

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 2nd October, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

RECRUITMENT OF APS WITHOUT FOLLOWING LAID DOWN CRITERIA

Mr. Olago: 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 Administration Police constables recruited and enrolled at Administration Police Training College (APTC) without basic academic qualifications certificates and without being given service numbers that resulted in 600 of them being given three days off on 28th May 2012 to present the documents to enable them proceed with training?

(b) How many of these officers have so far returned to the college with genuine documents and could the Minister provide a list of the 600 officers who were affected?

(c) Why were the officers exempted from normal courses offered at the college and instead only taught “Field Craft” (Science of War)?

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

Mr. Speaker, Sir, when this Question came up on Wednesday, 26th September, 2012, I sought the indulgence of this House so that I could have more time to acquaint myself with it and bring a satisfactory answer. In any case, the Question had been before the House three times. This was basically because I had been appointed to my current docket only two days before. Since then, I have sufficiently acquainted myself with the matter. From the HANSARD records, I have established that the Acting Minister of State for Provincial Administration and Internal Security, hon. Yusuf Haji, answered this Question on 11th September, 2012. He tabled a list of 225 affected officers.

Mr. Speaker, Sir, at that point Mr. Olago had not acquainted himself with the list or even interrogated it. He has since then had time to do so. It is my hope and belief that he is now satisfied with the answer given after going through the list that was laid on the Table.

Mr. Olago: Mr. Speaker, Sir, this Question was motivated by a desire to find out the truth about recruitment of some of the officers who did not go through the normal channel and who, from information available to me, were meant to be trained and then get out of college just before graduation.

Mr. Speaker, Sir, by laying the foundation, I wish to state that earlier on, on the 24th of April, 2012, I had asked the Question to the same Ministry in which I wanted to know why 99 Land Rovers for the Administration Police (AP) officers had been imported, but the Ministry had declined to paint them with the AP colours. That bit of the Question has not appeared. Why was it necessary to have these recruits admitted to the college, let them go through the whole process and when they were about to graduate, they were asked to go back for these documents? Why was it necessary to do that so late?

Mr. Khang'ati: Mr. Speaker, Sir, during recruitment, there are certain criteria that must be fulfilled and the recruits were admitted on that basis. But as the recruits were leaving college, it was necessary for them to provide some additional information to enable them to be factored into payrolls and other relevant documents. The information that was required had to do with Personal Identification Numbers (PIN) to be procured from Kenya Revenue Authority (KRA) and birth certificates. Only those recruits who did not have those documents at that point in time were given time off to go and get them. They went and got the documents. So, the conditions were fulfilled. So, there is no problem up to that point.

Mr. Olago: On a point of order, Mr. Speaker, Sir. You may have heard the Assistant Minister say that these recruits were sent back home to collect these documents. But my Question, which he has failed to answer was; why was it necessary for the Ministry to let the recruits go through 13 or 15 months' training then ask them to go away only two months before the pass-out parade? Is it in order for him to fail to answer that part of the Question?

Mr. Khang'ati: Mr. Speaker, Sir, the information we have given is sufficient. The recruits were only given two days away from their stations to get the information that I have mentioned.

Dr. Khalwale: Mr. Speaker, Sir, could the Assistant Minister allay the fears of Kenyans that, in fact, they were training a private militia and that they were only caught through this Question? Could he tell us the status of that thought?

Mr. Khang'ati: Mr. Speaker, Sir, I am not aware of what Dr. Khalwale is alleging. The Government does not train militia groups. All the officers on this list here are officers who were properly recruited with the sole intention of serving the interests of the country and its people. So, if he has any information contrary to what I know, then it is incumbent upon him to provide it. But to my best knowledge, I am not aware of that.

Mr. Njuguna: Mr. Speaker, Sir, this is a very serious abnormality on the part of the Government. What steps have been taken to avoid this from happening in future?

Mr. Khang'ati: Mr. Speaker, Sir, I do not know the abnormality that the hon. Member is referring to. This is a very straight forward procedure; when you are being recruited, there are certain conditions to be fulfilled. When you report and you are about to pass-out, there are other conditions to be fulfilled. This is not the first time that some of the recruits who do not have sufficient information have been asked to provide the same.

Mr. Ruteere: Mr. Speaker, Sir, these recruits were in the college for 13 months. There were criteria that were used to recruit them. Did the recruitment officers not follow the criteria? Did they realize that the criteria were not followed at the end of 13 months?

Mr. Khang’ati: Mr. Speaker, Sir, the criteria to be followed was read to this House by the Acting Minister at that point in time, hon. Yusuf Haji. At the point of recruitment, only three things are required:-

- (i) The original identification card to prove that you are a citizen of this country;
- (ii) Kenya Certificate of Secondary Examination (KCSE) certificate with a mean grade of C Plain or a bachelor’s degree in case of a graduate recruit;
- (iii) Other physical and medical requirements, for example, age, medical fitness, good vision, hearing, *et cetera*.

Once those conditions have been fulfilled, the recruit is then admitted into college. Then at the point of passing out, the recruit is supposed to provide PIN Number to facilitate that recruit to be entered into the payroll. That is the additional information that was being sought and it was provided by these recruits.

Mr. Olago: Mr. Speaker, Sir, when you look at that anomaly together with what I mentioned earlier on and the 99 vehicles that were imported and which the Ministry refused to paint with AP colours, then something sinister comes up. I think there was an abuse of the process of the recruitment of APs.

