do processing in factories and support related to marketing that would make farmers to be interested in continuing to support and be part of that agriculture. There are also other crops like potatoes grown in Meru and elsewhere in the country.

Madam Temporary Deputy Speaker, it is also a reminder that there is indigenous wealth, not just in export but even in terms of the value that these products, if consumed locally as improved varieties, can bring. People will have knowledge of how much more they can do in terms of both the health of individuals in those regions, because of the nutrients that are unique to some areas worldwide. This also applies to everywhere in this country and the world in terms of what we can gather to promote the health of individuals; there are certain benefits that

research has not shown us because not much has been invested by the Government to explain what is good about certain products that could benefit people in addition to other products available to them for consumption.

Madam Temporary Deputy Speaker, there is also the issue of value addition. When I went to China, I found that they have very good coconut juice. It is something that we do not think about here. It is both very tasty, nutritious and extremely valuable. So, it is not just enough for people to know they can eat coconut, but it is also important for them to appreciate that you can develop it into a much better product if you want to add value, and that there would be a variety and possibilities in which it could be used.

Madam Temporary Deputy Speaker, we also need to protect our farmers. The reason why the coconut industry has not grown is, and is almost dying, is because we left it to brokers and foreign companies that have no empathy or interest in supporting the development of that crop within the coastal region of Kenya. They want to make their money quickly, if they can get the product and process it. But there is much more we can do with that product if we come up with factories and other ways of diversifying its production, including the types of products that can come out of it at the secondary stage. So, it should not just be brokers and foreigners who benefit from the crop.

In that regard, therefore, we cannot support that industry, even as we talk about the legal framework, if we do not give the farmers, both small and big, support for them to feel encouraged to stay on. That support could be in form of seeds, fertilizer or supporting adjudication of their pieces of land, so that they can get title deeds; we can support the co-operative movement so that farmers can be brought together to make use of marketing opportunities, we can provide subsidized inputs that they need for growing this industry and in terms of actual heavy investment in the region, so that we have large factories that do not only process but will also be a source of employment for the young people of the region.

As we have done with sugar and other products where politicians have been able to follow up because they are in the Government, we also need to support the putting in place of a regular legal framework so that these farmers are protected by law. We should also appreciate the value of coastal region in Kenya. It should not just be about tourism; even if it is about tourism, tourists would also be interested in going to coconut farms. If you go to Europe and America, there is tourism in farms. People go to visit wineries and other places like those. So, tourism should not only be limited to the beaches and using Mombasa as a stop-over for moving to other parts of the country. Aware of that, we need to do more in terms of both the infrastructure that would be linking up to those coconut farms and also in making the environment generally attractive for foreigners who feel at home in the region where there are not only beaches but also coconuts and other products that are valuable to this country.

This is one way of also tackling the issue of the Mombasa Republic Council (MRC). As we tackle it, we need to accept that it is not a problem of the coast region. If the young people of the coast region are jobless, if land has been grabbed from them and they are facing other problems like insecurity, this is a common problem in Kenya. It is a common problem because we have not developed areas and opportunities that can occupy these young people so that they do not feel left out. So that is what we should be looking at and, therefore, as we address the issue of the coast and the MRC, we should also appreciate that it is a problem countrywide and think of how we can develop the rest of the country so that the majority of Kenyans who are poor, who are very much like the MRC in the rest of the country and even in the Coast Province, are catered for. There are many rich people; there is a percentage that is quite wealthy, but the

problem is that we are not doing what we are supposed to do as a Government to ensure that there are enough investments or there is enough support for those who are poor in this country to be able to contribute to the development of this country like everyone else and feel that they are part of Kenya.

Madam Temporary Deputy Speaker, therefore, I would like to take this opportunity to say that as we talk about coconut in the Coast Province, the MRC is only a small representation of a common problem in this country and we need to address it at the level of the governance so that we do not have young people from anywhere in this country, whether they be *Mungiki* and others, who are unemployed and are suffering, sometimes even more than the MRC who are complaining. So it is fairly a national problem.

As we do this and as we put this legal framework in place, we also must appreciate that we are Kenyans. Even as we have factories in the Coast Province and parastatals dealing with this and others, whether these parastatals are in the Coast Province, western Kenya, Nyanza Province or Meru as a place, we have to accept that we are Kenyans. These coconut products are not only products of the people of the coast region. The people of the coast are doing well with those products because they are consumed elsewhere. There is a system that is able to support and facilitate their exports and one that is putting investment that is Kenyan, so that even when we employ and recruit, it would be completely nepotistic to insist that the people who run these organizations, co-operatives or bodies that have been set up must come from those local places. Benefits go out of the local community and their clients and the people who bring resources to these areas also go out. So even as we put money and support the coconut industry and elsewhere, we must disabuse ourselves of this notion that if the sugar industry is in some place in western Kenya, the Managing Director and the majority of the board members must come from that area. Of course, we also empathize when we notice that in certain cases, especially in the Coast Province, you have members from completely outside of the area dominating those boards. That is also a problem but as we address that inequality; as we decide to be more Kenyan, it is important that we think of national representation because these are national products; they benefit from the national goodwill and they benefit people across the country.

