

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 17th April, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

RESUMPTION OF THE HOUSE

Mr. Speaker: Hon. Members, I wish to take this opportunity to welcome you to this sitting of the House. I believe that you are all well rested, recharged and able to discharge business that is before you this sitting. It is formidable business, so I urge all of us to get up because you will need all the energies you can. There is a possibility that we will sit for very long hours so as to be able to address ourselves to the business that will come before the House.

ASSENT TO THE ENGINEERS BILL

Secondly, hon. Members, I wish to make this communication regarding return on a Bill received from the hon. Attorney-General pursuant to the Standing Orders. Standing Order No.125 requires that the Attorney-General presents to the President within 14 days of receipt from the Clerk every Bill passed by this House. Thereafter, at the expiry of 14 days, the Attorney-General is required to file a return with the Speaker indicating the time and the date that the Bill was presented to His Excellency the President. The return now received indicates that The Engineers Bill of 2011 which was passed by the National Assembly on 30th November, 2011 was presented by the Attorney-General to His Excellency the President for assent and was duly assented to on 27th January, 2012 at 12.00 noon.

I thank you.

PAPERS LAID

Mr. Speaker: Order, hon. Members! I am expecting the Minister for Finance. I can see he is making his way into the Chamber. The Assistant Minister for Finance, will you kindly proceed and do the first thing that you ought to do before you go on to business?

(Dr. Oburu consulted with the Clerk-at-the-Table)

Order, hon. Members! Kindly, bear with the Assistant Minister. He is serving his fourth term.

(Laughter)

Proceed, Mr. Assistant Minister!

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, I apologise. I was not aware that I was supposed to table these Papers right now.

However, I wish to lay the papers on the Table.

The following Papers were laid on the table:-

The Medium Term Budgetary Policy Statement, 2012

The Supplementary Estimates of Recurrent Expenditure, 2011/2012

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

Mr. Speaker: What is it, the Member for Kisumu Town East?

Mr. Shakeel: Mr. Speaker, Sir, I have just heard the Assistant Minister say that he is presenting the documents and papers in respect of the Supplementary Estimates. However, under what basis, or under which Finance Bill is he presenting that? This is because the Finance Bill is yet to be approved. Is he presenting this on the previous Finance Bill which was approved last year? Could he be very clear under which Finance Bill he is presenting these documents?

Mr. Speaker: Order! The Member for Kisumu Town East, please, allow the Assistant Minister to table whatever documents he is tabling because like I did intimate earlier on, I was expecting the Minister for Finance to be available at Order No.4. Indeed, as I made that pronouncement, the Assistant Minister for Finance walked in. So, please, let us allow him to table the documents. We will then examine those documents and if there are any objections, of course, the House is entitled to raise those objections.

The Assistant Minister for Finance (Dr. Oburu): Thank you, Mr. Speaker, Sir. Estimates have no relationship with the Finance Bill.

Mr. Speaker, Sir, I also wish to table the following papers:-

The Supplementary Estimates of Recurrent Expenditure, 2011/2012

The Supplementary Estimates of Development Expenditure, 2011/2012

(By the Assistant Minister for Finance (Dr. Oburu))

(Mr. Shakeel consulted loudly with Mr. Olago)

Mr. Speaker: Order, the Member for Kisumu Town East! Will you kindly retreat to the Speaker's Chamber and have a discussion with the Member for Kisumu Town West? The Member for Ikolomani, please, do the same with the Member for Nyakach.

Proceed, Mr. Assistant Minister!

The Assistant Minister for Finance (Dr. Oburu): Thank you, Mr. Speaker, Sir. I hereby table.

Report on the National Land Commission, Bill No.5; Land Registration, Bill No.4; and Land Bill, Bill No.6 of 2012.

(By Mr. Musyimi)

Mr. Speaker: Order, hon. Members! The Assistant Minister for Finance, will you please approach the Clerk's Desk?

(Loud consultations)

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, I am sorry there is one document which was omitted which is the Medium Term Budget Policy Statement for 2012. I hereby table it.

The following Paper was laid on the Table:-

The Medium Term Budget Policy Statement, 2012

(By the Assistant Minister for Finance (Dr. Oburu))

Mr. Speaker: Hon. Members, I will from the Chair, give directions to the House as to what is supposed to transpire after the Assistant Minister has tabled those documents as he has done. These are documents that are constitutional and they have constitutional implications. So, I will be giving directions tomorrow afternoon on how the House will proceed. So, please note.

What is it, the Member for Bura?

Dr. Nuh: Mr. Speaker, Sir, thank you for that guidance. Many a times, you have given guidance that has steered this House in the right direction and we are confident that the same will apply. However, as you make that guidance, the Assistant Minister ought to have read the Standing Orders that the Budget Policy Statement ought to have been laid on the Table of the House on 21st March every year. It is this same Executive that moved this House to adjourn. They knew that this date would expire when the House was still on recess. The provision in the Standing Orders does not say that they have to lay it on 21st March, but it says: "Every year, not later than 21st of March, the Minister responsible for matters relating to finance shall prepare and lay before the House a paper to be referred to as the Budget Policy Statement."

Mr. Speaker, Sir, as the House was going into recess, the Executive side and the Minister in charge knew that the date of 21st March would come when this House is away. So, Mr. Speaker, Sir, as you give guidance as to what is to follow after these Papers have been laid, also give us direction on what Ministers are supposed to do when they know that they are not living within timelines which are given as per the Constitution or an Act of Parliament or even the Standing Orders and they know well that they are in breach of such rules, and still move the House to adjourn when they know that such time will lapse. They do not make any effort to table documents which are required to be tabled before this House in time.

Mr. Speaker: Very well! The Member for Bura, that appears valid. Yes, the Chair of Budget Committee!

Mr. Mbau: Mr. Speaker, Sir, I would like to indulge you as you make your ruling tomorrow to take due cognisance of the fact that as the Assistant Minister for Finance tables the Supplementary Estimates, they are supposed to have been informed, and to a great extent based on what should have accrued from if Parliament had passed the Finance Bill. So, I would like you to ensure that the Treasury clarifies to the House that as it seeks to make these

Supplementary provisions, the Finance Bill may not be the one that has not been passed by this Parliament. However, to the extent that Supplementary Estimates are going to be based on the Finance Bill that was passed in 2010/2011 and which is law this House may be willing to discuss the Supplementary Estimates. Secondly, the Assistant Minister has just, out of time, tabled the Budget Policy Statement, which ideally is supposed to inform the making and presentation of the Budget proposals by the end of this month; it gives Members of this House a hard time in analyzing the effect and inform or make contributions before laying such a report in this House, so that the House can be informed and give contribution and recommendations to what would become the Budget proposals that we are expecting to be tabled in this House by 30th of this month. So, I am seeking your indulgence because the House is not the one that failed to do its duty of informing and making contributions to debate on the Budget Policy Statement. May I seek the indulgence of the Chair and the House to ensure that the House is given at least one week, now that the Budget Policy Statement has been laid on the Table out of time, to dissect and discuss it with a view to making contributions to the Budget proposals for the year 2012/2013.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. The Assistant Minister has just tabled the Budget Policy Statement, which should have come latest 21st of March. I am aware that the Fiscal Management Act gives the Assistant Minister the window to do so within one week if the House is in recess. If you go to the same Fiscal Management Act, which has not been repealed, Section 8(2) says:-

“In considering the Budget Policy Statement, the relevant Committee shall consult each Departmental Committee and shall, not later than 15th April, lay its report before the National Assembly.”

That law is specific and definite and does not give our Committee any room to bring our report to the House beyond 15th April. So, I would like to ask the Chair, when making the ruling tomorrow, to guide us now that we have violated the provisions of this law. In Section 7, the Minister is given some room but the Budget Committee does not have any alternative. We have to present our report on or before 15th April which has already passed. This law does not even give the Chair the power to vary that date. That is a date that is cast in stone. It is here in the law and that is the law.

Mr. Speaker, Sir, finally, this Budget Policy Statement is not just brought in the House as a reference material. It is brought to us so that we can discuss it, look at it and make suggestions that should go back to the Ministry so that they are incorporated in the Budget Estimates, which are supposed to come to this House within 13 days. I really wonder whether the Assistant Minister is convinced that by tabling this Budget Policy Statement this afternoon, he is giving Parliament adequate time, or does he want to use Parliament to rubber stamp the Budget that the Executive has already prepared? I think this ruling needs to be made.

As a parting shot, remember last year you told the Minister for Finance that last year was the last time the Chair would entertain any attempts to bring Budget Estimates to this House beyond 30th April. So, are we still going to meet that deadline? We need definite commitments from the Minister.

Mr. Speaker: Yes, hon. Member for Garsen and that will be the last one on this matter.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. I will be very brief. Still from the Budget Committee, my issue is with the tabling of the Supplementary Estimates before they have gone to the Departmental Committees. The Assistant Minister knows that now the process of Budget making is not an entirely Executive process. It is a shared process between Parliament

and the Executive. In the making of the main Budget, all the proposals have to pass through Departmental Committees of this House so that we agree that those are the estimates which are brought to this House as Budget. I want you to find that the laying the Supplementary Estimates on the table before the process has been followed is not correct, and that the Assistant Minister ought to go back and follow the process as we know it now. This House is not willing to cede its powers to determine how the money that has been raised through taxes will be used in terms of the Supplementary Estimates. I beg to raise a point in such a manner.

Mr. Speaker: Order, hon. Members! Assistant Minister, I believe now you have a sense of why, I, as the Speaker, this afternoon was anxiously awaiting your appearance. If you have any response that you want to give in the House now, you may do so.

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, there are substantive issues which have been raised, perhaps it will not be fair for me to deal every one of them instantly without giving a comprehensive response. I beg that you give me time until Thursday afternoon.

Mr. Speaker: Order, Mr. Assistant Minister! Please, resume your seat!

In this instance, time is of essence and as you have heard from those submissions that have been ably made by hon. Members to my left, in fact, you have run out of time. So, to say that you want until Thursday is not being very helpful. Can you consult with your neighbour and see if you can improve? I certainly cannot allow you until Thursday.

The Minister for Transport (Mr. Kimunya): May I, Mr. Speaker, Sir---

Mr. Speaker: May be you could, Mr. Minister.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I do agree that, indeed, we have some timelines that are set by the law, and some of those timelines may well have passed because the House was on a break. As you make your ruling, I would also like to persuade you to take into cognizance the fact that we, as a Government, do respect the independence of Parliament to determine its own calendar; we, as the Executive cannot influence that. So, when the House made the decision to go on recess, we were quite aware that, indeed, there would be some timelines that would expire when the House was on recess. But we have taken the earliest opportunity at the commencement of the House to table the Budget Policy Statement. What I would like to ask---

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

Mr. Speaker: Order, hon. Member for Gwasi!

The Minister for Transport (Mr. Kimunya): I would like to ask our very hard working Committee to use the new energy that they acquired during the break to actually work extra hard, so that we do it for the bigger interest of the nation in terms of doing what we must do to cover for the lost time. Time has passed. A deadline that should have been met last week when we were away cannot be brought back. We can make the decision on how to go forward in terms of ensuring that the Kenyan people have the Budget that they deserve.

In terms of the other issues like whether it should have come before the Finance Bill or the Estimates, we will be able to tackle these things as we move along and as part of the consultations that we are making. I would like to urge that we look at it as a national responsibility. The House made a decision to be away and we respected that, but we have taken advantage---

Mr. Speaker: Order, Mr. Minister! We have heard that point; so do not repeat it.

The Minister for Transport (Mr. Kimunya): I would like to implore the Committee that we make lemonade from lemons and move on for the benefit of this country.

Mr. Speaker: Order, hon. Members! I did intimate that the last contributions was going to be that by the hon. Member for Garsen, but I will then get a response from the Assistant Minister and we rest the matter until tomorrow when I will give directions.

Dr. Oburu, you have pleaded for indulgence of the Chair until Thursday. I am afraid the prevailing circumstances are such that the House cannot afford to give you until Thursday. I will direct that you make your submissions by way of a response tomorrow morning, and I stand by my commitment to give directions by tomorrow afternoon. So, when Order No.4 is called tomorrow, please, give your response by way of whatever submissions you will have on the concerns of hon. Members; I will give direction in one way or the other in the afternoon.

Hon. Member for Maragwa, who is also the Chair of the Budget Committee, I have heard you. Indeed, the Chair is aware of the deadline; that is, 30th April and you have made a very strong case that the Budget Committee ought to have at least one week. I want to make interim directions that now that those documents have been tabled, I direct that you be immediately seized of all those documents; you begin your consultations effective today. I am also directing the Clerk at this point to facilitate you beginning this evening. Even if you want to do two sittings before midnight today, please do so. Proceed to consult different Committees in the next seven days beginning today; then let us see where we shall be at the end of the seventh day. Fair enough!

Mr. Mbau: Most obliged.

Mr. Speaker: Let us do what we can. Those are just interim directions but I will give firm directions and position by way of a ruling tomorrow afternoon.

Very well! Anything else pending on Order No.4?

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

Mr. Speaker: Anything else pending away from what we have been deliberating on? If you want to revisit what we have been deliberating on, I am afraid, hon. Member for Rangwe, I will not allow it. I know you are an expert on finance matters, but you will have the other day, which will come tomorrow.

Mr. Ogindo: Mr. Speaker, Sir, I just wanted your ruling on another aspect of it and not what you have ruled on.