Mr. Speaker, Sir, I want to draw the attention of the Assistant Minister to Chapter 85 of the Administration Police Act and specifically to Section 4 on Appointment of Administration Police. It says:-

“The District Commissioner of any district or any area within which the Minister may, by notice in the Gazette, approve the appointment of administration police may appoint fit and proper persons to be officers of the Force within that district or area.”

Since now it appears that the recruitment of APs is lopsided and it is subject to abuse, when was this section changed to enable the Ministry to recruit directly without going to the DCs?

Mr. Khang’ati: Mr. Speaker, Sir, we are talking about a group of 225 recruits that were properly recruited at their specific points, including the DCs’ offices. I am not aware that these recruits were recruited anywhere else without going through the due process.

Secondly, Mr. Speaker, Sir, the Minister has alleged that there are 99 vehicles which have been procured for the Administration Police and that they have not been properly branded. I am not aware of that. In any case, if vehicles have been procured, there is time for everything. There is time when the branding will be done.

Mr. Njuguna: Mr. Speaker, Sir, is the Assistant Minister in order to refer to hon. Olago as a Minister?

Mr. Speaker: Assistant Minister, did you do that?

Mr. Khang’ati: Mr. Speaker, Sir, I do not remember. But if I did so, then accept my apologies. But I think Mr. Olago should be happy that I have elevated him.

(Laughter)

(Loud consultations)

Mr. Speaker: Order! Order, hon. Member for Kisumu Town West! That is not the way you are going to catch my eye. You do not have to raise your hand or shout. What is it?

Mr. Olago: On a point of order, Mr. Speaker, Sir. My Question was very specific. I have read out the section of the law that provides for the recruitment of APs. Since when was this section changed, so that recruitment could be done directly through the Ministry? The Assistant Minister has surely failed to answer that question. Is he in order?

Mr. Khang'ati: Mr. Speaker, Sir, the section he is referring to has not been changed. Secondly, there is no time when recruitment has been done outside the laid down procedures as he is alleging.

Mr. Speaker: Next Question, Mr. Kabogo.

REPATRIATION OF MS. ROSEMARY W. NDUATI FROM SAUDI ARABIA

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

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

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

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

Mr. Speaker, Sir, this is the Sixth time this Question is appearing on the Order Paper.

Mr. Speaker: Yes, indeed, I am aware, hon. member for Juja. Except that some information has been supplied by the Minister, but then it was not complete in certain respects. So, the Minister will now supply the additional information as requested by the hon. Member.

Where is the Minister for Foreign Affairs? Order, hon. Members! Hon. Chris Obure, could you hold brief for your colleague and explain to the House what is happening to him?

The Minister for Public Works (Mr. Obure): Mr. Speaker, Sir, I will contact the Minister and his Assistant Minister to find out precisely why they are not here to answer this Question. But for the time being, I apologize that they are not here.

Mr. Speaker: Could you kindly do so within the next 40 minutes or so?

The Minister for Public Works (Mr. Obure): Yes, I will certainly do so, Mr. Speaker, Sir.

Mr. Speaker: Please, engage the hon. Member for Juja even as you retreat to go and find out what is happening to the Minister, because he says this is the sixth time the Question is on the Order Paper. It is, therefore, not a very healthy situation.

The Minister for Public Works (Mr. Obure): Mr. Speaker, Sir, I fully appreciate the sentiments. I will convey that and ensure that---

Mr. Speaker: Yes, please. Carry on and we will revisit this Question just before the end of the hour.

The Minister for Public Works (Mr. Obure): Most obliged, Mr. Speaker, Sir.

Mr. Speaker: The hon. Member for Wajir South.

RESOLVING OF BOUNDARY DISPUTES BETWEEN WAJIR/GARISSA COUNTIES

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

(a) Could the Minister confirm that the current conflict being experienced in Wajir South Constituency emanates from the disputed boundary with Lagdera Constituency?

(b) Where does the boundary between Wajir and Garissa counties fall and could the Minister table a map for these areas and the relevant *Kenya Gazette* notice?

(c) What steps is the Minister taking to ensure that the conflict over the boundary between the two constituencies is resolved expeditiously to avert recurrence of attacks?

Mr. Speaker: Minister in charge of Provincial Administration and Internal Security? I know I have some communication, but I want to hear you before I give directions.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, there were some discussions last week as to whether we should answer this Question or deal with it in another way. I do not know whether you have that communication or I just answer it.

Mr. Speaker: Mr. Assistant Minister, I have communication to that effect. It will seem that, really, we are not at the same point on this. However, if you can resume your seat for a moment, I will let you know the communication we have. It is a letter from the Acting Permanent Secretary in charge of internal security. The letter is dated 1st October, 2012. He says:-

“Reference is made to the above parliamentary Question which is appearing on tomorrow’s Order Paper. The hon. Minister will not be in a position to give a comprehensive answer to the Question tomorrow, but is willing to do so on Wednesday, 3rd October, 2012. The purpose of this letter is to request that the Question appears on the Order Paper on Wednesday.”

That is the communication I have from your Ministry. What do you want us to do?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, I do request that the Question be deferred until tomorrow because I was on *safari*. I did not realize that I could actually make it.

Mr. Speaker: So, do you still want to keep that position or you want to do what? You know you are the one who is supposed to tell me what to do.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, I could still postpone it until tomorrow.

Mr. Speaker: Mr. Sirat, maybe, I want your reaction to this but it would seem that the Government would have wanted to give this a little more time - 24 hours - to give you a comprehensive answer.