So with those few remarks, I beg to support and hope that the request made by Mr. Mungatana and others get this fully and the law is acted upon.

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

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

Mr. Twaha: Mr. Temporary Deputy Speaker, Sir, I want to thank Mr. Mungatana for his well meaning Motion and now Bill which according to him in his usual eloquent manner is designed to boost coconut farming at the coast. When we listened to his speech, we gathered that he was more concerned about the industry being anchored in law but I do not blame him because his background is law. He seems to believe – and the Seconder as well – that merely by anchoring it into law, everything will become wonderful. Unfortunately, given my economic and agricultural background - I am also a farmer who also grows coconuts - I will have to oppose the Bill in its present form because I know it is well intended but if you read it, it is all about the board and very little about the farmer and how the Government will help the farmer. It is very

quick to seek to levy licences and fees on the farmer which in my opinion will be a burden on the farmer rather than a boost to the farmer. I would have been pleased if the Bill was talking about subsidies to help this young industry grow and later on tax it when it is nourishing and not at its infancy stage. So, in my opinion, licence fees and other regulations will only enrich the policemen on the road to the market rather than the farmer and will scare away investors who would want to invest in this crop. This is my humble view.

Another sector that I think the framers of this Bill ignored is that this is a long term crop. It takes, at least, three years before the coconut plant starts yielding fruit after which you can go harvesting for over 30 years. But Dr. Mwiria mentioned the land problem at the coast. You do not expect squatters to make long term investments of that kind. They will grow maize for one season and hope for the best before someone chases them away with a title deed from Nairobi. So before we even start addressing the coconut industry, agriculture is based on land, we need to sort out the land issues so that people own the land and feel confident enough to invest long term in this kind of crop. As a farmer, I know that for coconut to pay, it has to be done on large scale and not the way it is being done at the coast at the subsistence level. We should have units that are viable, even if it will be groups of farmers brought together as co-operatives to farm those lands because it is only in that framework that you will have decent returns to attract investments to this industry.

If Mr. Mungatana can find it in his heart to accommodate some of these concerns and introduce the necessary amendments which will take into account these other considerations, I will gladly support it. However, in its present form at the stage of Second Reading, I am opposing it. But if it comes to the Third Reading with some of these amendments, I will be pleased to support.

With those few remarks, I beg to oppose for the moment.

Mr. Onyancha: Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill and thank Mr. Mungatana for introducing it. For a long time, farmers in this country have had a problem with the marketing of their crop. We have had lack of assistance anchored in law, not just with respect to coconut but with other crops as well which are very viable, including bananas from Bonchari Constituency.

In supporting this Bill, I just noticed on the Second Schedule, the tenure of office for the board is one six-year term. I would like to request my brother Mr. Mungatana to consider a staggered term so that we have some continuity; we do not have the whole board retiring at the same time and then a new one replacing it. On the issue of Clause 28, the investment clause, I find it rather restrictive on the investments that might be available to marketable securities and deposits. He might consider opening it a little bit wider maybe to include properties or as the board may consider fit and suitable.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): Yes, hon. Duale! Where are you?

Mrs. Noor: He is not here! I am not Duale!

The Temporary Deputy Speaker (Prof. Kaloki): Is there a mix-up? There is something wrong!

Mrs. Noor: Maybe with the card!

The Temporary Deputy Speaker (Prof. Kaloki): All right, then you proceed.

Mrs. Noor: Thank you, Mr. Temporary Deputy Speaker, Sir. From the outset, I want to support the Bill. I want also to thank and congratulate hon. Danson Mungatana.

I want to start from where my brother hon. Fahim Twaha left. I want to speak on the kind of fears he has. I think we have ample time to address them. We know land reforms are going on in coast region. We have the National Land Commission (NLC) on board who are looking into all our issues of land. It is not only in coast, but all over the country. We have been facing land issues and land problems in this country for many years.

With regard to the issues of coconut farmers, I think the fundamental principle or objective of this Bill is to support and protect them. At the Committee Stage, I will be bringing amendments which will uphold and protect issues of farmer. The farmer is the key in whole industry. So, it is imperative that we bring him on board so that he is not marginalised. Personally, I like this Bill because it addresses so many issues. For example, one of the objectives of the Bill is to provide legal framework for promotion and regulation of the production, marketing and research for coconut. Coconut is an industry that has been left out and forgotten for many years. It is a crop that can really open up the whole of Coast Province. It can create job opportunities for many of our youths who are suffering waiting to be absorbed in the formal employment. If we develop and promote this industry, our youth will be employed because we will have many industries all over the region. So, it will ease the burden on the Government of not being able to provide job opportunities to our youngsters.