Mr. Mungatana asked on you how we shall proceed with the tabling of documents because soon, there is going to be the tabling of the Estimates for the 2012/2013. You have ruled that these documents now proceed to the Committee. If that is taken as a ruling, then it is going to be repeated by the Assistant Minister when he presents the Estimates. So, I wanted your guidance in that aspect, so that the mistake is not repeated.

Mr. Speaker: Hon. Member for Rangwe, we have heard you. Let us not be anticipatory. I can assure you that we will deal with all those situations, and we will be prepared to take the consequences. So, please, hold your horse for the time being.

Next Order!

NOTICES OF MOTIONS

APPROVAL OF SUPPLEMENTARY ESTIMATES

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, I beg to give notice of the following Motions:-

THAT a sum not exceeding Kshs32,229,309,230 be granted from the Consolidated Fund to meet expenditure during the year ending 30th June 2012 in respect of Supplementary Estimates of 2011/2012 Financial Year, Recurrent, having regards to the proposed reduction of Kshs10,477,941,240 therein appearing.

THAT, a sum not exceeding Kshs7,841, 257---

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. In view of the fact that the ruling that you are going to give tomorrow will affect even the propriety or otherwise of the tabling of the Supplementary Budget papers today, it would be jumping the gun for the Assistant Minister to move the Motion while there are pending issues. I would request that after your ruling, whichever way you will rule, if he is allowed, it is then that he can move this Motion. But, otherwise---

Mr. Speaker: Order, Mr. Mungatana! Please, resume your seat! The hon. Assistant Minister for Finance is merely giving notice. He is not moving the Motion and I am awake to that fact. So, proceed, Assistant Minister!

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, a sum not exceeding Kshs7,841,257,830 be granted from the Consolidated Fund to meet expenditure during the year ending 30th June 2012 in respect of Supplementary Estimates of 2011/2012 Financial Year, Development Expenditure, having regard to the proposed reduction of Kshs25,091,468,240 therein appearing.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well! Next Order!

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

Mr. Speaker: Order, Assistant Minister! Mr. Assistant Minister for Finance, did you prepare to come to this Sitting?

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, I am sorry. I omitted one sentence which is: "His Excellency the President has given his consent to this Motion."

Thank you, Mr. Deputy Speaker, Sir.

Mr. Ogindo: On a point of order, Mr. Speaker, Sir. I am rising on a point of order to invite your ruling to find the notice just given by the Assistant Minister for Finance properly unfounded in law or anywhere and, as such, serves as no notice for any Motion.

Mr. Speaker: Fair enough, Mr. Ogindo. I will cover that in my directions tomorrow afternoon.

(Mr. Mbadi stood up in his place)

Mr. Speaker: What is it, hon. Mbadi? Please, do not add since I have heard! Hon. Ogindo has spoken very authoritatively in summary form and I have heard those concerns. I know you come from the same stable – same stable not in terms of region – same stable in terms of profession. So, I will bear those concerns in mind.

Are there any notices of motion?

NOTING OF REPORT ON LAND BILLS

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

THAT, this House adopts the Report of the Departmental Committee on Lands and Natural Resources, the National Land Commission Bill (Bill No.5), Land Registration Bill (Bill No.4) and the Land Bill (Bill No.6) of 2012 laid on the Table of the House today Tuesday, April 17th, 2012.

Mr. Speaker: Hon. Members, please be guided that the Chairperson of the Departmental Committee on Lands and Natural Resources, who is also the Member of Parliament for Gachoka Constituency, has given notice of a Motion for the House to deliberate on the Committee Report on three land Bills. Our procedure is such that the House considers the contents of a Committee Report on any Bill in the Committee Stage. So, that Report is just going to inform any amendments that there may be or that will become necessary or warranted by the findings of the Committee. That is how we will be guided. That is how we will proceed. You will not adopt the Report of the Committee on the different Bills, but you will be guided by the contents of the Report.

Mr. Musyimi: Mr. Speaker, Sir, I stand guided.

Mr. Speaker: Next Order! Thank you.

QUESTIONS BY PRIVATE NOTICE

SUFFERING OF JOAN MURUGI DUE TO WRONG INJECTION

Mr. Gitari: Mr. Speaker, Sir, I beg to ask the Minister for Medical Services the following Question by Private Notice.

(a) Is the Minister aware that an 8 year old girl, Ms Joan Murugi from Kangaita Location, Kirinyaga Central Constituency has been suffering from a limb swelling following a wrong injection at the Kerugoya District Hospital and has been in and out of hospital since September 2007?

(b) Is the Minister further aware that she was admitted at Kenyatta National Hospital on 29th October, 2011 and discharged on 6th November, 2011 but could not be released from the hospital after discharge due to inability to settle the huge bill?

(c) What action will the Minister take against the doctor who administered the injection? Could the Minister consider compensating the girl?

Mr. Speaker, Sir, I would like to remind you that you made a ruling that the Assistant Minister should accompany me to see the patient. We went with him and from there, he took over the matter. The patient has been receiving treatment and today, he wrote a letter to the Permanent Secretary (PS) instructing them that at any time in future, they should treat her free of charge.

Mr. Speaker: So, are you satisfied? Are you happy with the action taken?

Mr. Gitari: Mr. Speaker, Sir, actually I am so happy. I even imagine that hon. Kambi will be promoted to a full Minister when they are doing the reshuffles.

(Laughter)

Mr. Speaker: Very well! Indeed, that really ought to rest the matter. Mr. Assistant Minister, can you just confirm that, that is the position and that will be it?

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, indeed, we went with the hon. Member---

Mr. Speaker: Order, Assistant Minister! Let us save time! You confirm that what hon. Gitari has said is the position!

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, indeed, it is the same position.

Mr. Speaker: And good luck so that you can become a Minister.

(Laughter)

Mr. Speaker: Next Question by Private Notice by Mr. K. Kilonzo!

NON-PAYMENT OF TAXES BY MASTERMIND TOBACCO (K) LIMITED

Mr. K. Kilonzo: Mr. Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice:-

(a) Is the Minister aware that Ms Mastermind Tobacco (K) Limited has not been remitting taxes since 2007 and now owes Kenya Revenue Authority (KRA) more than Kshs.12 billion?

(b) Why has the company not paid the arrears despite several tax demand letters sent to them by KRA?

(c) Can the Minister confirm that the failure by KRA to enforce the several tax demand notices is attributed to corruption and, if so, what measures will the Ministry take to ensure that all companies which have not remitted due taxes do so with the appropriate penalties?

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, I beg the indulgence of the House to answer this Question on Thursday afternoon. We have discussed this with hon. K. Kilonzo and he has agreed that I answer it on Thursday afternoon. There are some documents from Central Bank of Kenya (CBK) which are still not available.

Mr. Speaker: Hon. K. Kilonzo, are you prepared to accommodate the Assistant Minister?

Mr. K. Kilonzo: Mr. Speaker, Sir, indeed, the Assistant Minister has spoken to me and I am willing to accommodate him on Thursday this week.

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

(Question deferred)

Member for Yatta!

DISMISSAL OF POLICE OFFICERS

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

(a) Under what circumstances were police officers, CPLI Peter Thaine Koome (No. 76078), PC Benjamin Kipruto Chumba (No. 85263), PC Charles Agwingi Ambogo (No. 64417) and Andrew Lomosi Budembeshe (No. 66637), who investigated mobile phone and digital accessories counterfeiting by Ms Banlon Kenya Ltd., dismissed from service in December 2011?

(b) What charges were preferred against the Director, Mr. Yang Zhihong (a Chinese National), and under what circumstances was he released from custody?

(c) Can the Minister confirm or deny that Police Force Procedures were violated in the dismissal of the four officers?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, you may recall that this Question was answered on 13th of March 2011 and the House asked me to revisit the Question and explain why the four officers, CPL Peter Thaine Koome, PC Benjamin Kipruto Chumba, PC Charles Agwingi Ambogo and PC Andrew Lomosi Budembeshe were not reinstated despite the fact that there was a court order.

Mr. Speaker, Sir, the House wanted me to explain why they were not reinstated despite the fact that there was a court order.

Mr. Speaker, Sir, I wish to say the following:-

There was an Appeal Board, which was constituted on 15th March, 2012 at the Police Headquarters. The Board deliberated on the appeals and recommended the immediate reinstatement of all the four officers to service. Subsequently, the recommendations were forwarded to the Commissioner of Police who, in turn, allowed the appeal and reinstated the officers to the service.

Mr. Speaker, Sir, a signal to that effect has already been dispatched to the Director of the Criminal Investigations Department for enforcement. As we are talking now, the four officers are working in their stations. Thank you.

Mr. Koech: On a point of order, Mr. Speaker, Sir. While we thank the Assistant Minister for confirming that those officers have been reinstated, if you heard him, he has said that after the Appeals Board sat, it forwarded its recommendations to the Commissioner of Police. Our understanding is that the Appeals Board is chaired by the Commissioner of Police. Is he in order to mislead this House?

Mr. Ojode: Mr. Speaker, Sir, in the absence of the Chairman, there is somebody who acts as the Chair. On that particular day, the Commissioner was not chairing the Board. The good thing is that the Board reinstated all the four officers. I believe you should thank us for doing that.

Mr. C. Kilonzo: Mr. Speaker, Sir, those officers were only reinstated because the matter came to Parliament. The police force totally disregarded the court order.

Mr. Speaker, Sir, the minutes of the Appeals Board - which I want to table for the Assistant Minister to see - shows very clearly that senior officers within the CID have been frustrating those particular officers. All the charges were a fabrication. I table the minutes of the Appeals Board which shows very clearly that those officers should not have been dismissed in the first place.

Mr. Speaker, Sir, before I get to my question, the donor countries have said---

Mr. Speaker: Order, Member for Yatta! We will look at those minutes and determine whether or not they are admissible. You may proceed to the supplementary question in the meantime.

Mr. C. Kilonzo: Mr. Speaker, Sir, I took the liberty of sharing the same minutes with the same Assistant Minister and I wish to table them.

(Mr. C. Kilonzo laid the Minutes on the Table)

Mr. Speaker, Sir, at the same time, the donor community and, in particular the American Ambassador, wrote to Prof. Saitoti regarding those four officers and also on the frustrations by senior officers within the CID in establishing a Cyber Crime Unit.

Mr. Speaker, Sir, in the letter – which I will table – which is addressed to hon. Prof. Saitoti by the American Ambassador. He talks about suspending any further funding to the CID Cyber Crime Unit. The letter has some kind words for the Assistant Minister. It says:-

“It gives the impression that if the Assistant Minister did not intervene, those officers would not have been reinstated.” He says:-

“The American Government has forthwith suspended any other funding to Cyber Crime Unit”. I table that letter from the Ambassador. I have actually forwarded a copy of the letter to the Assistant Minister for his perusal.

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

Mr. Speaker, Sir, my question to the Assistant Minister is:- Over the last four to five years, senior officers in charge of Cyber Crime--- I wish to name six of them. There is Chief Inspector Tom Mboya. He resigned out of frustrations and has joined the Ethics and Anti-Corruption Commission. Inspector Chungwera Agina has resigned and joined the *Nation*. Inspector Martin Luther was transferred, after training for cyber crime, to general duties at the Headquarters. Sergeant Aggrey Musoga, after training on cyber crime, was transferred to Turkana County. Sergeant Alphonse Lumosi was transferred from cyber crime to general duties in Nyeri, where there is no information technology (IT). Now, the deputy in charge, a Maxwell Kibenei of Cyber Crime Unit has given a written letter of resignation to leave the CID and, in particular, Cyber Crime Unit. What action are you taking against the officers who are frustrating the establishment of a Cyber Crime Unit and frustrating other officers who pay for their crimes?

Mr. Ojode: Mr. Speaker, Sir, indeed, it is true that there those who are running away from that department when they get greener pastures elsewhere.

Mr. Speaker, Sir, the pay which police officers are getting is not much. It is quite meagre. But when an officer---

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Those officers, including the four police officers who have been reinstated, are not running away. They are being frustrated by senior officers. I have tabled the minutes of the Appeals Board which shows very clearly that there is frustration of junior officers by senior officers.

Mr. Speaker, Sir, when a senior officer prevents a junior officer from sitting for an examination, is that not frustration?

Mr. Ojode: Mr. Speaker, Sir, I am not aware of any frustration.

Mr. Speaker, Sir, if you look at the Board's recommendations and what he has tabled here, it is the same thing that I am having here. The Board found out that the appellants were properly on duty and, therefore, were not liable for disciplinary proceedings.

Mr. Speaker, Sir, that does not necessarily mean that they are being frustrated. No! If there is anybody who is frustrating any officer, the law is very clear. Even the standing procedures within the police force are very clear. But I have never come across any officer saying that he is being frustrated. I can also say that, if given time, I will check and find out if, indeed, there are some frustrations being meted out on the officers. But as at now, I am very clear in my mind that there is no officer who is being frustrated.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to say that he has never come across any officer who has been frustrated, while he has just reinstated four officers who have been frustrated?

Mr. Ojode: Mr. Speaker, Sir, there is a difference between those who are being disciplined for not doing their work and those who are being frustrated.

Mr. Speaker, Sir, the four officers were disciplined for not doing their work well. When they appealed, the Board dismissed the disciplinary action which was taken against them. In fact, I instructed the Commissioner of Police to reinstate the four officers and they were reinstated. So, there is no frustration in the CID. If there is any, could I have any paper or complaint which shows that there is frustration?

Mr. Speaker: Order, Mr. Assistant Minister! You have responded to that point of order. Member for Lari!