Mr. Sirat: Mr. Speaker, Sir, if I comprehend the letter from the Acting Permanent Secretary, it means that the Minister will not be in today. He will be in tomorrow to answer the Question. I have the written answer and the Assistant Minister is here. This Question was slotted for today. Why can he not continue and answer it. I can give him a copy of the answer.

Mr. Speaker: Order, Mr. Sirat! From the letter which I read out to the House so that the House acquaints itself with the circumstances surrounding this matter, the Acting Permanent Secretary in the Ministry is saying that the Minister will not have comprehensive information. Yes, you have a written answer, but there are supplementary questions. Those supplementary questions are normally anticipated by the Ministry and the Minister is then furnished with information so as to deal not just with the primary Question, but also speak to supplementary issues. So, that is really the position. 24 hours is not too long.

So, will defer this Question to tomorrow afternoon at 2.30 p.m. Mr. Assistant Minister, please, come prepared with the full information.

(Question deferred)

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

Mr. Speaker: Order! Not after I give directions.

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

Mr. Speaker: Order, Mr. Affey! After I have given directions which are conclusive, I will not revisit this matter. It will come tomorrow afternoon at 2.30 p.m. Mr. Assistant Minister, be prepared to answer the Question fully.

Next Question by the Member for Lari!

ASSISTANCE TO FAMILIES OF VICTIMS
OF STAMPEDE AT AP PASS-OUT PARADE

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

(a) Is the Minister aware that Mr. Joseph Mburu Miiro from Lari Location and Mrs. Kiziah Wanjiru Njoroge (ID No.5249930) from Kijabe Location, Lari Constituency were trampled on by the crowd and died during the pass-out parade of the Administration Police Officers at the Embakasi Administration Police Training College on 31st august, 2012?

(b) What is the Government doing to assist the families of the deceased?

(c) What steps is the Government taking to ensure that similar incidents do not recur?

Mr. Speaker, Sir, I have not received the written response from the Minister. However, I am prepared to proceed with the Question.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, this morning, I signed the reply. I am surprised that it has not reached the Member of Parliament.

I beg to reply.

Mr. Speaker: Do you have an extra copy, Mr. Assistant Minister? If you have an extra copy, you may give it to the Clerks-at-the-Table to pass it on to the hon. Member.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): No, Mr. Speaker, Sir. I do not have an extra copy.

Mr. Speaker: Very well. That, notwithstanding, the Member for Lari is prepared to proceed. So, carry on and answer the Question.

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

(a) I am aware that on 31st August, 2012, during the Administration Police Officers graduation ceremony held at the Administration Police Training College in Embakasi, while visitors scrambled and used force to enter the parade ground, a stampede occurred which resulted to the death of Mr. Joseph Mburu Miiru and Mrs. Keziah Wanjiru Njoroge both from Lari District, while Mr. Christopher Mitei from Transmara District died later on while undergoing treatment at the hospital.

The two bodies were moved to the City Mortuary for preservation. A total of 13 others were injured and treated at the college's health centre, Mama Lucy Kibaki and Kenyatta National hospitals. An Inquiry File No.3/2012 was immediately opened and is pending under investigations on what caused the stampede.

(b) Mr. Speaker, Sir, the Government has no specific provisions for such expenses. The Administration Police, on humanitarian grounds, met the hospital bills and funeral expenses, which included among other things, postmortem fees, mortuary bills and transportation of the bodies. Those finances came from their welfare kitty. As a matter of fact, it amounted to Kshs110,000. The Administration Police also provided transport to help with the transportation of the bodies and affected families. However, in view of the gravity of the matter, we are reviewing the support. We have already engaged the Ministry of State for Special Programmes to determine whether additional support could be granted to the affected families.

(c) To mitigate against future incidents, we are going to limit the admissions only to the invited guests at every occasion. Also, the invited guests will be sensitized on the need to strictly observe crowd control and vetting rules, failure to which they will not be allowed into such ceremonies.

Mr. Njuguna: Mr. Speaker, Sir, that event was presided over by His Excellency the President. It is important, therefore, that the Assistant Minister tells this House what triggered the stampede that caused the deaths of those innocent Kenyans.

Mr. Khang'ati: Mr. Speaker, Sir, it is true that the event was being presided over by His Excellency the President. I have already indicated here that an inquiry has already been established to find out what triggered the stampede. As soon as we have a conclusive answer, I will be able to inform the Member of Parliament.

Mr. Ruteere: Mr. Speaker, Sir, the Assistant Minister has said that he has passed the matter to the Minister of State for Special Programmes to find out whether the families need further support. How soon will the Minister of State for Special Programmes respond to you because it is obvious that the families need support?

Mr. Khang'ati: Mr. Speaker, Sir, out of sympathy for the families and on the basis of an experience that I went through, I have requested the Ministry of State for Special Programmes to offer further assistance beyond what was offered by the Administration Police. It was from an experience I had in April this year when members of my constituency - children who were coming from school games - were crashed by vehicles. When we sought specific assistance, the Ministry of State for Special Programmes was able to do so. So, my believe is that since there is already a precedence, we could as well get the Ministry of State for Special Programmes to assist those families.

So, I request the Member to give me an opportunity to pursue this matter to its logical conclusion.

Mr. Ochieng: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to conclude his remarks without telling us what assistance the Ministry could offer? As usual, we know that the Ministry of State for Special Programmes normally offers beans and maize. Just that!