This Bill will also increase households' incomes to many families. Currently, we know coconut farmers cannot access proper markets because the industry is not fully developed. Once it is developed, promoted and marketed all over, then that mother who tills all day on the farm will be able to increase her household income. Once she increases household income, then the nutritional status of the family will be improved. The people of the coast who do not get proper nutrition today will be able to get extra income that will be able to address the nutrition status of their families. It will also improve the infrastructure that will connect from one farm to the other and to the industry. This will open up the region and give an opportunity for the region to develop.

The other thing that this Bill is addressing is the establishment of an authority which will oversight and look into all issues of the coconut industry. It will market the industry and coconut in general. It will also advise the Government on what to do because they understand the value of coconut in this country.

Mr. Temporary Deputy Speaker, Sir, the other important thing is that the authority will monitor import and export of coconut in this country. Today, nobody is monitoring the movement of coconut in this country. Our supermarkets sell coconut products from all over the world. We have coconut coming all the way from India and many other countries. We Kenyans buy those products when our farmers cannot get access to markets. They are there. They have grown the coconut. They have been putting a lot of their energy into coconut farming for the last 30 years to 40 years. They have good farms, but unfortunately there is no organ that is promoting and marketing their products.

Mr. Temporary Deputy Speaker, Sir, we are talking about acute unemployment in this country. We are talking about lack of resources and development in this country. We cannot develop our own industries if we do not promote our own indigenous products such as coconut and others. It is the high time we did so. Since we have a new constitutional order in this country, we need to start on a new footing. The new footing is that I am appealing to the House that we support this Bill. If the Bill has gaps, we have the opportunity to add value to it. I will bring some amendments at the Committee Stage which will enrich this Bill. This is a very good Bill. It is a Bill that will develop a whole industry that has been left alone for many years.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): Thank you, hon. Sophia Abdi Noor. Now, we go to hon. Lucas Chepkitony. Hon. Shakeel, I think there is a mix-up!

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, I support this Bill and thank hon. Mungatana for bringing it here.

I wish to suggest a few amendments to the Bill. The first thing is with regard to its title. It is entitled: "Coconut Bill." Many of us who are familiar know that there is the coconut and then there is the palm. The palm has been used for many years to produce palm oil. We have used palm oil from Malaysia and other countries. This is not covered under this Bill. I hope we will change the name to cover coconut and palm because we have palm trees in Kenya. We are now in the process of having palm plantations here. They are from the same family. I think it will be proper if we include palm.

As you know, Uganda has taken on this palm industry. It is developing palm in very many areas. As I speak right now, some of the largest manufacturers of oil like Bidco and others have palm plantations. In Malaysia, you can go for hundreds of miles and find palms on both sides of the road. So, that is my first comment. I urge hon. Mungatana to consider including the palm tree in this Bill.

Mr. Temporary Deputy Speaker, Sir, when you go to Seychelles, Malaysia and Indonesia, you cannot even take out a product of coconut or palm. Whether it is *coco de mer* which looks like two coconuts and is very inviting, you cannot take it out of those countries. Yet, in this country, you will see coconuts and palms being taken in dhows to Middle East and India to be processed and sent back to us here at very exorbitant prices. I think that is one of the things that are indigenous. It is our property and we must maintain it. I wonder whether the coconut tree is protected in the same way that an indigenous tree is protected in this country. If it is not, then we need to make some amendments to cover that.

Mr. Temporary Deputy Speaker, Sir, coconut, palm and its products have been covered very well. I was wondering whether medicinal and herbal uses are covered extremely tightly in this Bill. That is because we know what is happening. Even now, when we are in the genetically modified organisms era--- I was attending a lecture yesterday by a very eminent Kenyan Scientist called Calistus Juma who was talking about Genetically Modified Organisms (GMO) and what they call Biological Technology (BT). He told us that some medical companies have realized that they can now genetically modify or take advantage of those chemicals produced by certain plants which have, for years, been used for herbal treatment. We may not at that time have known what the particular chemicals were, but we knew that the plants would treat "A", "B" and "C". So, we need to make sure that we are covered on that aspect.

Mr. Temporary Deputy Speaker, Sir, the issue of *mnazi* is also very clear. I know that it is part and parcel of the product, but *mnazi*, which is also called Todi, which is the alcoholic drink, must be covered in such a manner that it is recognized not as a by-product, but one of the major products of the coconut tree. Likewise, we should impose restrictions on importation, planting and trading therein.

Mr. Temporary Deputy Speaker, Sir, I am a little surprised by the issue of the board.

The Temporary Deputy Speaker (Prof. Kaloki): Order! Is there a point of order by hon. Zonga?

Proceed, hon. Shakeel!