Mr. Njuguna: Mr. Speaker, Sir, emerging from the response that was given by the Assistant Minister, could he go further to assure the House that the four officers will be paid their accrued benefit and indicate to this House when the dues will be paid?

Mr. Ojode: Mr. Speaker, Sir, four officers are on payroll. They are being paid for what they lost and they are working as we speak. So, there is no cause for alarm there.

Mr. Kapondi: Mr. Speaker, Sir, it is Mt. Elgon and not Saboti.

Mr. Speaker: Order, the Member for Mt. Elgon! When a Minister corrects something, you do not have to rub it in.

Mr. Kapondi: Thank you, Mr. Speaker, Sir. Over this issue, there appears to be more than meets the eye. My good friend, the hon. Assistant Minister, is not very sincere here. What he appears to be doing here is basically public relations. The circumstances surrounding the Director, Mr. Young, who had been arrested and the way he left the country tells a lot. The way these four officers were dismissed and the letter of dismissal was done by none other than the Deputy Director of the Criminal Investigations Department (CID). That in itself explains that there is a lot of mucky business surrounding the Cyber Crime Unit in the CID.

Mr. Speaker, Sir, I was seeking your indulgence that though we have an obligation as a Committee to take over the matter, I propose that because the time may not be adequate to prosecute this issue to its logical conclusion, we take it over so that we get to the bottom of it. This is because there appears to be a lot of rot in the Cyber Crime Unit in the CID.

Mr. Ojode: Mr. Speaker, Sir, the police force is a disciplined force and we encourage our staff, especially police officers to follow the law. The requirement is that you will be taken to the proceedings orders and later on charged if found guilty. However, on this particular case, it was very clear that something wrong happened and it has already been corrected. I want to congratulate the Commissioner of Police for having acted so fast in reinstating the officers after having been given the minutes from the Board on that particular day. This is because the Board sat on 15th and the reinstatement was done the following day by the Commissioner of Police. So, that is a welcome statement.

Mr. C. Kilonzo: Mr. Speaker, Sir, the question was: "Why did the police ignore the court order?" This is because these officers were only reinstated when this matter came to Parliament. I asked the Assistant Minister what action he had taken against those police officers who refused to implement the court order. That is my question, and that is why the Question was deferred.

Mr. Ojode: Mr. Speaker, Sir that is to the contrary. We never acted as a result of what came to Parliament. The Board sits at its own periods. The Board was supposed to have sat on---

Mr. Kiuna: On a point of order, Mr. Speaker, Sir. From the way the Assistant Minister is answering this Question, would I be in order to seek your indulgence because as my Chairman, hon. Kaponi, has said, this issue is very weighty. It seems as if there is something fishy. Would I be in order to request you to refer this Question to the relevant Departmental Committee so that it can do more investigations?

Mr. Speaker: Order, hon. Member! You will not be in order and I will not give such direction. I have spoken on this matter severally and the position is clear, well known and very well documented if you look at your HANSARD. So, I will not give those directions.

Hon. Members, please, note that henceforth if you stand on a point of order, it will have to be a valid point of order in accordance with the Standing Orders. A false point of order amounts to disorderly conduct. Hereafter, whether it is the Speaker, the Deputy Speaker, or any of the panelists, you will have to be prepared to take the consequences of raising a false point of order. We think you have learnt for four years and a quarter. So, we will now apply the rules as we should. That matter must then rest there.

Mr. Assistant Minister, conclude your answer.

Mr. Ojode: Mr. Speaker, Sir, I was saying that the Appeals Board sits every month and when this Question was raised on the Floor of this House on 13th, this issue had already been listed for hearing on 15th. That is how the Board decided on the reinstatement of the four officers. So, it is not a question of the Question being raised in Parliament. Parliament did a good job by ordering me to come with the information or details why the court order could not have been implemented at that particular time. However, we implemented. The Board also recommended that the officers should be reinstated and we did exactly that. So, I want to congratulate the Commissioner of Police for having done exactly what we wanted him to do.

I thank you.

Dr. Khalwale: Mr. Speaker, Sir, the Assistant Minister has deliberately refused to answer the Question. The question is; what action did the same Board recommend against the two senior officers - I believe Mr. Paul Mumo, Superintendent of Police and Mr. Mohammed, an Assistant Commissioner of Police? What action has the Board recommended to be taken against these people because if you do not take that action--- The US\$7 million that the US Government injects in the restructuring of the police force has been suspended.

Mr. Ojode: Mr. Speaker, Sir, I am very much aware of those funds being suspended. However, we are restructuring that particular department. Already, Mr. Mumo has gone on peace keeping. So, let me restructure the department.

(Mr. C. Kilonzo stood up in his place)

Mr. Speaker: Order, the Member for Yatta! Note that you are now standing on a point of order. Live within the rules. Carry on.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. This House has gone through a lot of pain to deliberate on this matter. My question, which is what the donor community is asking and what this House has asked is; what action is being taken now that the Appeals Board found that those charges were fabricated? I laid on the Table the minutes of the Appeals Board. What action will the Government take against those officers who frustrated and fabricated false charges against those officers? That is my question.

(Applause)

Mr. Speaker: Mr. Assistant Minister, that is valid.

Mr. Ojode: Mr. Speaker, Sir, yes, it is valid. I am also on record as having said that I am restricting that particular department. We will take action against those officers found to be frustrating others. There are a number of other legalities we are following in order to discipline those who are found to be culpable. So, I do not wish to say that this is exactly what I will do to this particular officer. However, I want to say, just like I mentioned here, that there are some movements that had already been taken care of. So, some of those officers will not be at that place where they frustrate their colleague.

Thank you.

ORAL ANSWERS TO QUESTIONS

Question No.1019

INSECURITY ALONG NAKURU/ELDORET HIGHWAY

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

(a) whether he is aware of the increased cases of insecurity within Nakuru-Salgaa-Sachangwan and Mau-Summit areas along the Nakuru-Eldoret highway; and,

(b) what action he is taking to improve the security along the highway and to arrest the gangs that terrorize road users in the area.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, again, this Question was asked in May last year. I was aware of an increase in cases of insecurity along the Nakuru-Eldoret Highway especially within Nakuru, Salgaa and Mau Summit areas. I had answered this Question elaborately but what was remaining was to show whether we charged some of the officers who were found to be involved in the robbery.

I wish to table the charge sheet to prove that we have acted. I have a court case for Molo Police and those who were involved in the crime. I will lay it on the Table. The Police File is No. Criminal CR711/32/2012, Court File 497/2012, 571/2012 and the next hearing was supposed to be on 20th March, 2012. The charge sheets are here attached. Even the names of those who were charged are here. That shows that we are committed to bring sanity within the police force.

Mr. Speaker, Sir, I wish to table.

(Mr. Ojode laid the document on the Table)

Mr. Kiuna: Mr. Speaker, Sir, while I thank the Assistant Minister for taking prompt action against those suspects who were caught with stolen goods in the earlier case, I wish also to ask him whether it was right for him to transfer these suspected police officers from Molo Police Station to another station, instead of suspending and taking them to a court of law. From the earlier answer that he had given, he had indicated that he had only transferred them. Now, if he has a different answer, I would like, first, to go through it before I can comment further.

Mr. Speaker: Order, Member for Molo! This is a fairly straightforward matter; that action has been taken beyond just the officers being transferred or suspended. Indeed, they have been charged in court. There will be no reason to delay the matter any further. The charge sheet has been tabled and there is a court case number.

Mr. Ojode: Not only that, Mr. Speaker, Sir. The suspects have been taken to court. Routinely, I have to transfer those officers who have overstayed in that particular place, and that is exactly what I did. The hon. Member even asked me to transfer for him those officers who had overstayed in Molo, and that is exactly what I did.

Mr. Speaker: Very well, Mr. Assistant Minister!

(Mr. Kiuna stood up in his place)

Order! Order! Member for Molo, the only accommodation that I can extend to you is that you will be given access to the charge sheet and whatever documents the Assistant Minister has tabled immediately. I will give you one more opportunity on this Question before we end Question Time. So, access the documents now.

Member for Kiharu!

Question No.1426

TABLING OF REPORT ON KILLING OF BROTHERS

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

(a) why he has not tabled the report on the killings of two brothers, John Kamuri and Peter Irungu of Yamugwe Village, Githagara Location, Kahuro District on 28th December, 2010 as promised in the House when answering Question No. 810 on 6th April, 2011;

(b) whether he could table the report.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, again, this Question had already been answered. What was remaining was the fact that the Questioner asked for the report to be tabled. We are unable to table the report because we are waiting for the letters from the Director of Public Prosecutions (DPP) to give us the way forward. Even last time, I managed to table one letter which we wrote to the DPP in order to fast-track the charges, so that we can have a report tabled in Parliament.

Mr. Speaker, Sir, again, I want to table two letters talking of the same. We are just waiting for the DPP to give us the way forward and then we will table the report.

(Mr. Ojode laid the documents on the Table)

Mr. Mwangi: Mr. Speaker, Sir, it is astonishing listening to an Assistant Minister of this Government; that a year down the line, they are not able to carry out investigations and give a report. We need your guidance because I raised this issue in April last year and the Minister, Prof. Saitoti, gave a timeline by which he should have tabled the report. It is a year now and he says that the police or whoever is investigating cannot get a report on this. For how long should

we wait? Is he waiting for this Parliamentary term to end and then we go for elections and the Question comes in the next Parliament?

Mr. Speaker: Order! Mr. Assistant Minister, could you give the final indication as to when we can conclude this matter which has been pending for too long?

Mr. Ojode: Mr. Speaker, Sir, murder cases ordinarily take a long. The police want to zero in on the person who murdered. It is not something easy, like breaking into a shop. This is murder case and we have to follow the right channel. We have written letters and told the police to fast-track the report. We have also asked the DPP to give us the way forward. I have tabled even the letters communicating through our office to the DPP and we are awaiting the DPP to give us the way forward. So, murder cases are a bit complicated. Let him just bear with us and once everything is done and the report is ready, I will table it here before we even go for elections next year. I think it will be held on 4th March, 2013.

Mr. Speaker: Order! Mr. Assistant Minister, I hear you. How much time do you want so that we can have a clear indication as to the conclusion of the matter?

Mr. Ojode: Mr. Speaker, Sir, with respect to the Chair, I am unable to give the time frame. This is because, one, this is a case involving murder. But once I get the report ready, even if it is tomorrow or in two months---

Mr. Speaker: Order, Mr. Assistant Minister! Even when you set targets, you must be objective enough to ensure that there is measurable---

Mr. Ojode: Mr. Speaker, Sir, for record purposes, give me five months, but that does not necessarily mean that I will not bring and table it here if it is done before five months but give me five months.

Mr. Speaker: Order! Mr. Assistant Minister, I will allow you two months. I understand the complexity of the matter.

Member for Kiharu, please, do also understand. Murder cases are not just fixed quickly. Sometimes you may if you are lucky, but you have watched scenarios where murder cases have not been unraveled until after even five years or sometimes even longer. So, please, understand the position. I will allow the Assistant Minister 60 days from today and we will then see the progress made. The Question will reappear on the Order Paper.

Mr. Ojode: Mr. Speaker, Sir, most obliged. I will be giving the updates of what is happening.

Mr. Speaker: Fair enough! Sixty days from today, the Question will come again!

(Question deferred)

Question 964

ENFORCEMENT OF SECTION 53 OF EMPLOYMENT ACT

Ms. Odhiambo-Mabona asked the Minister for Labour:-

(a) when he will make regulations under Section 53 of the Employment Act on activities that are deemed harmful to the health, safety and morals of a child between 13-16 years of age; and,

(b) what is considered “light work” that a child can undertake under the law.

The Assistant Minister, Ministry of Labour (Mr. Ojaamong): Mr. Speaker, Sir, the last time this Question came up, I was just supposed to table the draft rules, which I hereby table.

(Mr. Ojaamong laid the documents on the Table)

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, given that I have not looked at the rules, could I, please, be given more time to Thursday, so that we can interrogate?

Mr. Speaker: I will allow you two weeks from today, so that we deal with it fairly and comprehensively.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I appreciate.

Mr. Speaker: It will then reappear on the Order Paper. Mr. Assistant Minister, please, note that the hon. Member wants to acquaint herself with the rules that you have made and maybe also have other hon. Members benefit from perusal thereof. So, two weeks from today, you will come back to respond to any concerns there may be.

(Question deferred)

Question No.1231

NUMBER OF BOREHOLES DRILLED IN TANA-RIVER COUNTY

Dr. Nuh asked the Minister for Water and Irrigation:-

(a) whether she could provide details of successfully drilled boreholes in Tana-River County since 2003, indicating the respective names of the localities, the Government agency concerned, the contractor, the amount of money utilized and the status of each bore hole;

(b) who was awarded the tender to construct Haroresa and Walesorhea boreholes and if she could table the contract documents and indicate when the contractor (s) was last on site; and,

(c) why the two boreholes have not been completed and when will they be completed and commissioned for use.

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Speaker, Sir, I beg to reply.

(a) The details of the successfully drilled boreholes in Tana River County since 2003, as requested by the Member for Bura, is as given in Annex I which has been provided to him. The details include the respective location, the Government agency concerned; the responsible contractor, the amount of money utilised and the status of each borehole, as requested.