Mr. Khang'ati: Mr. Speaker, Sir, I was referring to a matter that was in my constituency. I do not remember the Ministry of State for Special Programmes giving us beans and maize. The assistance given was substantial. However, it is possible that it varies from one situation to another. I beg the Member of Parliament to leave that matter with me until I find out what can be done.

Mr. Mwangi: Mr. Speaker, Sir, in his answer, the Assistant Minister has stated that he is not yet aware of what happened at the gate of the college. Would it be in order for us to conclude that poor management and disregard of the families who had gone to witness the graduation of their family members was the cause of the stampede?

Mr. Khang'ati: Mr. Speaker, Sir, in a matter that is as sensitive as this one; a matter where lives have been lost, it is not very good to be speculative. That is why I am avoiding offering an answer that is speculative. Since there is an inquiry in place, it is important that we leave the final resolution to come from the inquiry.

Dr. Khalwale: Mr. Speaker, Sir, in view of the fact that the people who died were relatives of the recruits, could the Assistant Minister use this opportunity to apologize to the families for the failure of his Government to provide adequate security to facilitate smooth graduation?

Mr. Khang'ati: Mr. Speaker, Sir, offering an apology is admitting that there was an omission on the part of the Government. Up to that point, we cannot do so until the inquiry has concluded as much. What I can offer now is some form of condolence. I want to offer condolences to the affected families and indicate to them that we are going to do everything possible to ease their burden.

Mr. Speaker: What is it Member for Garsen? Are you seeking an intervention or point of order?

Mr. Mungatana: Yes. Mr. Speaker, Sir. Surely, some people have died. Is the Assistant Minister in order to stand there as a Government Assistant Minister and refuse even to give an apology? What has happened to this Government?

Mr. Speaker: Order, Member for Garsen! You know you have stood on a point of order. I can sense that you are not quite prepared to prosecute a point of order.

Mr. Mungatana: I am, Mr. Speaker, Sir.

Mr. Speaker: Order! Member for Lari proceed.

Mr. Njuguna: Mr. Speaker, Sir, on the material day, reckless, unresponsive and unprofessional Government officers were at the site when that event took place and they are known. What action has the Ministry taken against those Government officers who allowed that to happen?

Mr. Khang'ati: Mr. Speaker, Sir, Members of Parliament are requesting for specific information and I have already told them that it will be made available later on. At this point, we cannot start convicting or blaming anybody for irresponsibility when it is not properly established that, indeed, that person bears that blame. Again, I request

Members of Parliament who are concerned with this matter to give the inquiry time so that we can provide those answers.

ORAL ANSWERS TO QUESTIONS

Question No.1229

GAZETTEMENT OF KORA NATIONAL GAME RESERVE

Mr. Speaker: Hon. Members, the indication I have from our institutional memory is that this Question was, in fact, deferred to 18th September--- Is it 18th October or 18th September? Clerk-at-the-Table, maybe you want to approach the Chair.

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

Mr. Assistant Minister, maybe you will help me because it seems like it was deferred to 18th October.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, the Question had been deferred for two weeks because of the information that had been asked for. Although the hon. Member who asked it is not here---

Mr. Speaker: Even if that is so, we must follow the directions which were given. If it is 18th October, then we will leave it at that.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Much obliged, Mr. Speaker, Sir.

Mr. Speaker: Very well! It will come at the appropriate time then.

(Question deferred)

Question No.1760

EXPENDITURE ON CONSTRUCTION OF CHEMUSUSU DAM

Mr. Speaker: Is the Member for Eldama Ravine not here? He is not here. The Question is dropped!

(Question dropped)

Question No.1717

STALLING OF WORKS ON MAIELLA- NGONDI-KONGONI ROAD

Mr. Mututho asked the Minister for Roads:-

(a) whether he could confirm that the rehabilitation works on Maiella-Ngondi-Kongoni Road (D331/E445) have stalled thereby greatly

affecting Maiella residents who cannot transport their agricultural produce to the market;

(b) whether he could state the names of the two firms that were awarded the contract and explain how the contract was awarded; and,

(c) when the works will resume and whether he could assure the House that sections that were shoddily done will be re-done and further state when the works to upgrade the road from Suswa to Elementaita (E445/D331/D322/E446) to bitumen standard will commence.

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

I believe that most of the answer was given on Wednesday 12th as per the HANSARD Report. The only information I was to give was the names of the directors. The directors of M/s Decotec Enterprises are Mr. Damins Ojwang and Valeria Anyango. The directors of M/s Willys (K) Limited are John Mwaniki Kabui, Michael Kimiri Mwaniki and Grace Katakaa Mwaniki.

Mr. Mututho: Mr. Speaker, Sir, why did the Ministry not advertise in the dailies as provided for in the procurement laws for such a huge project and instead opted to just do it in their notice board?

Dr. Machage: Mr. Speaker, Sir, the Ministry advertised the tender with the most appropriate method that was available. I believe that it was well advertised.

Mr. Speaker: Last question, the Member for Naivasha!

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

Mr. Speaker: Order, the Member for Naivasha! I have called for the last question. You may prosecute the point of order. The point is that no other hon. Member appeared interested in the question and so, I called you to ask the last question. You can do both, if you wish.

Mr. Mututho: Mr. Speaker, Sir, is the Assistant Minister in order to use the words “appropriate method in advertisement” when the procurement laws are very clear that contracts above certain sums must be advertised, at least, in two national newspapers? Is the Assistant Minister satisfied that those directors have no relationship with any member of staff or themselves at the Ministry of Roads?