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, there are some people who are telling us that we are not techno-savvy, but I think these machines have got a mind of their own. They

are painting us in very bad light. So, maybe, these machines, on which we spent so much money, need to be stopped---

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Shakeel! Proceed and make your contribution.

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, that is a very important point. On the issue of the board, we see nowhere where the Bill says that the board is part-time. But when it comes to remuneration, it is stated that the Salaries and Remuneration Board will look at the issue of remuneration. What has happened over time is that we have set up boards and people have decided to become full time board members. Actually, by doing that, they have taken over the job of the secretariat. I do not have to go far. There is the Truth, Justice and Reconciliation Commission and others. So, we want to be very clear that, that board is part-time, meaning that they are called as and when it is needed. It should not be full time, sitting there on the head of the secretariat.

Mr. Temporary Deputy Speaker, Sir, likewise, we are not too clear as to what elements and roles of the Kenya Coconut Development Authority are being taken over. Are the assets and liabilities of that particular organization taken over fully or is it just taking over the duties without all the other baggage?

Mr. Temporary Deputy Speaker, Sir, finally, a coconut farm - and hon. Twaha has touched on some of these issues--- I was in Lamu and some of the land that has been taken over by the Government, it was said that nobody was farming on it. It is incorrect because a coconut farm is not like a traditional farm. Coconuts are planted and left because they take between five to ten years to grow. The fact that there are coconut plants on a piece of land makes that a coconut farm. The fact that there is no chain-link or traditional farming mechanisms of weeding *et cetera* does not mean that, that is not a farm. That is also something that has been misunderstood or misused by many people to take over what they say are unused plots of land. A coconut plant takes five to ten years to mature. I think we must also clarify what a farm is. Is it the one of five or ten trees? What is our requirement of a farm?

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

Ms. Shakila Abdalla: Mr. Temporary Deputy Speaker, Sir, first, I want to take this opportunity to congratulate and thank hon. Mungatana for bringing this Bill, which is long overdue. As you realize in this country, how many protection Acts for crops do we have in this country apart from tea and coffee? So, this Bill is very important. It is something we need to protect our farmers, who already have coconut trees in their farms.

Mr. Temporary Deputy Speaker, Sir, a coconut tree has many benefits. If those benefits can be explored, they can bring economic gains to farmers. I can mention a few benefits emanating from a tree. Traditionally, you can make ropes, *makutis*, vinegars, apart from juices, brews, coconut milk and many other products. It is high time that the Government should come out and put money in research to improve the variety of the products that we have.

Mr. Temporary Deputy Speaker, Sir, coconut farmers need support, because it is a crop which can change the lives of the coastal people. It is a crop which does not have many difficulties in growing. It can sustain itself against any weather, and mostly hot weather in the coastal region.

Mr. Temporary Deputy Speaker, Sir, I really support this Bill. If some finances are allocated by the Government to protect that crop, it can do a lot to change the economy and lives of the coastal people.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I support.

The Assistant Minister, Ministry of State for Public Service (Mr. Sugow): Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to support this Bill and thank hon. Mungatana. As my sister has indicated, this Bill is long overdue. Coconut is one of the oldest crops in this country, and it is not any less important if given the right foundation in law, just like coffee or tea.

Mr. Temporary Deputy Speaker, Sir, the one thing that is clear in this country is that there have been quite a number of areas where regional products that are predominant and have great value not only to the region where they are but the country, have been neglected for a long time. Therefore, I would like to take this opportunity to look forward and thank hon. Mungatana because the crop has been neglected for all this time. He used a very conciliatory tone when he was moving this Bill. He did not apportion any blame for the past. In fact, he thanked the President for issuing an Executive Order to give the regulation that exists currently.

Both sides of this House should support this Bill. It is not only for the interest of the Coast Province, but for this country. We have clearly indicated the tentative amounts that this country can get out of this particular industry and I believe that with more investments, we can double, triple or even quadruple the amount. With research and the development of good fast maturing varieties, we can make a lot of money.

Mr. Temporary Deputy Speaker, Sir, having said this, it is very important for us, as Members of Parliament, at this point in time, especially when we are going to elections, to avoid making statements on the Floor of the House that touch on the nerve or the sensitivity of issues that are prevailing in the public domain. On the matter raised by hon. Odhiambo-Mabona - unfortunately she is not in the House- regarding the lack of presence on the part of the Government to discuss this matter, the lack of presence on this side of the House does not, in any way, indicate the seriousness or lack of it on the part of the Government with regard to this Bill. Therefore, to bring the MRC issue on the Floor of the House was uncalled for because this is a national issue. It is a very important Bill and we need collective appeal to all sides to ensure that it is passed, but not to try and apportion blame. In any case, this Government has already put some mechanisms in place to regulate it. You would not expect them to oppose this Bill. Therefore, before we judge the Government, let us wait for the Presidential assent or lack of one, so that we can say that the Government is not serious.