(b) The tender to construct Haroresa and Walesorhea boreholes was among the tender for the four boreholes that were to be equipped and also included construction of civil works. This contract was awarded to M/s Pure Water Resources Limited of P.O. Box 40541, Nairobi. Drilling of the two boreholes had earlier been successfully undertaken by the National Water Conservation and Pipeline Corporation. The contractor was last on site on 24th March, 2011 and has been very unco-operative to our demands for his presence to enable us to carry out a joint determination before bringing the contract to closure. For this reason, the Ministry is now carrying out measurement of works so far undertaken on site with a view to terminating the contract and ensure that we get another contractor to do the work.

(c) The two boreholes, namely, Haroresa and Walesorhea, have not been completed to date. However, I have instructed my Permanent Secretary (PS) to fast-track implementation of outstanding works in-house to enable the beneficiaries to access water. The local District Water Officer in Bura is already working on these instructions and has already set aside Kshs7 million that has been released for this purpose to do the works as expected. This will ensure that the

residents have water. I have also assigned a new water bowser to the area while these works are ongoing.

Mr. Speaker, Sir, the only thing that I have not been able to provide in respect of this Question is the signed contracts between the Ministry and the contractor. I tried to get the contract, but I realised that some of the documents are those which had been taken by the investigate agents in relation to what went on in the Ministry of Water and Irrigation. So, I did not provide that document.

I would also like to say that this is a Question that had been asked since last August. That is why we have been doing something even though the hon. Member has not been coming to the House to ask the Question. He was twice out of office when I had been here to answer it.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Member for Bura!

Dr. Nuh: Thank you, Mr. Speaker, Sir. I appreciate the work that the Ministry is doing. At last, they were able to dispatch some monies to complete the boreholes which have been outstanding for the last three to four years. More importantly, I would like to ask the Minister the following question: The Ministry has dispatched the Kshs7 million to Bura District. The two boreholes of Walesorhea and Haroresa are in two different districts. Walesorhea is in Bura District and Haroresa is in Galole District. Since they have dispatched Kshs7 million for the borehole in Walesorhea, what are they planning to do for the borehole in Haroresa? We expected that the same should have applied.

Mrs. Ngilu: Mr. Speaker, Sir, first of all, I appreciate that the hon. Member is appreciative of the work that we have done in his constituency and we will continue to do so. So, I should be able to check with the Minister for Finance to ascertain whether we have money for the borehole in this financial year or we will allocate money to it in the next financial year.

Mr. Mungatana: Mr. Speaker, Sir, I want to ask the Minister why it is that on the list that she has provided, a lot of the people and the companies that have been awarded contracts do not come from Tana River County. If you look at the answer to part (b) of the Question, you will appreciate that even the Minister herself could not get the co-operation of the contractor, M/s Pure Water Resources Limited of P.O. Box40514, Nairobi. The contractor could not even go to the site to inspect the project. Why is Mr. Minister still continuing with this old system of awarding contracts to people who do not come from the projects area, who do not even want to visit the sites and who do not perform in the way they are supposed to perform? Could she undertake to change this thing in line with the new spirit of devolution?

Mrs. Ngilu: Mr. Speaker, Sir, let me, first of all, correct the hon. Member. I am not Mr. Minister, but I appreciate and agree fully with the hon. Member. There is no good reason at all as to why those contractors who are doing work in each county should come from anywhere other than the same places. We are making it our business now to build the capacity of local contractors and ensure that they can understand what we are doing so as to ensure that the money we send to the ground is spent and used there.

Mr. Kigen: Mr. Speaker, Sir, considering that many of the boreholes that have been drilled across the country have not been successful, what does the Ministry intend to do with the balance of the money that has not been used for provision of water, especially where the boreholes have not been successfully drilled and, therefore, there is money for equipping and other activities to bring such boreholes to the level of releasing water for public use? What is she doing with that money to ensure that it benefits the people who were intended to benefit from it?

Mrs. Ngilu: Mr. Speaker, Sir, it is true that some boreholes are sometimes dry. We have our hydrological surveyors and engineers checking on the amount of water available, but we drill and sometimes we find that the boreholes are dry. However, they are not so many. It is like 10 per cent. About ninety per cent of the boreholes are successful. Sometimes we get very little water. Even when we equip, the water is just to be used within the area. We cannot distribute it. Where we have such monies, we see whether we can do a water pan. It is never so much for a borehole. So, we do a water pan for the local community.

Thank you, Mr. Speaker, Sir.

Dr. Nuh: Mr. Speaker, Sir, when the Minister says that they are trying to look for money in the current financial year for the Haroresa Borehole, it does not make sense to me because the money was already factored in, in the contract they awarded to the contractor. So, I expected her to be forthright and tell us that they are dispatching monies that have been recovered from the contractor. More importantly, in respect of Bura, they are talking of Tula borehole. They are saying that drilling of the borehole is completed, awaiting installation of the pump set, the pump and generator set. I come from the place, and I want to inform her that no drilling has actually been done. If anything, they did drilling for about 30-40 metres. They said it collapsed and they abandoned the site. So, whoever is giving her information is misleading her. I would, therefore, want to request whether she can get to the gist of the matter and find out what she can do with Tula Borehole, whose drilling has not even been started.

Mrs. Ngilu: Mr. Speaker, Sir, what the hon. Member has said is true. I am given to understand by the engineers that the structures of the soil in his area are not like anywhere else. Sometimes they drill up to a depth of 50 metres and the borehole collapses and they have to look for new site. When that happens, it looks like the engineers and those drilling the boreholes are failing, but it is because of the structure of the soil. So, they have to look for another place to drill a borehole. I am sure that, that is what may have happened in this case.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to mislead the House? In the same area, in Bura, it is only boreholes that were contracted to M/s Pure Water Resources that have difficulties. The ones that were contracted to M/s A.Y. Sacco in the same area are all operational. So, the soil condition would be the same.

Mr. Speaker: Minister, that is valid!

Mrs. Ngilu: Mr. Speaker, Sir, not necessarily. In fact, you can get a very successful borehole where I am and some ten metres away, you do not get it. So, I will get my engineers to educate the hon. Member a little more.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Next Question, Member for Mumias!

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

Mr. Speaker: Order! Order! I have moved away from that Question.

Yes, the Member for Mumias!

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

Mr. Speaker: Order! On this Question I have moved away from it?

Mr. Shakeel: It is not on the Question, Mr. Speaker, Sir.

Mr. Speaker: What is it, the Member for Kisumu Town East?

Mr. Shakeel: Mr. Speaker, Sir, is it in order for the Member for Tigania West to be dressed the way he is in a leather jacket? Could the Speaker please tell us whether he is properly dressed?

Mr. Speaker: Dr. Kilemi Mwiria, can you be so kind as to be up standing?

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria):
Mr. Speaker, Sir---

Mr. Speaker: Order, Dr. Kilemi Mwiria! I have not asked you to do anything else.

The Member for Kisumu Town East, I am satisfied that Dr. Mwiria is properly dressed. He has a tie and a jacket. The quality of the jacket would be a different matter.

(Laughter)

Proceed the Member for Mumias!

Question No.1378

PERFORMANCE OF COUNCIL GRADER

Mr. Washiali asked the Deputy Prime Minister and Minister for Local Government:-

(a) the current status and usage of the council grader based at the Butere-Mumias County Council;

(b) whether he could provide a list of roads in Mumias District whose maintenance have been undertaken using the grader during the 2009/10 and 2010/2011 financial years; and,

(c) how much revenue the grader has generated for the county council through hiring by contractors.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, I beg to reply.

(a) The current status and usage of the council grader based at the Butere-Mumias County Council is as follows:-

The council owns a Komatsu Grader Registration No.KAH 090Y. This is an old grader which develops frequent mechanical breakdowns. The council has managed to keep it in good condition through repairs and maintenance for road grading in the council's areas of jurisdiction.

It is important to note that the responsibility of the maintenance of the rural roads now rests with the Kenya Rural Roads Authority (KeRRA) and as such the council no longer receives Road Maintenance Levy Fund from the Kenya Rural Roads Board for roads maintenance. However, through the Local Authority Transfer Fund (LATF) and cess programmes, the council uses the grader to maintain and rehabilitate the roads as identified by stakeholders and citizens through the Local Authority Service Delivery Action Plan (LASDAP) and cess committee.

It is also important to note that the council will have minimal resources and no funding for roads. It cannot maintain all the roads in the greater Butere-Mumias jurisdiction.

(b) The roads maintained using the council graders are as per attached list in Appendix 1 which we have availed to the hon. Member.

(c) To generate revenue, the council hires out the grader at a flat rate of Kshs. 25,000 only for eight hours a day which is cheap compared to the Ministry of Roads Mechanical Department's rate.

During the 2009/2010 Financial Year, Kshs1,040,480 was raised by the council through the hiring of the grader. In the 2010/2011 Financial Year, Kshs2,816,125 was collected from the hiring of the grader making a total collection of Kshs3.856 million in the 2009/2010 Financial Year.

Mr. Washiali: Mr. Speaker, Sir, I want to take this opportunity to thank the Assistant Minister for the answer. However, from the answer you can tell that there is something amiss on the operations of this grader. How would the Assistant Minister expect a grader which is in serviceable condition to only work on 19 roads in two financial years if there is no problem with the management of this grader?

Mr. Nguyai: Thank you, Mr. Speaker, Sir. As I have said before the responsibility of road maintenance now rests with KeRRA. As such, it is only the meager resources which are collected from the cess and from the LATF funds that are available and as such they cannot spread to more than 19 roads. In fact, 19 roads is a reasonable number.

Mr. Washiali: Mr. Speaker, Sir, I would like to ask the Assistant Minister the logic behind the purchase of this grader. Was it to generate income for the county council or was it for the maintenance of roads? If it was for income generation, how does he treat it when he is doing budgets? How does he receive the money that is generated from the grader? Does he treat it as Appropriations -in-Aid (A-in-A) or how does he handle it because every year there is a budget for Butere-Mumias County Council? How does he treat the money or the income that is generated from this grader?

Mr. Nguyai: Mr. Speaker, Sir, as you can see the registration number for this particular grader is KAH 090Y. In my estimate this is a grader that is more than ten years old since it was purchased. The councils had the responsibility of maintaining feeder roads and as such it was purchased for that purpose. However, when the Kenya Roads Board came into existence and authorities were given the responsibility of maintaining the roads, the purpose of this grader diminished. As such, it was allowed through council minutes to be hired out. That revenue is treated as council revenue and is utilized by the council as an income within its accounts.

Question No.1255

RELOCATION OF KIOTO DUMP SITE
IN NAKURU TOWN

Mr. Kigen asked the Deputy Prime Minister and Minister for Local Government:-

(a) whether he is aware of the deplorable and unhygienic condition at the Kioto dump site in Nakuru Town;

(b) whether he is also aware of the negative effects of flooding on the dump site; and,

(c) what plans the Ministry has to relocate the dump site to an appropriate site.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, I beg to reply.

(a) I am aware of the deplorable state of the solid waste management not only in Kioto dump site but for the entire Nakuru Town.

(b) Yes, I am aware of the negative effects of flooding on the dump site.

(c) Pursuant to the role of providing support to local authorities, my Ministry has been pursuing a more comprehensive project for tackling solid waste management in Nakuru with funding from the AFD. To this end, the Ministry has entered into a bilateral agreement with the French Government through the French Development Agency (AFD) to fund a study, design and

ensure the construction of sanitary land fields for Nakuru and Mombasa. This will cumulate in the closure of the current dump sites in the two towns that have become an environmental hazard.

For Nakuru, acquisition of, at least, 50 acres of land for the project has presented a major stumbling block and the Ministry is still in talking terms with various Government Ministries towards the acquisition of suitable land within the vicinity of the town. In fact, the Municipal Council of Nakuru even went ahead to float an expression of interest in the local dailies towards availing of the land but so far no positive response has been received.

The Ministry is nonetheless committed to sorting out this dumping menace at Kioto.

Mr. Kigen: Mr. Speaker, Sir, while I thank the Assistant Minister for the effort to answer this Question, I would like to ask him, now that the whole surrounding area is residential, what does he intend to do to safeguard the health of the people living around the area considering the fact that the whole area has been contaminated and it continues to be contaminated?

Mr. Nguyai: Mr. Speaker, Sir, on the short-term, we will collect the garbage. We are identifying a separate dump site as you have seen. We have not found that dump site, but this is a long-term solution. To that end, the Government has secured a facility worth 17 million Pounds from the AFD for financing solid waste management in both Mombasa and Nakuru. The agreement between the Ministry and the ADF has already been signed.

Mr. Kiuna: Mr. Speaker, Sir, this being our county headquarters, what immediate measures is the Ministry taking? The sewerage system in the entire Nakuru County is blocked by dirt from the other side. What immediate action is the Assistant Minister going to take to unblock the sewerage system in Nakuru Town?

Mr. Nguyai: Mr. Speaker, Sir, if the sewerage system is blocked, I will undertake to ensure that the council and the agency responsible, which is under the Water and Sewerage Department, make immediate remedial measures to unblock the sewerage system. I undertake to ensure that that happens. In the meantime, I would ask the leadership of Nakuru County to assist us in this issue of not being able to find a suitable 50 acre piece of land which we can purchase and have a long-term solution where we can do a proper plan field.

Mr. Olago: Mr. Speaker, Sir, I am amazed that at this time and age, the Office of Deputy Prime Minister and Ministry of Local Government is encouraging councils to use land fields as a solid waste management system when that system is known all over the world to be obsolete and out of place. You do not need 50 acres for a land field. You need a one acre piece of land to recycle the waste and make it an industry, so that you can do this in the modern way. In those circumstances, what is the Ministry doing to ensure that solid waste management systems in Kenya are modernized and will not use the old land fields style?