Dr. Machage: Mr. Speaker, Sir, to my knowledge, I am satisfied that these directors have no relationship with any member of staff in the Ministry of Roads. If the hon. Member has information to the contrary, I will be very glad to receive that and prosecute it. Otherwise, I am satisfied that the contract was well advertised.

QUESTION BY PRIVATE NOTICE

SALARIES/ALLOWANCES OF COMMISSIONERS

Mr. Onyancha: Mr. Speaker, Sir, I beg to ask the Minister for Justice, National Cohesion and Constitutional Affairs the following Question by Private Notice.

What are the salaries and allowances for all the commissioners of the commissions set out in the Constitution and how much is it costing the taxpayers in total?

(Mr. Cheptumo rose and spoke from the Back Row)

Mr. Speaker: Mr. Assistant Minister, you cannot address the House from that position. So, you will have to go to the Dispatch Box or the First Row.

(Mr. Cheptumo walked to the Front Row)

Proceed, Mr. Assistant Minister!

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, it is our view as a Ministry that this Question can be answered more adequately by the Ministry of Finance. We have duly consulted and have since formerly forwarded this Question to the Ministry of Finance. Mr. Speaker, Sir, with your indulgence, I request that this Question be referred to the Ministry of Finance because it deals with issues that fall under that Ministry in terms of the salaries earned by the commissioners of all the constitutional commissions.

Mr. Speaker: Fair enough! In that case and with the concurrence of the Member for Bonchari, I would like to defer this Question to be answered by the Minister for Finance ten days from today.

Hon. Onyancha, will that be good to you?

Mr. Onyancha: Mr. Speaker, Sir, since this is a Question by Private Notice, could it not be answered by tomorrow afternoon?

Mr. Speaker: Well, it is a different Ministry, hon. Onyancha. You need to give the Minister time to gather this information for you. I know that it is a Question by Private Notice, but look at it in terms of urgency. Apply the test of strict urgency. You want to know how much money, in terms of salaries and allowances are paid to commissioners serving in commissions. I do not see that critical urgency like a matter of death! So, you will get comprehensive information ten days from today. I so direct, Mr. Onyancha!

(Question deferred)

(Resumption of Oral answers to Questions)

Question No.1657

POOR RECEPTION OF TELEVISION
SIGNALS IN LODWAR

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

(a) whether he is aware that Kenya Broadcasting Corporation (KBC) television signal has been poor to the extent that people in Turkana County have not been able to watch TV for the last two months;

(b) what the causes of the poor KBC TV signals in Lodwar are; and,

(c) when the Ministry will ensure that Turkana region has good KBC TV, NTV, KTN and Citizen TV reception.

The Assistant Minister for Information and Communications (Mr. Ogari):
Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the Kenya Broadcasting Corporation (KBC) television signal has been poor for viewers located five kilometers away from the transmitting site at Kanamkemer which is two kilometers from Lodwar town.

(b) The 500 Watts UHF transmitter serving Turkana County is located near Lodwar town at Kanamkemer. The transmitter developed a technical problem in April 2012. The problem was diagnosed to be burnt components on the combiner which is part of the transmitter. The transmitter's combiner combines three power amplifiers of the transmitter to give out the rated power of 500 Watts. The spare part was delivered in September 19th 2012 and was installed in the transmitter on 20th September. The transmitter is doing 580 Watts over and above its rated power of 500 Watts.

The spare combiner had to be imported and due to the manufacturing logistics in Europe, coupled with August holidays, KBC tried to repair the combiner locally so as to remain on air as they wait for the delivery of the spare part. After the repair, the combiner could only give an output power of 380 Watts against the rated power of 500 Watts.

(c) KBC intends to replace the current analogue transmitter with DVB-T2 Transmitter in the ongoing digital terrestrial TV migration in the course of the year 2013. However, before that, we aim to beef up transmission by end of January next year by installing a transmitter of 3 Kilowatts to cover a radius of 50 kilometres. The DVB-T2 Transmitter will be of high ratings and will realize a bigger coverage area. We shall also have the other free-to-air content providers, including NTV, KTN and Citizen TV available to the viewers in this region on KBC digital terrestrial TV platform, once it is rolled out.

Mr. Ethuro: Mr. Speaker, Sir, I want to thank the Assistant Minister for considering that the other channels can also access the KBC frequency. But he is saying that, that will be rolled out in January. My question is: KBC could be watched in Turkana from the year 2000 when the rest of the country had been watching for eternity. In consideration of the fact that, that came late, and that all Kenyans must be accessible to information including live proceedings, could the Assistant Minister consider expediting the roll out of that programme, so that it can come in November instead of January? That way, even Turkanas will feel that they are truly Kenyans.

Mr. Ogari: Mr. Speaker, Sir, KBC and, indeed, the Ministry is very ready to roll out the signals to every home in Turkana and the rest of the country. The issue here is about power. I think, maybe, I will use the Floor to urge the Ministry of Energy to speed up the installation of power so that KBC can install signals in every home. KBC is ready to do that any moment.

Mr. Ethuro: Mr. Speaker, Sir, could the Assistant Minister make sure that the coverage is extended just beyond the normal towns of Lodwar, Kakuma, Lokichoggio; and that, it can actually cover the entire county given that we now have enough power from Kenya Power and Lighting Company? That coverage should also include Lokichar.