This Bill addresses a sector that is of serious economic value to this country and not only to the Coast region alone. Therefore, it behooves all of us, as leaders, to support it so that it is passed. However, it is important that the issues raised by hon. Mungatana are put into consideration especially with regard to farmers being central in the Bill. It is very important. The issues raised by hon. Twaha are very important. Land holding is key to viability of any product, both in terms of ownership and even size. So, the underlying issues with regard to land, for this industry to succeed, have to be addressed. Without that, we are just wasting time and putting some legislation in place that cannot be implemented. So, the land issue, therefore, is a key factor. We should avoid just creating another bureaucracy out there just to freeze farmers and other stakeholders. The key people who this Bill should be looking after are the farmers down there. That is the purpose of hon. Mungatana's Bill. He has put a lot of effort into this Bill to address their plight. Therefore, as we put regulatory framework in place, we should, at the same time, not shift focus from the farmer. This Bill should, therefore, give emphasis on the support to the farmer. It should give lesser importance to the structural framework that we are putting in place to regulate that particular field.

With those remarks, I support the Bill.

Mr. Chanzu: Thank you, Mr. Temporary Deputy Speaker, Sir. I also want to support this Bill. It is very timely considering that in the advent of the new Constitution, we are thinking of country in terms of regions. We are looking at these regions as being able to sustain themselves and being able to contribute to their development and growth. So, it is going to be incumbent upon all the counties to look for ways of generating revenue for themselves and sustain themselves apart from the minimum 15 per cent that they will get from the Central Government.

With that in mind, there is going to be need for competition. The Bill is very timely, so that we can have legislation that can assist us to put the coconut industry in place. Kenya is an agricultural country so far. We are still prospecting on things like oil, but at the moment, we are mostly an agricultural country. There is need for us to diversify. We have relied on some traditional foods for a long time and the more we diversify the better for the economy as a whole. It is very important that we have this Bill at this time. Coconut has been used for food and oil. It will be used in industries and for decoration. In terms of the economy as a whole and where the crop is grown, the Bill is very important. So, the economy as a whole will benefit from this.

What the Assistant Minister has talked about is very important. The reason why we have been unable to sustain what we do as a country is because the views of the people who are in charge of these sectors are not taken into account. If we take into account everybody's view, from the bottom to the top, we will be able to sustain the industry. The farmers are the ones who will feed the industry. They are the ones who are going to labour to produce the coconut before it can get to a level where we can say that the county or the country is benefiting from it. So, a lot of consideration must be put into that. For us to achieve Vision 2030, now that it is the larger picture that we are looking at, we must do a lot in all the sectors. So, the Bill is very timely for all those reasons and many more which my colleagues have already stated. I find the Bill very good and I really congratulate hon. Mungatana for thinking very wisely and bringing it on time, so that as we move ahead, we can consider a number of items as we talk about industrializing Kenya by 2030. We must be looking at a number of items in order to achieve that.

With those few remarks, I beg to support.

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute on this Bill. More importantly, I want to thank hon. Mungatana for bringing the Bill for discussion.

If we look at history, this is the first Bill that we are going to have that covers a crop which the colonialists did not come with. We have Acts on coffee, tea, sugar and pyrethrum. So, this is a very crucial Bill for this nation. It goes along to promote what has been grown in this country for many years. I support the Bill because it will go a long way to support the local community and create employment. It will also spur economic activity in the coastal region.

If this crop can grow in other areas, then it should be introduced there. The idea of bringing this Bill will reduce poverty in the coastal region. Once this Bill is passed, the crop will be supported by the Government like other sectors. Research will be conducted so that the yield of the crop can improve. Time will also be taken to develop it so that more income is earned. This is a clear point of marginalization which has taken place over the years because of ignoring regions which are fertile and have the capacity to produce the crop. The crop is readily available but it is neglected. There is no support even from the relevant Ministries.

So, I support this Bill. However, what is important is that the Government, the Ministry and the people concerned should spend time on it. We have very good experts who can develop a better crop for high production. Because other Members want to contribute to this Bill, with those few remarks, I support it.

Ms. Amina Abdalla: On a point of order, Mr. Temporary Deputy Speaker, Sir. Given the fact that the mood of the House is fully in support, would I be in order to ask that the Mover be called upon to respond?

The Temporary Deputy Speaker (Prof. Kaloki): Can the Mover respond? Can we do that?

Hon. Members: Yes.

The Temporary Deputy Speaker (Prof. Kaloki): Before we do that, we will get the Government side and Prof. Anyang'-Nyong'o will be responding on behalf of the Government.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I will be very brief. Just like all my colleagues have said this morning, we must thank hon. Mungatana for introducing this very important Bill on establishing the Coconut Development Authority with very specific functions; to promote and regulate production, processing, marketing, grading, storage, collection, transportation and warehousing of all coconut produce and all coconut by-products as it has been stated in Clause 11 of the Bill.