Mr. Nguyai: Mr. Speaker, Sir, I want to thank the Member for Kisumu Town West for his information. However, the land field process is a biological process that eventually has scientific processes in ensuring that even energy is generated. It is still being practised in very many areas. The process of converting waste into energy still needs a process which ensures biodegradability. As such, the land field process that I am talking about, and I have visited various sites within and out of Africa, is the best and most biodegradable process that can work. The other processes like the one he is talking about are in essence extremely expensive and as such, this country, at the present, cannot afford.

Mr. Kigen: Mr. Speaker, Sir, could the Assistant Minister tell the House what he is going to do to reclaim the land that has already been polluted and is now very dangerous? It is a

health hazard to the people living around the Kioto area. Could he state what he is going to do? How much money is he going to make available in the short-term?

Mr. Nguyai: Mr. Speaker, Sir, as you will realize, under the Kenya Municipal Reform Programme, Nakuru has been put as a priority. That is why this agreement is not only for doing the design, but also reclaiming the land. About 17 million Pounds has been put in place. I can assure you in all aspects that, that is taking place. In terms of timing, we are now finalizing on the designs stage and construction should commence once the tender documents are opened.

Question No.1020

ILLEGAL LAND TRANSACTIONS AT TUTUA LANDS OFFICE

Mr. Speaker: Hon. Ruteere! The Question is dropped.

(Question dropped)

We will now go back to Question No.1019, Member for Molo!

Question No.1019

INSECURITY ALONG NAKURU-ELDORET HIGHWAY

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

(a) whether he is aware of the increased cases of insecurity within Nakuru-Salgaa-Sachangwan and Mau-Summit areas along the Nakuru-Eldoret Highway, and;

(b) what action he is taking to improve security along the highway and to arrest the gangs that terrorize road users in the area.

Mr. Speaker, Sir, after going through the answer given by the Minister, I am fully satisfied. I commend him for doing a commendable job. In fact, if he had taken this action earlier enough, all those criminals who have been arrested, all the crimes that have been going on could have been stamped out. I also want to congratulate him and his officers for arresting the highway robbers who had hijacked a certain lorry which was going towards Eldoret. I understand the robbers have been taken to court. I am told that there were some civic leaders who were also caught and arraigned in court. However, I would request him to take further steps and make sure that there are regular police patrols along that road, so that we can stamp out these criminals once and for all.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, indeed, it is true that there has been robbery along the highway. In fact, it starts from Limuru. I want to assure my colleagues that we are not going to leave anybody who is involved in this racket. You are aware that last week, we managed to arrest two councillors and two other suspects who were also involved in the same racket. I want to assure this House and Kenyans at large that we will not leave any robber or anybody waiting for vehicles to divert them for purposes of robbery. In fact, I have given out two more vehicles to patrol along the highway between Limuru-Nakuru and Nakuru-Eldoret Road. I will still continue to have those vehicles there for purposes of arresting those robbers. I want to

assure my colleagues that we will do that in other highways including Mombasa-Nairobi and Kericho-Kisumu all the way to Busia.

Mr. Speaker: That must rest the matter. Next Order!

STATEMENTS

POINT OF ORDER

EXTENSION OF RETIREMENT AGE FOR PERSONS WITH DISABILITIES

Mr. Mureithi: Mr. Speaker, Sir, just before we went on recess, you gave 21 days within which I should have got a Statement on the issue dealing with disability. I was expecting the Statement today on resumption of the House.

Mr. Speaker: From which Minister?

Mr. Mureithi: Mr. Speaker, Sir, from the Minister of State for Public Service, hon. Otieno.

Mr. Speaker: Minister, have you got the Statement?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, we will prepare to make the Statement.

Mr. Speaker: When?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, next week Tuesday.

Mr. Speaker: Tuesday, next week! Member for Ol Kalou, please note.
Next Order!

BILLS

First Readings

THE SEEDS AND PLANT VARIETIES (AMENDMENT) BILL THE TRAFFIC (AMENDMENT) BILL

*(Orders for First Readings read – Read the First Time
and ordered to be referred to the relevant Departmental Committees)*

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

[Mr. Chairman took the Chair]

THE KENYA SCHOOL OF GOVERNMENT BILL

Mr. Chairman: Hon. Members, we are now in the Committee of the whole House and we are starting with The Kenya School of Government Bill.

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,
12, 13, 14, 15, 16, 17, 18, 19, 20,
21 and 22 agreed to)*

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister of State for Public Service (Mr. Otieno): Mr. Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Kenya School of Government Bill and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

THE PUBLIC SERVICE SUPERANNUATION SCHEME BILL

Mr. Chairman: Hon. Members, we are now going to the next Bill, The Public Service Superannuation Scheme Bill.

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20,
21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40,
41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58,
59 and 60 agreed to)*

(Title agreed to)

(Clause 1 agreed to)

The Minister of State for Public Service (Mr. Otieno): Mr. Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Public Service Superannuation Scheme Bill and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

Mr. Chairman: Hon. Members, we are now going to the last Bill on the Order Paper today. The Bill is The Kenya Deposit Insurance Bill, Bill No. 55 of 2011.
Proceed!

THE KENYA DEPOSIT INSURANCE BILL

Clause 2

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 2 of the Bill be amended –

- (a) by renumbering the existing Clause as subclause (1);
- (b) by deleting the definition of the term “Minister” and substituting therefor the following new definition in the proper alphabetical sequence-
 - “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to finance;
- (c) in paragraph (c) of the definition of the term “deposit”-
 - (i) by inserting the following new subparagraph immediately after subparagraph (iii);
 - (iv) interbank transactions; and
 - (ii) by renumbering subparagraph (iv) as (v);
- (d) by inserting the words “or any other deposit taking entity licensed by the Central Bank” immediately after the words “Microfinance Act, 2006” in the definition of the term “institution”;
- (e) by deleting the words “or an affected person” appearing immediately after the words “member institution” in the definition of the term “officer”;
- (f) by inserting the following new subclause immediately after the new subclause (1)-

(2) Despite subsection (1), until after the first election under the Constitution, references in this Act to the expression “Cabinet Secretary” shall be construed to mean “Minister”.

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

(Clause 3 agreed to)

Clause 4

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 4 of the Bill be amended by deleting the words “or in the name of an institution under liquidation” appearing immediately after the words “corporate name” in subclause (2).

(Question of the amendment proposed)

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

(Clause 4 as amended agreed to)

(Clause 5 agreed to)

Clause 6

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 6 of the Bill be amended –

- (a) by inserting the words “an institution or” immediately after the words “averting a risk to” in paragraph (b);
- (b) by inserting the words “or any other financial sector regulators” immediately after the words “Central Bank of Kenya” in paragraph (g);
- (c) by deleting the word “regulations” appearing immediately after the word “rules” in paragraph (h);
- (d) by inserting the following new paragraph immediately after paragraph (i) –
 - (j) request any information from any monetary authority, financial regulatory authority, fiscal or tax agency, or fraud investigations agency within or outside Kenya or a credit reference bureau licensed by the Central Bank where such information is reasonably required for the proper discharge of the functions of the Corporation.

(Question of the amendment proposed)

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

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

(Clause 6 as amended agreed to)

(Clauses 7 and 8 agreed to)

Clause 9

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 9 and substituting therefor the following new clause -

9. The Board shall pay its members such remuneration, fees or allowances as it may determine in consultation with the Cabinet Secretary.

(Question of the amendment proposed)

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

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

(Clause 9 as amended agreed to)

Clause 10

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 10 of the Bill be amended-

- (a) by inserting the words “competitively recruited and” immediately after the words “who shall be” in subclause (1);
- (b) by deleting subclause (3) and substituting therefor the following new subclause –
(3) The Chief Executive Officer shall be responsible for the day to day management of the affairs and staff of the Corporation.
- (c) by deleting the word “four” appearing immediately after the words “term of” and substituting therefor the word “three” in subclause (4).

(Question of the amendment proposed)

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

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

(Clause 10 as amended agreed to)

(Clause 11 agreed to)

Clause 12

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 12 of the Bill be amended-

(a) by deleting the word “ Board” appearing immediately after the words “employee or agent of the” and substituting therefor the word “Corporation” in subclause (1);

(b) by deleting the words “and such appointment shall be by notice in the Gazette” appearing immediately after the word “Corporation” in subclause (3).

(Question of the amendment proposed)

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

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

(Clause 12 as amended agreed to)

Clause 13

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 13 of the Bill be amended –

(a) by deleting the word “Board” appearing immediately after the words “agent or servant of the” and substituting therefor the word “Corporation” in subclause (1);

(b) by deleting the word “Board” and substituting therefor the word “Corporation” in subclause (2).

(Question of the amendment proposed)

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

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

(Clause 13 as amended agreed to)

Clause 14

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 14 of the Bill be amended –

(a) by deleting the word “Board” appearing immediately after the words “common seal of the” and substituting therefor the word “Corporation” in subclause (1);

(b) by deleting the word “Board” appearing immediately after the words “common seal of the” and substituting therefor the word “Corporation” in subclause (2);

(c) by deleting the word “Board” appearing immediately after the words “common seal of the” and substituting therefor the word “Corporation” in subclause (4);

(Question of the amendment proposed)

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

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

(Clause 14 as amended agreed to)

(Clause 15 agreed to)

Clause 16

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 16 of the Bill be amended by deleting the words “Unless the Treasury otherwise directs”, appearing immediately before the words “receipts, earnings or accruals” in sub clause (3).

(Question of the amendment proposed)

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

(Clause 16 as amended agreed to)

(Clause 17 agreed to)

Clause 18

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 18 of the Bill be amended by deleting the words “members and” appearing immediately before the word “staff” in paragraph (b) of sub clause (2).

(Question of the amendment proposed)

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

(Clause 18 as amended agreed to)

Clause 19

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 19 of the Bill be amended by deleting the word “four” and substituting therefor the word “three” in sub clause (2).

(Question of the amendment proposed)

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

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

(Clause 19 as amended agreed to)

Clause 20

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 20.

(Question of the amendment proposed)

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

(Clause 20 was deleted)

(Clauses 21, 22, 23, 24 and 25 agreed to)

Clause 26

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 26 of the Bill be amended –

- (a) by deleting paragraph (a) of sub clause 1;
- (b) by deleting paragraph (d) of sub clause (1) and substituting therefor the following new paragraph -
 - (d) transfer of all deposit liabilities of an institution in Kenya to any other institution; or
- (c) by deleting the word “Board” and substituting therefor the word “Corporation” in paragraph (i) of sub clause (1);
- (d) by deleting the word “Board” and substituting therefor the word “Corporation” in sub clause (2);
- (e) by renumbering paragraphs(b),(c),(d),(e),(f),(g),(h),(i),(j) as (a),(b),(c),(d),(e),(f),(g),(h) and (i) respectively.

(Question of the amendment proposed)

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

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

(Clause 26 as amended agreed to)

Clause 27

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to
move:-

THAT, Clause 27 of the Bill be amended –

- (a) by deleting sub clause (2);
- (b) by re-numbering sub clauses (3) and (4) accordingly;

(Question of the amendment proposed)

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

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

(Clause 27 as amended agreed to)

Clause 28

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to
move:-

THAT, Clause 28 of the Bill be amended –

- (a) by deleting the words “under this Act” and substituting therefor the words “by the Central Bank” in sub clause (1);
- (b) by deleting sub clause (4) and substituting therefor the following new sub clause -

(4) Where it appears to the Corporation that the affairs of an institution are being conducted in a manner detrimental to its own interests or to the interests of its depositors, the Corporation may increase the contributions of that institution beyond the prevailing rate prescribed by the Cabinet Secretary.

(Question of the amendment proposed)

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

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

(Clause 28 as amended agreed to)

Clause 29

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 29 of the Bill be amended by deleting the word “account” appearing immediately after the words “one deposit” in sub clause (2).

(Question of the amendment proposed)

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

(Clause 29 as amended agreed to)

Clause 30

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 30 of the Bill be amended by deleting paragraph (d) of sub clause (1).

(Question of the amendment proposed)

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

(Clause 30 as amended agreed to)

(Clause 31 agreed to)

Clause 32

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 32 of the Bill be amended –
(a) by deleting the word “deposit” and substituting therefor the word “liability” in sub clause (1);
(b) by deleting the word “depositor” and substituting therefor the word “creditor” wherever it appears in sub clause (2);
(c) by deleting the word “depositors” and substituting therefor the word “liabilities” in the marginal notes.

(Question of the amendment proposed)

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

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

(Clause 32 as amended agreed to)

(Clause 33 agreed to)

Clause 34

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 34 of the Bill be amended –

(a) by deleting subclause (3) and substituting therefor the following new subclause -

(3) A depositor of an institution shall, upon the institution being placed in liquidation, lodge a claim with the Corporation, in such form as may be prescribed, for payment to the depositor out of the Fund, of any insured deposit.

(b) by deleting the words “becoming insolvent” and substituting therefor the words “being placed in liquidation” in subclause (5);

(c) by deleting the words “and in any case not later than three months from” and substituting therefor the word “after” in subclause (6);

(d) by deleting the word “may” appearing immediately after the word “Corporation” and substituting therefor the word “shall” in subclause (7);

(e) by deleting subclause (8).