Mr. Ogari: Mr. Speaker, Sir, we shall do whatever is possible. But I will ask the hon. Member to take into consideration that we are now migrating from analogue to digital television. As we do that, we are ready with the programme called Direct to Homes (DTH) which actually requires power. If we can also ask the relevant ministries - like the Ministry of Finance - to bring down the cost of solar energy, then we are very

ready to work not just in Turkana, but the whole country so that every house can have television coverage. So, the issue is about affordable energy.

Mr. Speaker: Order! Hon. Members, hon. Mututho, hon. Shakeel and hon. Njuguna, please note that you will not catch the Speaker's eye on this one. After the Assistant Minister answered the first Question, there was no request at all. That is why I called hon. Ethuro to ask the second question. So, make sure that your requests are timeous. Otherwise, you will not catch the Speaker's eye. So, next Question by hon. K. Kilonzo.

Question No.1587

COMPUTERIZATION OF SERVICES AT KENYAN AIRPORTS

Mr. K. Kilonzo asked the Minister of State for Immigration and Registration of Persons:-

(a) why travelers in Kenya airports have to fill a declaration form before departure and upon arrival;

(b) whether he is aware that the information given in these forms is all contained in the passport and other travel documents; and,

(c) what measures he will take to ensure that all the operations are computerized.

Mr. Speaker: Is the Minister for Immigration and Registration of Persons not here? This is the second time the Question is coming on the Order Paper. The last time it did was on 27th September, 2010 and the Minister was not in the House. No explanation was proffered and none has been forthcoming until today. So, hon. Chris Obure, what is the prevailing situation on this Question?

The Minister for Public Works (Mr. Obure): Mr. Speaker, Sir, I seek your indulgence so that I can get more time to find out why the Minister and his assistants are not here to answer this Question.

Mr. Speaker: Minister Chris Obure, I am afraid that is not good enough particularly given the indications that I made to you before. I asked you to hold your colleague's brief. It is a situation calling for sanctions and so, I will proceed immediately and bar both the Minister, his assistants and anybody acting on his behalf from transacting business in the House or coming to the House for the next two days. If you look at your Standing Orders, they will tell you what I am doing. The Minister will not be allowed to come to the House to transact business. He is ordered to stay away even from the premises of Parliament, including his office in Parliament; and so is the Assistant Minister. So, this Question will be deferred to two days away from today. It will appear again on the Order Paper. I expect the Minister will have fully complied with those sanctions and he will come with an explanation as to why he was not here on two occasions. Hon. K. Kilonzo, please, note that it will come two days hereafter.

Mr. K. Kilonzo: I note that, Mr. Speaker, Sir.

(Question deferred)

Mr. Speaker: Next Question by hon. Shakeel.

Question No.1660

ILLEGAL EXPORT OF SCRAP METAL TO CHINA/INDIA

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

(a) when he will review the Scrap Metals Act (1959) which has since been ineffective in monitoring and regulating the scrap metal industry;

(b) whether he is aware that metals of different types are being exported as scrap metal mainly to India and China and yet those countries have banned exportation of the same; and,

(c) when the Ministry will ban exportation of scrap metal.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, while acknowledging that the issues being raised by the hon. Member of Parliament are very important, I do not see the Question's connection with my Ministry. My feeling is that this Question should have been directed to the Ministry of Trade or the Ministry of Finance and not to the Ministry of State for Provincial Administration and Internal Security.

Mr. Speaker: What is your reaction to that?

Mr. Shakeel: Mr. Speaker, Sir, when I drafted the Question it was directed to the Minister for Trade but it appears on the Order Paper for the Minister of State for Provincial Administration and Internal Security.

Since the Assistant Minister, Ministry of State for Provincial Administration and Internal Security is here, I would like him to note that there is the issue of people taking away scrap metals which is an illegal act. So, maybe he could tell us what his Ministry is doing to stop theft of scrap metal which affects our infrastructure. You know Thika Highway has---

Mr. Speaker: Order, Member for Kisumu Town East! My minimal expectation was that you would react to the Minister's inability, if not unwillingness to answer the Question because he thinks it should have been directed to a different Ministry. He has cited in particular, specifically, the Ministry of Finance. If you agree with the Assistant Minister, then you will let it go to the Ministry of Finance and we will put it on the Order Paper a week away, next Tuesday, for you to have an answer and ask supplementary questions.

Mr. Shakeel: Mr. Speaker, Sir, most obliged. Could the Question be directed to the Minister for Trade rather than the Minister for Finance?

Mr. Speaker: Fair enough, I will direct that it goes to the Ministry of Trade and that it appears again on the Order Paper on Tuesday afternoon, at 2.30 p.m. Hon. Khang'ati, please note and maybe you want to liaise with your colleague in the Ministry of Trade to be ready to answer this Question on Tuesday afternoon at 2.30 p.m.

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

Mr. Speaker: So, directed then. Hon. Members, I have indication from the Member for Gichugu; a request that she may not be here to ask this Question today

because she is engaged elsewhere. Given that that request came in good time; 48 hours ago, I will defer this Question to next Wednesday, at 9.00 a.m.

So, Minister for Roads, will you please note and come to answer on Wednesday.

Question No. 1794

UPGRADING OF ROADS IN
WEST POKOT/TURKANA COUNTY

(Question deferred)

Member for Kiharu!