In doing this, I want to make an observation that follows the point that hon. Nyamweya has just made, that most of our development authorities and our boards were established during colonial times which were geared towards promoting the so-called cash crops for those days. It is high time we went beyond the philosophy and mentality of cash crops and realized that we have tremendous potential in agricultural production that we should exploit, not necessary based on using the vagaries of nature as we do at the moment for the crops that were not deemed to be cash crops but by harnessing the environment, particularly soil and water to increase productivity. One of the things that I expected in the functions of the authority was to promote research into generating various varieties of coconut that can be high yielding and that can render more production to farmers. Research is missing out in the functions and it will be very important to have a research component to the functions of the authority so that we can experiment with diverse types of coconuts given our various climatic and soil conditions under which the coconuts grow.

Mr. Temporary Deputy Speaker, Sir, we must not take it for granted that the only variety of coconut that we have at the coast is the only variety that can possibly grow in Kenya. We must open our minds to know that the soil types and humidity available at the coast can and may be replicated elsewhere and that under very careful research and manipulation of the coconut seed and seedlings, we can improve productivity and adapt the growing of coconuts in various areas in Kenya.

Let us realise that over the last couple of years, we have really lost in the production of many of our cash crops. Many years ago, Kenya was exporting about 135,000 metric tonnes of coffee per year but we are now exporting about 45,000 metric tonnes of coffee. We have to import the Robusta Coffee from Uganda and Congo to mix with our Arabica to try and meet what could be our quota in our world market. We must, therefore, learn not only to improve the production of coffee and tea in our nation by diversifying coffee and tea growing areas but also venture into other crops like the coconut. I think this was an extremely important initiative by my former Assistant Minister, Mr. Mungatana and I miss him a great deal. I hope that when the authority is established, it will not just be a bureaucracy but an authority with a mission to improve the income of coconut growers from where they are today and an authority with a mission to expand coconut growing beyond the mere subsistence coconut growing as we know it today. Coconut must be grown as an industrial crop; as a crop that will enjoy tremendous value addition not only to produce various products for the home market but also for export.

If you look at dietary regulations that most experts recommend for people with various health problems, you will see that the coconut plays a very important part. Indeed, in biomedicine or herbal medicine, coconut plays an extremely important part. So, this is an area that we are venturing in the new frontier of agricultural production and a new frontier of provision of nutritious food that must be supported. Therefore, if this authority can also go into research and into the nutritional value of coconuts---

Whenever we go to the coast, we are very ready to drink that cold water that comes out of coconut. That “water” has many values.

Mrs. Odhiambo-Mabona: It is juice and not water.

The Minister for Medical Services (Prof. Anyang’-Nyong’o): Thank you for that correction. I always take it as cold water myself. If you call it juice, so be it. I think this is juice that is extremely useful, not only to quench thirst but is also used medicinally. The coconut itself is also useful medicinally.

Mr. Temporary Deputy Speaker, Sir, so I only rose to give full Government support for this Bill and my own personal support for this Bill as the Minister for Medical Services and hope that sooner rather than later, this authority will come into being, not as a bureaucracy because at times when these authorities are established, they become job opportunities for the boys and girls. We want an authority with a new mission; an authority that is established at a time when we are going towards achieving Vision 2030. So, this is an authority of a new type; a developmental authority that has a mission to fulfill, to change the lives of the people who grow coconut and to make coconut a truly industrial crop with tremendous value addition.

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

The Temporary Deputy Speaker (Prof. Kaloki): Very well!

Hon. Mungatana is the Mover of the Bill and now he will respond.

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I want to thank Mrs. Odhiambo-Mabona for seconding. I want to thank Mr. Kilemi Mwiria, Fahim Twaha, Mr. Onyancha, Mrs. Sophia Noor, Mr. Shakeel, Ms. Shakila Abdalla, Maj. Sugow, Mr. Chanzu, Mr. Nyamweya and Prof. Anyang’-Nyong’o. I want to thank all these hon. Members for fertilizing the thoughts that were within this Bill.

Mr. Temporary Deputy Speaker, Sir, I know that this House means well and we are going to put every idea into consideration. I have taken notes and I will look at the HANSARD. The majority of the hon. Members have requested that we must make this a Bill that is farmer-centred and not board-centred. We must make the authority to be an authority with a mission. We are going to include many things like the restructuring of the board to be at least 50 per cent made up of farmers and other things that have been said. I thank all the hon. Members who have contributed. I am very grateful to the Tenth Parliament and I am sure at the Committee Stage we will finalize it well.

I beg to move.

(Question put and agreed to)

*(The Bill was read a Second Time
and committed to a Committee of the
whole House tomorrow)*

Second Reading

THE STATUTORY INSTRUMENTS BILL

Ms. Amina Abdalla: Mr. Temporary Deputy Speaker, Sir, I beg to move that The Statutory Instruments Bill (Bill No.53 of 2011) be read a Second Time.