(Question of the amendment proposed)

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

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

(Clause 34 as amended agreed to)

Clause 35

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 35.

(Question of the amendment proposed)

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

(Clause 35 was deleted)

(Clause 36 agreed to)

Clause 37

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 37 of the Bill be amended-

- (a) by renumbering the existing clause as subclause (1);
- (b) by inserting the following new subclause immediately after the new subclause (1) -
 - (2) Upon payment of an insured deposit, the Corporation shall be entitled to receive from the institution an amount equal to the insolvency payment paid by the Corporation on account of its subrogation to the claims of any customer or depositor.

(Question of the amendment proposed)

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

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

(Clause 37 as amended agreed to)

Clause 38

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 38 of the Bill be amended by inserting the words “to a third party” immediately after the word “payment”.

(Question of the amendment proposed)

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

(Clause 38 as amended agreed to)

(Clause 39 agreed to)

Clause 40

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 40 of the Bill be amended by deleting the words “a member” appearing immediately after the words “inspection of” and substituting therefor the word “an”.

(Question of the amendment proposed)

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

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

(Clause 40 as amended agreed to)

Clause 41

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir. I beg to move:-
THAT, Clause 41 of the Bill be amended by deleting paragraph (b) of subclause (2) and substituting therefor the following new paragraph -
(b) whether reports made by an institution are correct;

(Question of the amendment proposed)

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

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

(Clause 40 as amended agreed to)

(Clause 41 agreed to)

Clause 42

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 42 of the Bill be amended by deleting the word “may” immediately after the words “Central Bank” and substituting therefor the word “shall” in subclause (6).

(Question of the amendment proposed)

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

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

(Clause 42 as amended agreed to)

(Clauses 43, 44 and 45 agreed to)

Clause 46

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 46 of the Bill be amended by inserting the words “as a receiver” immediately after the words “assume control” in paragraph (b) of sub clause (2).

(Question of the amendment proposed)

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

(Clause 46 as amended agreed to)

Clause 47

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 47 of the Bill be amended by deleting the word “member” in subclause (4).

(Question of the amendment proposed)

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

(Clause 47 as amended agreed to)

Clause 48

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 48 of the Bill be amended –
(a) by deleting subclause (1);
(b) by deleting paragraphs (b) and (c) of subclause (2);
(c) by deleting the word “member” in subparagraph (ii) of paragraph
(e) in subclause (2).

(Question of the amendment proposed)

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

(Clause 48 as amended agreed to)

(Clause 49 agreed to)

Clause 50

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 50 of the Bill be amended by deleting the words “a member” immediately after the words “credit to” and substituting therefor the word “an” in paragraph (c).

(Question of the amendment proposed)

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

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

(Clause 50 as amended agreed to)

(Clause 51 agreed to)

Clause 52

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 52 of the Bill be amended –

(a) by inserting a new subclause immediately after subclause (1) as follows –

(2) For the purposes of discharging its responsibilities as receiver, the Corporation shall have power to declare a moratorium on the payment by the institution to its depositors and other creditors and the declaration of the moratorium shall –

(a) be applied equally and without discrimination to all classes of creditors;

Provided that the Corporation may offset the deposits or other liabilities owed by the institution to any depositor or other creditor against any loans or other debts owed by that depositor or creditor to the institution;

(b) limit the maximum rate of interest which shall accrue on deposits and other debts payable by the institution during the period of the moratorium to the minimum rate determined by the Central Bank under the provisions of Section 39 of the Central Bank of Kenya Act or such other rate as may be prescribed by the Central Bank for the purposes of this section, provided that the provisions of this paragraph shall not be construed so to impose an obligation on the institution to pay interest or interest at a higher rate to any depositor or creditor than would otherwise have been the case;

(c) suspend the running of time for the purposes of any law of limitation in respect of any claim by any depositor or creditor of the institution; or

(d) cease to apply upon the termination of the Corporation's appointment whereupon the rights and obligations of the institution, its depositors and creditors shall, save to the extent provided in paragraphs (b) and (c), be the same as if there had been no declaration under the provisions of this subsection.

(b) by re-numbering subclause (2), (3) and (4) as subclause (3), (4) and (5) respectively;

(c) by deleting the words “a institution” and substituting therefor with the words “an institution” in subclause (3);

(d) by deleting the words “subsections (1) and (2)” and substituting therefor with the words “this section” in subclause (4);

(e) by inserting the following new subclause immediately after subclause (4) –

(5) Where the Corporation has assumed control or appointed a person to do so on its behalf under Section 46(2)(b), the Corporation or the appointed person may, in addition

to any of its rights and powers, carry out any liquidation comprising a transaction or a series of transactions that involves the sale or other disposal by the institution of all or part of its assets or the assumption by another person of all or part of its liabilities or both.

(Question of the amendment proposed)

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

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

(Clause 52 as amended agreed to)

(Clauses 53, 54 and 55 agreed to)

Clause 56

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 56 of the Bill be amended-

- (a) by renumbering the existing clause as subclause (1);
- (b) by inserting the following new subclauses immediately after the new subclause (1)-
 - (2) The appointment of the Corporation as the liquidator of an institution shall have the same effect as an appointment of a liquidator by the court under the provisions of Part VI of the Companies Act.
 - (3) No liquidator of an institution shall be appointed under the provisions of the Companies Act if the Corporation has already been appointed as liquidator.
 - (4) No liquidator of an institution, other than the Corporation, shall be appointed without approval of the High Court.
 - (5) The High Court shall not grant approval for the appointment of a liquidator under sub section (4), unless the Central Bank certifies that it does not intend to exercise its powers under this section.

(Question of the amendment proposed)

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

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

(Clause 56 as amended agreed to)

Clause 57

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 57 of the Bill be amended-

- (a) by inserting the following new paragraph immediately after paragraph (n) in subclause (1)-
 - (o) sue in the name of an institution in liquidation, without sanction of the Court or a committee of inspection.
- (b) by deleting subclause (3).

(Question of the amendment proposed)

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

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

(Clause 57 as amended agreed to)

(Clause 58 agreed to)

Clause 59

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 59 of the Bill be amended -

- (a) by deleting the word “published” and substituting therefor with the words “filed with the Official Receiver” in subclause (1);
- (b) by deleting subclause (4) and substituting therefor the following new subclause -
 - (4) The Corporation shall endeavor to liquidate the business of an institution in an efficient manner in order to minimize costs and undue delay that may impair dividends due to depositors, creditors and contributories and cause losses to the Corporation.

(Question of the amendment proposed)

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

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

(Clause 59 as amended agreed to)

Clause 60

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, Clause 60 of the Bill be amended -

- (a) by inserting the words “and the Corporation shall address such objections in the manner

prescribed” immediately after the word “institution” in subclause (2)
(b) by inserting the following new subclauses immediately after subclause (6) -

(7) Where upon completion of liquidation of an institution there are securities held by the institution that are not yet disposed off, the interest of the institution in those securities shall be assigned to the Corporation.

(8) The Registrar of Companies and the Registrar of Titles, and any officer or person in charge of a deeds registry, or any other relevant office, shall upon production of any relevant deed, bond, share stock, debenture or other document, make such endorsement and effect such alterations as may be necessary to record the transfer of the relevant property or asset to the Corporation.

(Question of the amendment proposed)

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

(Clause 60 as amended agreed to)

Clause 61

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 61 of the Bill be amended by deleting subclause (2).

(Question of the amendment proposed)

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

(Clause 61 as amended agreed to)

(Clauses 62, 63 and 64 agreed to)

Clause 65

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 65 of the Bill be amended by deleting the word “thousand” appearing immediately after the word “million” in paragraph (b).

(Question of the amendment proposed)

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

(Clause 65 as amended agreed to)

[Mr. Chairman left the Chair]

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

(Clauses 66, 67, 68 and 69 agreed to)

Clause 70

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

THAT, Clause 70 of the Bill be amended by deleting the introductory part of subclause (2) and substituting therefor the following –

(2) The Corporation, as holder of security over any property, whether as chargee, mortgagee, assignee, lien holder or otherwise and any person who acquires an asset from the Corporation, shall be entitled -

(Question of the amendment proposed)

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

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

(Clause 70 as amended agreed to)

Clause 71

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

THAT, Clause 71 of the Bill be amended –

(a) by deleting subclause (2) and substituting therefor the following new subclause –

(2) The Corporation may disclose any information to any monetary authority, financial regulatory authority, fiscal or tax agency, or fraud investigations agency within or outside Kenya or a credit reference bureau licensed by the Central Bank where such information is reasonably required for the proper discharge of the functions of the Corporation or the requesting monetary authority, financial regulatory authority, fiscal or tax agency, or fraud investigations agency provided that the sharing of information with entities outside Kenya shall only apply where there is a reciprocal arrangement.

(b) by deleting the word “subsection” and substituting therefor the word “section” in subclause (3).

(Question of the amendment proposed)

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

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

(Clause 71 as amended agreed to)

Clause 72

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

THAT, Clause 72 of the Bill be amended by deleting the words “receiver or” appearing immediately after the words “where acting as” in subclause (2).

(Question of the amendment proposed)

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

(Clause 72 as amended agreed to)

Clause 73

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

THAT, Clause 73 of the Bill be amended in subclause (2) by deleting the words “under receivership or” and substituting therefor with the word “in”.

(Question of the amendment proposed)

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

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

(Clause 73 as amended agreed to)

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

[Mr. Chairman resumed the Chair]

Clause 74

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 74 of the Bill be amended by deleting paragraph (d).

(Question of the amendment proposed)

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

(Clause 74 as amended agreed to)

Clause 75

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 75 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause –

- (1) Sections 34(2)(a), 34(3), 34(4), 34(5), 34(6), 35, 36, 37, 38, 39, 40, 41A and 42 of the Banking Act are repealed.

(Question of the amendment proposed)

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

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

(Clause 75 as amended agreed to)

Clause 76

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-
THAT, Clause 76 of the Bill be amended –

- (a) by deleting subclause (2) and substituting therefor the following new subclause –
- (2) Notwithstanding section 7, the persons who were members of the Deposit Protection Fund Board existing immediately before the commencement of this Act shall, upon commencement of this Act, become members of the Board for their unexpired term.
- (b) by deleting subclause (3) and substituting therefor the following new subclause –
- (3) The officers or employees of the Corporation shall be deemed to be officers or employees, who at the commencement of this Act, are on secondment from the Central Bank to the Deposit Protection Fund Board.
- (c) by deleting subclause (4) and substituting therefor the following new subclause –
- (4) Notwithstanding the provisions of subsection (3), within twelve months after the appointed day, the Corporation shall recruit members of staff and all persons deemed to be on secondment to the Corporation under that subsection shall be eligible for employment by

the Corporation subject to—

(a) such persons opting to remain in the service of the Corporation; and

(b) such terms and conditions of service (not being to the disadvantage of such persons) as may be agreed by the Board.

(d) by deleting subclause (5) and substituting therefor the following new subclause –

(5) Any employee not retained by the Corporation under subclause (4) shall be redeployed to the Central Bank.

(e) by deleting subclause (7) and substituting therefor the following new subclause –

(7) All powers, rights, liabilities, obligations and privileges conferred upon the Deposit Protection Fund Board under any existing agreements or written law shall vest in the Corporation at the commencement of this Act.

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

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

(Clause 76 as amended agreed to)

New Clause 57A

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting the following New Clause immediately after Clause 57 –

57A.(1) No cause of action which subsisted against the directors, management or the institution prior to liquidation shall be maintained against the liquidator.

(2) No injunction may be brought or any other action or civil proceeding may be commenced or continued against the institution or in respect of its assets without the sanction of the court.

(3) No attachment, garnishment, execution or other method of enforcement of a judgment or order against the institution or its assets may take place or continue.

Mr. Chairman, Sir, the rationale for the inclusion of this new Clause is that: Following the consultation that took place between the Ministry of Finance and the Committee on Finance, Planning and Trade, it was deemed necessary to bring these new details into the Bill.

The Minister for Finance (Mr. Githae): Mr. Chairman, Sir, I beg to second since this has been agreed upon by the Committee.

(Question of the new Clause 57A proposed)

(New Clause 57A read the First Time)

*(Question, that the new Clause 57A
be read a Second Time, proposed)*

*(Question, that the new Clause 57A be read
a Second Time, put and agreed to)*

(The new Clause 57A was read a Second Time)

*(Question, that the new Clause 57A
be added to the Bill, put and agreed to)*

New Clause 57B

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 57A –

Residual Payment

57B. (1) Subject to section 34, there shall be paid out of the assets of the institution in liquidation in priority to all other debts-

(a) the following statutory debts-

- (i) all taxes and local rates due from the institution at the relevant date and having become due and payable within twelve months next before that date not exceeding in the whole, one year's assessment;
- (ii) all amounts due by the institution as the employer of any person under National Social Security Fund in respect of contributions payable during the period of twelve months immediately preceding the relevant date;
- (iii) all Government rents not more than one year in arrears;
- (b) all proper costs, charges and expenses, including the remuneration of staff of the Corporation appointed to liquidate an institution;
- (c) all wages or salaries in respect of services rendered to the institution by any employee other than a director during four months next before the relevant date and all wages, whether payable for time or for piece work or any workman or labourer in respect of services so rendered;
- (d) all amounts due in respect of any compensation or liability for compensation under the Work Injury Benefits Act being amounts which have accrued before the relevant date.