Question No. 1805

SETTING UP OF STRATEGIC RESERVE
FOR ABSORPTION OF SURPLUS MILK

Mr. Mwangi asked the Minister for Co-operative Development and Marketing:-

(a) whether he is aware that small scale dairy farmers are likely to experience a glut in milk production in the country, and;

(b) what steps the Government has taken through the New KCC to ensure that a strategic reserve to absorb the surplus milk is set up.

The Minister for Co-operative Development and Marketing (Mr. Nyagah):
Mr. Speaker, Sir, I beg to reply.

(a) I am aware. Reports from the Department of Meteorology indicate that the country will experience increased rains in the months of October and November, 2012. This will result in increased availability of pasture for their animals resulting in increased milk production by both small scale and large scale farmers.

(b) The New KCC has planned for the management of increased supply of raw milk in accordance with collection, chilling, storage, processing, packaging, distribution and selling capacity. Where New KCC has extra capacity to receive excess milk for strategic reserves, it has no financial capacity to handle such extra intake and has requested the Government for funds to help mitigate the effect of such gluts.

Mr. Mwangi: Mr. Speaker, Sir, the Minister has admitted that his Ministry is not capable of handling an increase in milk production yet we have observed and seen some farms being authorized to import milk products into this country. Could he tell this House whether the Government is committed to promote the local industry other than support importers and foreign industries, while not supporting our farmers?

Mr. Nyagah: Mr. Speaker, Sir, I wish to confirm that imports tend to be of temporary nature. There is a period during the course of the year when there is drought or no sufficient rains in this country and at that time it becomes necessary from time to time to import. That is why, we as a Ministry and KCC have requested the Treasury to assist us so that we can invest in appropriate equipment so that we can dry milk to keep it for

the dry season on behalf of Kenya and that will reduce substantially the requirement for temporary importation.

Mr. Shakeel: Mr. Speaker, Sir, the Minister is aware that a few years ago, milk was poured down and as a result the country was cursed, according to the African tradition. Today, the Minister is saying that they have no capacity and yet again, we may find milk split into ----I am surprised it has taken two years. Why does the Minister say he has no capacity? Is he aware that the country will be cursed once again if we dispose of milk in that manner?

Mr. Nyagah: Mr. Speaker, Sir, I wish to confirm that what I said was that we have increased capacity at KCC. The KCC has no financial capacity to hold the excess milk that is produced. Holding that inventory is very expensive and that is why we have asked the Treasury to assist us so that we have financial capability on behalf of the Republic. It is true that in 2009 milk was poured but if you also know, there was a lot of politics then which we do not need now.

Mr. Ruteere: Mr. Speaker, Sir, the Minister is aware that when there is a cycle of heavy rains, there follows a cycle of drought. A cycle of drought follows a shortage of food. Now that there is expectation of much milk and thereafter there will be drought and a shortage of milk, what is the preparation so that this milk that we will be having now is powdered and supplied when there will be drought?

Mr. Nyagah: Mr. Speaker, Sir, it is for that reason that we have had discussions with the Treasury and a proposal is with the Treasurer to precisely address that issue. But on our part, I wish to confirm that our Nyahururu facility, which handles UHT and the Eldoret one which handles milk powder has increased capacity to handle up to a certain amount. But we are aware of the dangers of what will happen after the heavy rains. What the MP is saying is precisely correct and we need as much help from this House in acquiring more resources so that we can address this issue once and for all.

Mr. Ngugi: Mr. Speaker, Sir, I am appalled by the answer from the Minister. This is a perennial thing. Year after year when the rains come, there is increased production and the prices that are paid to farmers go down. They have to pour down some of the milk and yet KCC, which falls under his Ministry, cannot plan so that farmers are not exploited and excess capacity can be taken from the farmers. I cannot wait for us to go into County Government so that we can take charge of our destiny.

Mr. Speaker: Order, Member for Kinangop, it is Question Time! Minister!

Mr. Nyagah: Mr. Speaker, Sir, it is true that it is a cycle that happens year in, year out. Luckily, in addition to KCC some of the private milk processors have also invested in appropriate equipment. However, given that this sub-sector is the fastest growing in the agriculture sector, we will continue serious discussions with the Treasury so that the KCC, which is perceived to be of the last resort, is able to handle the extra output that will come through. There is increased capacity---

Mr. Speaker: Order, Minister!

Mr. Ngugi: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House that the private milk processors are there to take the extra milk whereas all they do is to give farmers peanuts and exploit them? Is he in order to mislead this House?

Mr. Nyagah: Mr. Speaker, Sir, I am attempting not to mislead this House. What I said was that in terms of total capacity in the country to handle UHT milk and milk

powder, since the crisis in the last two years, there is increased capacity. However, it is not enough given the fast growth that this sub-sector is enjoying. That is why I concluded by saying that we will continue serious discussions with the Treasury, because this will happen again unless the KCC, which the public perceives as the one with the ultimate responsibility of taking milk, gets extra funding. At the moment KCC pays for the excess milk with an overdraft and carries it in its inventory and cash book; this makes the KCC get into serious financial problems from time to time. With the help of this House, and the discussions that are going on with the Treasury, I am confident that a solution will be found.

Mr. Kiptanui: Mr. Speaker, Sir, the Minister is very much aware that this Government is undertaking quite a number of projects in the Ministries of Roads, Water and Energy. Much of the funding for these projects comes from donors. However, the way the Minister has answered this Question, it appears as if he is relying on funding from the Treasury. What has he done to ensure that he gets money from donors?