Mr. Temporary Deputy Speaker, Sir, the Select Committee on Delegated Legislation is established under Standing Order No.197 and its mandate is among others to ensure that statutory instruments are laid before the House as may be provided under any written law and scrutinise such instruments to ensure that they are consistent with parent statutes.

You will note that the Committee on Delegated Legislation is one of the new committees of the House that were established by the new Standing Orders following a Motion that I moved in 2004 and it has since been part of our Standing Orders. Upon the inception of this Committee, we realised that there were limitations in the Standing Orders and in the laws governing the tabling of statutory instruments. It is for that reason that the committee chose to have as one of its strategic objectives, the strengthening of the Committee's ability to scrutinise delegated legislation. As such, this proposed Bill is a product of the discussions that the Committee has held and is a product of the work of the Committee with other stakeholders from both the Kenya Law Reform and our own Legal Department in Parliament.

Mr. Temporary Deputy Speaker, Sir, to begin with, I would probably need to explain that delegated legislations are laws that are made other than those that are made by the Parliament of the day. For example, in Kenya in 2010 this House made probably about some several dozen Acts of Parliament. There were 200 delegated legislations that were produced by either Ministers, local authorities, State corporations, *et cetera*. Statutory instrument is an instrument made directly or indirectly under an Act by an entity other than Parliament. The examples of statutory instruments include by-laws, orders, ordinance rules and regulations.

Upon forming this Committee we then had the new Constitution which in a way revolutionized the entire legislation-making process and particularly the making of statutory instruments.

Mr. Temporary Deputy Speaker, Sir, Article 94 (5) of the Constitution provides the role of Parliament and states:-

“No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation.”

Sub-Article 6 of the same Article says:-

“An Act of Parliament, or legislation of a county that confers on any State organ, State officer or person the authority to make provision having the force of law in Kenya, as contemplated in clause (5), shall expressly specify the purpose and objectives for which the authority is conferred, the limits of that authority, the nature and scope of the law that may be made and the principles and standards applicable to the law made under the authority.”

Before, our Constitution was not as clear as this. The Constitution is now clearer in stating that, that conferment of the authority must declare its objective limits. This is very important because as the Committee on Delegated Legislation, the bulk of the work that has been brought on our table has been in relation to authorities to whom Parliament has conferred the right to make some delegated legislation. They have either gone beyond their mandate or have made provisions that have been done without consultation. That in essence is where our biggest problem has been. We as Parliament cannot abdicate our authority or control to the Executive in the making of delegated legislation that we in the end do not scrutinise.

Having said that, the experience that our committee has had in the last three or four years since we were established has been that a lot of the problems with delegated legislation is that the authorities making them are making them without consultation with the stakeholders. They are even making provisions that should be covered in the parent legislation other than in a subsidiary legislation.

Mr. Temporary Deputy Speaker, Sir, we realized that the problem emanates from Chapter 2 of the Laws of Kenya which provides:-

“All rules and regulations made under an Act shall, unless a contrary intention appears in the Act, be laid before the National Assembly without unreasonable delay---”

The catch is “unreasonable delay”. When you ask somebody to do something without unreasonable delay and you do not provide penalties, it is just a loophole to ensure that they do not do it because nothing will happen. This rule further states that if that law is not tabled on the Floor of the House within 21 days, then it could stand to be void, meaning that it could be annulled.

That has yet to happen in the history of Kenya. We believe that the designers just cut and pasted the British law onto our laws. They did not make provisions under which the tabling would take place or develop the culture of tabling delegated legislations in Parliament.

Mr. Temporary Deputy Speaker, Sir, the loopholes and other challenges that we have seen in the law include the fact that last year alone, there were over 200 delegated legislations that were produced, but only three were tabled in the House. In the process, a lot of delegated legislations are now subjects of court proceedings. They were, in essence, not valid laws because they were not tabled and debated in the House.

An example is the Alco-blow regulations that were promulgated by the late hon. Michuki, when he was the Minister for Transport and the regulations on the age limit of cars allowed into the country, which was a subject of abuse of office; allegations made against hon. Henry Kosgey. These are some of the challenges.

Mr. Temporary Deputy Speaker, Sir, the second loophole that we have noticed is that delegated legislations have been abused as a mechanism to provide for corruption loopholes. You make an ambiguous delegated legislation to expand the sphere of your powers and in the process be able to make financial gains out of it. So, this has been a major problem. We, as a committee, were bogged down in that, first, we did not have the powers to force Ministers to table delegated legislations. There was no penalty for them if they did not table the legislations. Secondly, even for the few delegated legislations that were tabled, we were being bogged down by complaints about non compliance with their contents. An example is the case where a delegated legislation was published by the Ministry of Energy to enable the National Oil Corporation (NOC) import 30 per cent of the country’s fuel requirements.