(2) The debts in subsection (1) shall-

(a) rank equally to be paid in full, unless the assets are insufficient to meet them, in which case the debts shall abate in equal proportions; and

(b) so far as the assets of the institution available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the institution, and be paid accordingly out of any property comprised in or subject to that charge.

(3) In the event of a landlord distraining or having distrained on any goods or effects of the institution within six months next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale of the goods or effects.

(4) Where any money is paid under any charge referred to in subsection (3), the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(5) For the purpose of this section-

(a) any remuneration in respect of a period of absence from work through sickness or other good cause shall be deemed to be wages in respect of services rendered to the institution during that period;

(b) "relevant date" means-

(i) in the case of an institution ordered to be wound up compulsorily, the date of the first appointment of an interim liquidator, or, if no such appointment was made, the date of the winding-up order, unless in either case the institution had commenced to be wound up voluntarily before that date; and

(ii) in any case where subparagraph (i) does not apply, the date of the passing of the resolution for the winding up of the institution.

Mr. Chairman, Sir, again, this is following the consultation that took place between the Committee and the Ministry and which has been agreed upon.

The Minister for Finance (Mr. Githae): Mr. Chairman, Sir, I beg to second because there is need to protect the National Social Security Fund.

(Question of the new Clause 57B proposed)

(New Clause 57B read the First Time)

*(Question, that the new Clause 57B
be read a Second Time, proposed)*

*(Question, that the new Clause 57B be read
a Second Time, put and agreed to)*

(The new Clause 57B was read a Second Time)

*(Question, that the new Clause 57B
be added to the Bill, put and agreed to)*

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Kenya Deposit Insurance Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! We will take the three Bills. We will start in the order we had, that is, The Kenya School of Government Bill, The Public Service Superannuation Scheme Bill and The Kenya Deposit Insurance Bill.

THE KENYA SCHOOL OF GOVERNMENT BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Kenya School of Government Bill and approved the same without amendment.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Kenya School of Government Bill be now read a Third Time.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

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

THE PUBLIC SERVICE SUPERANNUATION SCHEME BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Public Service Superannuation Scheme Bill and approved the same without amendment.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Public Service Superannuation Scheme Bill (Bill No.24 of 2011) be now read the Third Time.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

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

THE KENYA DEPOSIT INSURANCE BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Kenya Deposit Insurance Bill (Bill No.55 of 2011) and approved the same with amendments.

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

The Assistant Minister, Ministry of State for Public Service (Maj. Sugow) seconded.

*(Mr. Otieno stood up and bowed to the Chair,
apparently seconding the Mr. Githae)*

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Otieno! Your able deputy had already done the needful.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Kenya Deposit Insurance Bill (Bill No.55 of 2011) be now read the Third Time.

The Assistant Minister, Ministry of State for Provincial Administration (Maj. Sugow) seconded.

(Mr. Githae stood up in his place)

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

The Temporary Deputy Speaker (Mr. Ethuro): What is it, hon. Mbadi?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I can see hon. Githae standing before the Chair proposes the Question since the Motion has already been seconded. Is it in order for hon. Githae to proceed before the Question is proposed?

The Temporary Deputy Speaker (Mr. Ethuro): Of course, hon. Mbadi, you are very right. I also want to take this opportunity and advise that once a Question has been proposed, if a Member does not want to contribute, that is not the time to start moving. You should choose another time because if you start moving at that time I would imagine that you want to contribute to the Motion.

(Question proposed)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I want to take this brief moment to thank the Members of the Committee on Finance, Planning and Trade and the staff members of the Ministry of Finance for the job they did in agreeing with all the amendments. As you have seen, they were quite a number of them. This is the new spirit that we would like to see in terms of the co-operation between the Executive and the Legislature. You can see that we have done a wonderful job.

I would also like to thank the hon. Members of this august House for the support they have given to this Bill. Our insurance is now up to date.

Thank you.

(Question put and agreed to)

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

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

BILL

Second Reading

THE PUBLIC FINANCIAL MANAGEMENT BILL

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

Mr. Speaker: What is it, hon. Mbadi?

Mr. Mbadi: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I rise on a point of order to raise a matter of constitutionality.

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

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

Madam Temporary Deputy Speaker, our Constitution is very clear, under Article 261, and I would like to take this House through Article 261. I am doing this because the Speaker has made a ruling previously; that matters of constitutionality can be raised at any stage during debate before a Bill is passed.

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

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker: Could you start all over, hon. Mbadi?

POINT OF ORDER

CONSTITUTIONALITY OF DEBATE ON PUBLIC FINANCIAL MANAGEMENT BILL

Mr. Mbadi: Mr. Deputy Speaker, Sir, I rise on a matter of constitutionality, bearing in mind that there is precedent that the Speaker has set previously, when he said that a matter touching on constitutionality could be raised at any time during the stages of processing a Bill. I rise on this point of order because I feel that if we continue debating this Bill as it is, it will be unconstitutional. Why do I say so? Article 261(1) of the Constitution spells out as follows:-

“Parliament shall enact any legislation required by this Constitution to be enacted to govern a particular matter within the period specified in the Fifth Schedule, commencing on the effective date.”

Mr. Deputy Speaker, Sir, looking at the Fifth Schedule and Chapter Twelve, Public Finance, I see that the first legislation was supposed to be on revenue funds for county governments as captured under Article 207, and it had a timeline of 18 months. If I may just take the House to Article 207(1) of the Constitution, that is talked about there, which we should have passed before 26th February, 2012, it is headlined “Revenue Funds for County Governments” and it says:

“There shall be established a Revenue Fund for each county government, into which shall be paid all money raised or received by or on behalf of the county government, except money reasonably excluded by an Act of Parliament.”

Mr. Deputy Speaker, Sir, therefore, Article 207(1) should have been actualised through legislation on or before 26th February, 2012. Looking at this Bill, you realise that the heading of Clause 109 is “Establishment of a County Revenue Fund for Each County Government”, which is exactly what Article 207 says. This Clause 109 says as follows:

“There is established for each county a County Revenue Fund, in accordance with Article 207 of the Constitution.”

Therefore, this Bill is seeking to implement Article 207 of the Constitution, which Article should have been implemented within 18 months of the promulgation of the Constitution. In

failure to do so within this timeline, Parliament is required, through a resolution, to extend the timeline. Therefore, if we proceed to debate this Bill and even take a vote on it, which may be a “Yes” vote, and pass it into an Act of Parliament without seeking leave of this House through a two-thirds majority, we would be in breach of the Constitution.

Mr. Deputy Speaker, Sir, therefore, I would urge the Chair to rule that the Motion on this Bill cannot proceed until the Government seeks leave of this House to extend the time for the implementation of Article 207, which we have not implemented to date.

That is my point of order, by which I seek the Chair’s indulgence.

Thank you very much.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, indeed, Mr. Mbadi may be right in terms of the connectivity between Article 207 and the Public Financial Management Bill. But this matter was raised earlier when we introduced this Bill and we did bring to the attention of the House that the same revenue funds were contained within the County Governments Bill, which Bill was brought to the House before the deadline. What we are bringing into this is for good order; that all public financial management issues be brought within one comprehensive Bill.

Mr. Deputy Speaker, Sir, hon. Members will also notice that although we passed the Guarantees and Loans Bill in 2011, it is also re-introduced into the Public Financial Management Bill - the same issue about the indemnities so that you bring all matters to do with the Public Financial Management into one comprehensive Bill. But that is not to say that they are already not brought in within the deadline in other Bills. The matter of revenue funds was contained within The County Governments Bill which was presented before this House before the deadline.

When we presented that, the ruling was that we continue with this Bill because that matter had already been addressed. So, we are not in breach of any Constitution in discussing this matter now. Of course, all we are doing is that we are adding value to what has already been proposed through the other Bill.

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

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

Mr. Ogindo: Mr. Deputy Speaker, Sir, my point of order is in furtherance to Mr. Mbadi’s point of order and arising from what the Minister has just said. As you are aware, the County Governments Bill is not yet assented to. As such, it is still in the process outside the deadline of 18 months.

Mr. Deputy Speaker, Sir, the Minister has not convinced this House beyond reasonable doubt that Article 207 has been implemented even in that County Governments Bill that he is referring to. But more importantly, I wish to point out that the new Constitution is a new way of life and we need to comply with it. If we find ourselves in this situation, it is only important that we get a constitutional way out of it. Otherwise, we risk the possibility of somebody going to court after this and the whole House will stand embarrassed.

Mr. Deputy Speaker, Sir, I want to urge you to rule that extension be sought and be granted in order to be constitutional.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I also rise on a point of order pursuant to Standing Order No.47(3) that if the Speaker is of the opinion that any proposed Motion - a,b,c,d,e, f - but I am interested in (b) - is contrary to the Constitution---

Mr. Deputy Speaker: It is Standing Order number?

Mr. Ethuro: Mr. Deputy Speaker, Sir, it is Standing Order No.47(3)(b). It is says:-

“is contrary to the Constitution, without expressly proposing appropriate amendment of the Constitution; or.”

I also served in the Budget Committee by virtue of being a chair of another Committee. We have given notice to the Government that there is a new kid in town. That new kid is not Prof. James ole Kiyapi who has just resigned to vie for the presidency - and I urge all other interested civil servants to do so. The new kid in town is the Kenyan Constitution, 2010, which is very clear in terms of the national values. Every organ of the State and principally the Executive has even a better and greater responsibility than any other organ, apart from this institution known as Parliament and the Judiciary, to make sure it is truly compliant.

Mr. Deputy Speaker, Sir, the point that Mr. Mbadi has raised is the point we are saying; that if you look at what we did as a Parliament when it came to the Land Bills, you will realise that we actually invoked that particular arrangement. This is because we want to be compliant. In fact, the overriding issues - even the preamble and Article 2 of the Constitution, is what you call constitutionalism and the rule of law.

If this House will allow the Executive to be getting away with things on the basis of experimentation--- Mr. Githae must realise that the 100 days of his honeymoon are over. In any case, it was a request which we never granted. Fundamentally, the Constitution is more binding than a wish list or a request.

Mr. Deputy Speaker, Sir, secondly, if you look further, Cap.204 of this Constitution has said in terms of the Equalization Fund that it must be given a period of 20 years. Already this Government, in its culture of impunity and in its total disregard of the new order of things in this country, has already eaten into two years of that particular fund and we will be called upon as a House to be able to revisit that matter at the end of that period just because the Executive again has eaten into those years; two out of 20 years.

Mr. Deputy Speaker, Sir, I can go on and on but the most important thing on which we want you to rule is that this is a thoroughly weighty matter. What is being proposed by the Deputy Leader of Government Business is an argument. How do you enact a Bill into law? There are two major players in the process of making Bills into laws. The Bill assumes the force of the law when it is enacted. That is only when the President has assented to the Bill.

Mr. Deputy Speaker, Sir, this is so fundamental and basic that the Executive as usual does not seem to appreciate when the final authority of assent of Bills is not in this House. It is the appointing authority. So, we must make it abundantly clear to them that until that Bill has been assented to, and of course, you know it has been referred to this House--- So, even the process of assenting to it is not being taken into consideration for now. That Bill remains a Bill. That Bill has not met the constitutional requirements of the timelines set by the Constitution. The same Constitution has been so generous to the Executive that if they felt they were running out time they need to come here and seek extension of the deadline in accordance with Article 261 of the Constitution. All we are asking them to do is to follow the law, come to us and we will grant you more time. But you cannot just assume that we must be “understanding”. We understand, but the law is greater than our understanding. Thank you.

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I will first of all deal with the latter assertion by Mr. Ethuro that on the Equalization Fund Bill, the date has not been released and there is impunity.

I beg to inform the House that that position has been rectified and in this year’s Budget we have allocated double funding for the Equalization Fund. That is Kshs3 billion each. So, it will be a total of Kshs6.7 billion to cover for the year that was missed out. So, that has been

rectified. That shows that this Executive is ready to comply with all the provisions of the Constitution. It will also comply with all the provisions of the Act of Parliament.

But we must also understand that we are going through a transition. This is a new era that we are now going through. It changes even the way we have been used to preparing our budgets. It takes time before the systems are in the proper place. I would now like to assure this House that systems are there and it is all systems go.

Coming to the issue that was raised by Mr. Mbadi, I would like to say two things. One, I would like to agree with what Mr. Kimunya has proposed that, in effect, in the County Governments Bill, that provision has already been covered and what we are trying to do is just to bring this provision so that it applies for both county governments and national Government.

The other point that I would like to bring up is that we must use the rules of interpretation and they say that we must interpret the law so that we give effect to it. This was a non-foreseen factor that the President would bring back the Bill - he will not assent to it - to this House so that we can look at his proposed amendments. This was not foreseen. I would call this what the lawyers say "an act of God." It was inevitable and could not have been foreseen. Therefore, we must interpret our rules. We must interpret the Constitution and our Standing Orders to give effect to what was intended. Parliament intended to enact that piece of legislation. Again, nobody had foreseen that. If we had not gone on recess, we would have debated the President's memoranda and either accepted or over-ridden it.

Secondly, the clauses that the President wants amended, Clause 207, is not among them. So, in effect, we can say that for all practical purposes, that clause, because Parliament passed it and the President has not proposed any amendment, in effect, you can say it is a question of time before it becomes law. We need to give effect. We need to interpret our rules to give effect to the Constitution.

Coming to this Bill, the Public Financial Management Bill, by the time the period specified by the Schedule expired, this Bill was with this House. It was the property of this House. Obviously, this House has its own rules and procedures. Again, there is heavy business for this House. Basically, it is this House which has not passed that law before the expiry of the time specified by the Constitution. Therefore, it is not the Executive that has breached the law.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Listening to the argument of the Minister, is he in order to mislead this House that if legislation is in process, it is equal to a legislation concluded? If the Bill has been introduced to this House and it has not been passed into an Act of Parliament, it remains a Bill. That legislation has not been completed. You have ruled before that this House as it is today, the legislation involves Parliament and the President. Until the President assents, the legislation is not complete. I wonder what is so different for the Government to either seek for extension of time or wait for the County Government Bill to be properly enacted into law through the Presidential assent and then bring this Bill with this provision inside. But in the absence of those two alternatives, if today we pass this Bill with that clause in it, it means we are enacting a legislation specified in the Constitution which should have been done in 18 months. We are doing it outside the period without even bothering to extend time as it is provided by the Constitution. The Minister should remember that the President is not above the law. He is not above the Constitution. The Constitution is the supreme law of the land and we should respect it. I plead with you that you make a ruling by stopping debate on this Bill.

Mr. Ethuro: Mr. Deputy Speaker, Sir, we, Members from this side, were trying to help the Executive, particularly the Minister for Finance, who has demonstrated that he is a very good

friend of ours. We have no quarrel with him, but he has persistently raised matters that contradict the law. In fact, he says that the issue is time and it is a matter of time, but we are telling him that it is not a matter of time. The issue at hand is time. That is the matter we are contesting. I also want him to appreciate that the Fifth Schedule that he is talking about is saying “legislation to be enacted by Parliament”. He is a good lawyer and should read basic English. When you talk about enactment, it is a Bill that has already been assented to by the President. That is what enactment is all about. I do not work for consultancy for the Government for him to pay me. We are saying that any other Bill that is yet to be enacted is a proposal before the House and before the President. So, when the President has brought any part of that Bill back to the House, the same process of the proposal is still on and until that process is determined by the famous signature, we have no law before the House. It is only a proposal.

I want to conclude by saying that the matter that we are talking about is a matter of constitutionalism and the rule of law which everybody must appreciate. Article 2 of the Constitution is subtitled the “Supremacy of this Constitution”. Clause 2(1) says that:-

“This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government”.

I would add, especially at the national level of Government, that for this House to allow the Executive to get away with this one, is not defending the Constitution of the Republic of Kenya.

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. Hon. Githae, who is a very good man on account of which I recommended to His Excellency to confirm him, is letting me down. Hon. Githae is arguing that the County Governments Bill, particularly the page containing the operationalization of the County Fund is safe. At this point, I want to invite you to make a ruling that any Bill that has not met its constitutional requirement be granted extension before we can debate it, including the County Governments Bill.

The Minister for Finance (Mr. Githae): On a point of order, Mr. Deputy Speaker, Sir. Is the Member not misleading the House by forgetting to look at Chapter 18, Transition and Consequential Provisions, particularly Article 261(4)? It says that:-

“For purposes of Clause 1, the Attorney-General, in consultation with the Commission for the Implementation of the Constitution, shall prepare the relevant Bills for tabling before Parliament as soon as reasonably practicable, to enable Parliament to enact legislation within the period specified”.

You can see that the framers of our Constitution had all these circumstances in mind that Parliament could be in recess when the Bill is already before the House, that the President could return the Bill through a memorandum and that is why they were giving this provision.

Secondly, it does not say that if the House passes a Bill, that Bill becomes illegal. In fact, the provision is not on an illegality. The provision is, and I quote - if you look at Article 261(5), it says that:-

“If Parliament fails to enact any particular legislation within the specified time, any person may petition the High Court on the matter”.

Parliament has not failed. This is exactly what we are doing now. We are enacting. All these Bills are within the---

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. I think the Minister for Finance today is getting things the wrong way. Article 261(1) says that we should follow what is here. Then it has given us a proviso that when we fail, then we go to (2), (3) including (4). Part (4) is actually a procedure in which once we have failed to obey the timelines, then he takes back

the process to its original actors who are the Attorney-General and the Committee on the Implementation of the Constitution (CIC). They do everything afresh and then we invoke Article 261(3).

Mr. Deputy Speaker: Order, Mr. Ethuro! To begin with, hon. Members, it is important to put a few facts to rest. The Constitution is the supreme law of the land. Nobody is above the Constitution, be it the Government, Parliament or any other body.

(Applause)

The piece of legislation that we are seized of now clearly raises an issue of the constitutionality of the debate on this issue. Indeed, I have heard both sides. Article 207 says: “There shall be established a revenue fund for each county government into which shall be paid all monies raised or received by or on behalf of the county government except money reasonably excluded by an Act of Parliament”. Then it gives in the Fifth Schedule the timeline for the enactment of legislation with regard to revenue for county governments. Under Article 207, the timeframe specified for the piece of legislation to be enacted is 18 months which, in my opinion, has passed now. Mr. Githae said that the transition and consequential provisions indicate that Parliament shall enact any legislation required by this Constitution to be enacted to govern a particular matter within the period specified in the Fifth Schedule commencing on the effective date. Then it proceeds and says despite Clause 1, the National Assembly may by resolution supported by the votes of at least two thirds of all the Members of the National Assembly extend the period prescribed in respect of any particular matter under Clause 1 by a period not exceeding one year. This is the only way in which Parliament can get an extension to be able to enact pieces of legislation.

(Applause)

It goes further and says in Article 261(4) that for purposes of Clause 1, the Attorney-General in consultation with the Commission for the Implementation of the Constitution (CIC) shall prepare the relevant Bills for tabling before Parliament as soon as reasonably practicable to enable Parliament to enact the legislation within the period specified. The phrase “reasonably practicable” is clearly within the period specified in the Constitution for the enactment of the different pieces of legislation. It goes further and says:

“In the event that Parliament fails to perform its functions---“. If Parliament fails to enact any particular legislation within the specified time, any person may petition the High Court on the matter and the High Court in determining a petition under Clause 5 may (a) make a declaratory order on the matter, and, (b) transmit an order directing Parliament and the Attorney-General to take steps to ensure that the required legislation is enacted within the period specified in the order and to report progress to the Chief Justice.”

It goes further and says that if Parliament fails to enact legislation in accordance with an order under the Clause, then the Chief Justice shall advise the President to dissolve Parliament and the President shall dissolve Parliament. So, clearly, there was nothing that was left to chance here.

On the matter of whether any business which Parliament is seized of and the constitutionality comes into play, at what stage may any Member rise on a point of order and

draw the attention of the Speaker as to the constitutionality issue? The practice is there: At any stage in the disposition of the Motion or the Bill---

(Applause)

It is clear! Under the circumstances, one would have been inclined--- The Chair under normal circumstances is always inclined to take time, study an issue and then come up with a very comprehensive ruling. The facts are *prima facie* very clear; nonetheless, just in case the Chair might have missed something, the Chair is going to adjourn this debate and give a comprehensive ruling or direction on the same on Thursday afternoon.

(Applause)

Next Order, if there is any.

(Loud consultations)

Can I have the Order Paper?

Second Reading

THE SUGAR (AMENDMENT) BILL

Mr. Deputy Speaker: Do we have a Minister to move the Bill?

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, the Minister for Agriculture is out of the country. I am also aware that even on Order No.13, the Minister is not here because the anticipation was that we would be going through The Public Financial Management Bill. I would like to plead with the Chair that, perhaps, we reorganize the Order Paper and defer Order No.12 and Order No.13.

Mr. Deputy Speaker: Fair enough. There is clearly no more business to reorganize.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to tell us that the Government made assumptions about how the business would be transacted? Even if Order No.11 was to go the way it would have gone, probably only two or so Members would have given contributions. Could the Minister not just confess to us that the Government – the Executive – is still asleep? It is still on recess, yet Parliament is already out of recess! Is it in order to have that excuse to convince this House that the two Ministers are absent yet their Bills were included in the Order Paper? I want to urge that when the Government, through the House Business Committee, prioritizes its orders on the Order Paper, they should know what they are doing. I do not want to imagine that the House Business Committee has been putting the orders on the Order Paper just as a ceremony. I think we should be serious; this Government is one of the biggest Governments we have ever had. If the Ministers are busy, why are the junior Ministers not here?

Mr. Deputy Speaker: You have made your point.

Mr. Njuguna: On a point of order, Mr. Deputy Speaker, Sir. Is it also in order for the Minister to address himself to Order Nos.12 and 13 simultaneously, while aware that the Chair has not reached Order No.13?

(Laughter)

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. I think this is another opportunity for me to remind the Chair and the Government side of my pet subject. According to Standing Order No.11, there must be a Government Panel. Since Dr. Kosgei resigned, the Government Panel has never been reconstituted; I have said it before here because they would have done this job.

Secondly, if you look at Standing Order No.38, it talks about Government Business. If he is overwhelmed he needs an assistant. Standing Order No.38 says that the Government shall have the right to have its business placed on the Order Paper in such sequence as it may determine. In fact, under Standing Order No. 36, the Chair is allowed to order things; a Tuesday afternoon is a Government day.

(Applause)

So this Order Paper was prepared and approved by the Government according to the Standing Orders, and then the Government itself comes here and fails to account for two senior Members of the Cabinet who are not available to prosecute Government Business in the House.

Mr. Deputy Speaker, Sir, we want you to find it that the Executive, especially the Ministers who are absent, is grossly out of order and punitive measures should be taken, starting with the Leader of Government Business himself and his deputy for failing to constitute a pannel that would have looked into this matter, especially considering that this is day one after we have come back from recess. This Government when asking for recess pleaded with us to allow them time to get their house in order. Even after one month, their house is still in total disarray and disorder! I wish you declare that this House takes over the Government.

(Laughter)

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Clearly, hon. Ethuro, you do understand that the Chair does not have any authority to appoint anybody to the Government. Having said that---

(Mr. Ethuro stood up in his place)

Order! Order, hon. Ethuro! I do understand Standing Order No. 11 which clearly talks about the appointment of the Leader of Government Business, the first deputy and the second deputy. In your own point of order, you said, "for the information of the Government side as well as the Chair;" what did you want to inform the Chair? I have not heard anything that you said that you essentially felt that the Chair should know. The Chair has absolutely no authority over the Government in the appointment of the Leader of Government Business, the First Deputy or the Second Deputy!

Mr. Ethuro: Thank you, Mr. Deputy Speaker, Sir. I am on record and the Hansard will bear me out, that every time the Leader of Government Business gives us the weekly programme every Thursday. I have, on more than one occasion, raised this matter, that the Government cannot bring that programme of work when their own bench is not fully constituted. At the

commencement of every session, the Leader of Government Business, with the approval of the Government shall nominate two Members, being Ministers, who shall be known respectfully as the First and the Second Deputy Leader of Government Business. I just wanted the Chair – not that you are not doing it – for the sake of ensuring orderly transaction of business in the House to ensure that the Government does not defy the Standing Orders the way they are attempting to defy the Consitution.

Thank you, Mr. Deputy Speaker, Sir.

The Minister for Finance (Mr. Githae): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is your point of order, hon. Githae?

The Minister for Finance (Mr. Githae): Thank you, Mr. Deputy Speaker, Sir. Is it in order for hon. Ethuro to go for the overkill, and become so excited because oil has been found in Turkana?

(Laughter)

We have had occasions here when even Members of the Back Bench have not been able to ask their Questions.

Mr. Deputy Speaker: Order! Order, hon. Githae! Order! Order! What has the existence of oil in Turkana got to do with the absence of Ministers from the House today, or the failure by the Government side to appoint a First and a Second Deputy Leader of Government Business in the House, taking into consideration also the need to have gender balance?

(Mr. Kimunya stood up in his place)

What is it, hon. Kimunya? Hon. Kimunya, I presume you are the First Deputy. So, why do you not have a Second Deputy, who should be essentially a lady?

Hon. Members: Yes!

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, indeed, we have a Leader of Government Business; we have a deputy; we had two deputies and one did say that her busy schedule could not allow her to also do the parliamentary work. Since that time, consultations have been taking place within the framework of the Grand Coalition Government to identify the other deputy, taking into account the gender balance, which is preferred but not mandatory. We will come back to the House immediately those consultations are completed. In the meantime, I am not complaining about the work load and I am happy to be in the House. That is not affecting the fact that this Bill cannot be prosecuted at this point. Indeed, had we got notice about the timing, I know I would have gotten the notes and moved this Bill myself. But because of the sensitivity of the sugar industry within the sugar belt, it is important that the Minister does move the Sugar (Amendment) Bill herself. Otherwise, I would have had to just move it, but because of the sensitivity of sugar and the sugar industry within the sugar belt, we think it is necessary that the Minister be here herself to move the Bill. So, in terms of the Sugar (Amendment) Bill, I would say that we will be looking at it in the House Business Committee and we will reallocate it time. For now, I would just urge the House to accept our apologies for the Minister not being here and for interrupting the business of the House.

Mr. Deputy Speaker: That is fair enough.

Order, hon. Members! Under the Circumstances, the Chair does also see the importance of both Bills, Bill No. 12 and Bill No. 13; the Chair directs that they be deferred to another convenient date.

(Bill deferred)

Second Reading

THE JUDICATURE (AMENDMENT) BILL

(Bill deferred)

ADJOURNMENT

Mr. Deputy Speaker: There being no further Business to transact, the House stands adjourned until tomorrow, Wednesday, 18th of April, 2012, at 9.00 a.m.

The House rose at 5.55 p.m.