Stakeholders in the petroleum sector complained about the content of that legislation, following its publication in the *Kenya Gazette*. If conditions for tabling delegated legislations were in place, we would have questioned the Ministry’s failure to consult the stakeholders, *et cetera*.

Mr. Temporary Deputy Speaker, Sir, we also dealt with the issue of the National Hospital Insurance Fund (NHIF) hiking their statutory deductions without consulting the stakeholders in the sector. So, as I mentioned before, due to ambiguity on the requirement to have delegated legislation tabled in the House, we do not have powers, as a House, to force Ministers to table the same. There are also no penalties provided for those who fail to table the legislation. Of

course, we also know that in having this new legislation, we will have to strengthen the Standing Orders and the mandate of the committee as stipulated in the Standing Orders.

Having looked at the existing challenges, we came up with this Bill, whose overall objective is to provide for a new and comprehensive regime for making publication, operationalisation and scrutinisation of statutory instruments in the country. The Bill proposes the repeal of Sections 27 and 34 of the Interpretation and General Provisions Act, Laws of Kenya, which I previously mentioned as being part of the problematic areas.

Part I of the Bill provides for the Short Title, which is Standard. Part II provides for consultations, which shall be undertaken before making statutory instruments. We noticed that this has been a major issue with the statutory instruments that have been provided. So, we are looking forward to future statutory instruments showing proof that they have undergone consultation. We have also stated situations where this would be unnecessary.

Mr. Temporary Deputy Speaker, Sir, we intend to have statutory instruments being tabled, accompanied by a regulatory impact statement, indicating what penalties or financial costs such instruments will be giving to communities.

Part IV provides for the scrutiny of the instruments, indicating where it is appropriate and where it is not appropriate. We realised that the bulk of the statutory instruments are too heavy for the House or the committee responsible to look at all of them. So, we have categorised them in such a manner that, for some, the level of scrutiny would be different.

Mr. Temporary Deputy Speaker, Sir, Part V deals with the expiry of statutory instruments. In our work, we realized that there are a lot of outdated statutory instruments and some of them have been overtaken by amendments to the parent Act. So, we are providing automatic expiry of old statutory instruments.

Part VI sets the general provisions to include publication, commencement date *et cetera*. Part VII provides for the repealing of Sections 27 and 34 of the Interpretation and General Provisions Act.

Mr. Temporary Deputy Speaker, Sir, the enactment of this Bill shall occasion no expenditure to public funds. In conclusion, I would like to urge all our colleagues, now that we are moving to a system where the Cabinet will not be in the House and we will not have Question Time, Ministerial Statements and the like, we need to be more clearer in what powers we are delegating to Ministers or other authorities, and we need to strengthen the scrutiny process so that we ensure that we do not contravene our Constitution in having individuals making subsidiary legislation that contravene the parent Act.

With those few remarks, I beg to move and ask my Vice-Chair, hon. Ababu Namwamba, to second.

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, because I am not armed with my electronic card, I will contribute from the Dispatch Box.

Mr. Temporary Deputy Speaker, Sir, I wish to second this very historic Bill. I want to start by really applauding the Mover of this Bill, hon. Amina Abdalla, for the length of time that she has travelled in this Bill and if, indeed, a Bill can be described as a baby of any hon. Member, then this Bill can be described as the baby of hon. Amina Abdalla. So, really, it is in order to applaud her contribution to this Bill.

Secondly, it has long been said that Members of Parliament are fond of travelling to foreign countries on study missions that really have got no benefit to this country. I want today to stand here and say that if there is any Bill that is the product of study missions undertaken by any committee of this House, then this Bill is. The Committee undertook very fruitful study missions

to Zambia, United Kingdom (UK), the House of Commons and, out of those consultations, the Committee was able to learn some very useful lessons of how other legislatures within the Commonwealth handle this very critical matter of statutory instruments or delegated legislation.

Mr. Temporary Deputy Speaker, Sir, therefore, I really want to say that, as a committee, we are extremely proud of this particular piece of legislation, which is introducing several innovations in this very critical matter and, as we proceed to debate this Bill, Members of Parliament will take note of new terminologies like “explanatory memorandum”, “regulatory impact statements” *et cetera* and the implications of such in terms of giving this House a framework within which to engage with delegated legislation, rules, regulations and any power that is exercised by reason of authority delegated by way of legislation.

Mr. Temporary Deputy Speaker, I do not know whether I am within time or whether I---

The Temporary Deputy Speaker (Prof. Kaloki): Hold on, hon. Namwamba. Hon. Members, I am alerted that it is now 12.30 p.m. Hon. Namwamba, you will have 17 minutes to continue to make your contribution while seconding that particular Motion.

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Now, hon. Members, we will adjourn until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.