Mr. Nyagah: Mr. Speaker, Sir, in our discussion with the Treasury we have asked for up to Kshs4 billion to make this investment possible; it is assumed that the Treasury, on behalf of my Ministry, will be talking to the GoK itself and also to possible donors. That is the normal thing to do. As you all know, that is handled by the Treasury.

Mr. Mwangi: Mr. Speaker, Sir, while I appreciate the efforts by the Minister to expand on this one, he has evaded telling this House what specific amount of money his Ministry requires from Treasury to be able to set up a programme that will assist the small scale farmers when these events take place. Could he be specific and tell the House what he requires?

Mr. Nyagah: Mr. Speaker, Sir, we require - and we have requested - Kshs600 million for purposes of dealing with glut on a day to day basis. This is currently funded by KCC's internal resources. We require Kshs4 billion to invest in the required capacity that will cater for milk powder and UHT, so that we can ensure that this cycle comes to an end.

QUESTION BY PRIVATE NOTICE

REPATRIATION OF MS. ROSEMARY W. NDUATI FROM SAUDI ARABIA

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

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

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

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

Mr. Speaker, Sir, I want to correct the impression created by the Chair. The Minister did not give any information to the House. He said that he was not aware. We supplied him with information, specifically a telephone number, to go and find out where this girl lives. I wish to correct that.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, hon. Kabogo had asked me to come and answer this Question; to be honest with you, I am not satisfied with the response that I am supposed to give on behalf of the Ministry. With a lot of courtesy and patience, I would want to go and personally interrogate why this Question has not been given the weight it deserves. I could come back here tomorrow to present a substantive answer on the same.

Mr. Speaker: Are you certain you will be able to answer it tomorrow, or do you need a little more time? The Member for Juja is not casual about things. He will push you very hard.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, yes, by tomorrow I should be able to reply.

Mr. Speaker: So, Thursday in the afternoon. Member for Juja will you be comfortable with that?

Mr. Kabogo: Mr. Speaker, Sir, I will not be comfortable, but I do not have a choice. This Ministry is not taking the business of this House seriously. If you look at the HANSARD of Tuesday 18th September, 2012 the Chair then said:

“Hon. Assistant Minister, you have a responsibility to report back to the House with as much information as you can get, but in the meantime you also have a responsibility to look for the agent and family and try and get to the bottom of this matter.”

He has now come again empty handed. A Kenyan girl is held captive. We have supplied him with a telephone number and Saudi Arabia is a First World country---

Mr. Speaker: Order, Member for Juja! You have made your point. You have said that the Assistant Minister appears to be indifferent. What do you want to say to that, Mr. Onyonka? As a matter of fact, I am in agreement with the Member for Juja. For instance, we called your Question earlier on today and you were not in the House. The Minister for Public Works, Mr. Chris Obure, had to hold your brief. You know you have just walked in and you have not even apologized to the House. So, obviously, you are not taking the House seriously.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, first of all I would like to apologize. You know hon. Kabogo's Questions are usually quite heavy. The reason I was late was because I wanted the Government officers to provide me with a substantive answer, which would most probably have satisfied hon. Kabogo's request. Without casting aspersion on the officers in my Ministry, I felt that they had not done a good job because there are certain questions I had asked, and they had promised that they would give me an answer that would satisfy hon. Kabogo. As you have ruled, given a chance until tomorrow, I will come with a substantive answer. I sincerely apologize for having let down my colleague, Mr. Kabogo and the Chair.

Mrs. Shebesh: On a point of order, Mr. Speaker, Sir. It is clear that the Assistant Minister does not have a substantive answer. Is it in order for him to ignore the most substantial issue that day which was that they did not have a direct number to call this lady and hon. Kabogo provided the number? Is it in order for him to speak about just a substantive answer without telling us about their communication with this lady because this is a crisis?

Mr. Speaker: It is certainly not in order. Assistant Minister, you were given information to take some interim measures. What have you done at the moment?

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

Mr. Speaker: Member for Kisumu Town East, I am inclined to move in a certain direction that may not be very good for you.

Mr. Onyonka: Mr. Speaker, Sir, to be sincere with you, one of the issues that came up is that when telephone calls were made through the telephone number that hon. Kabogo gave the Ministry, the people on the other end were speaking in Arabic. I made a request for the officials to get in touch with our Ambassador in Jeddah. I also asked them to get somebody in the Ministry in Nairobi who could speak Arabic because some of our officers can discuss things in Arabic, so that then there could be reasonable communication between the two parties for us to know the truth. The officer did not do that. As a result, he told me that he had coordinated the process and most, probably, by tomorrow, he would have somebody who would verify and confirm, including the Ambassador in Jeddah, that we have found the lady or not found her, so that then I can present that information to the House.

Mr. Speaker: Mr. Assistant Minister, since you have repeatedly said that you will have all the information you need by tomorrow, I will defer this Question to tomorrow morning at 9.00 a.m. Member for Kisumu Town East, I will give you the Floor and proceed cautiously. I will hear you.

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to inform us that there is nobody to speak Arabic? We have a High Commissioner in Saudi, who speaks Arabic. The members of the Embassy speak Arabic. I have never found a more co-operative and helpful embassy and Ambassador like the one in Saudi. It is quite clear he has not got the Saudi Ambassador to give him the information. They speak Arabic. Is he in order to say that he is waiting for a junior officer who speaks Arabic?

Mr. Speaker: Order! Member for Kisumu Town East, yes, you have laboured to raise a point of order, but I am afraid you have not covered any new ground. I will, therefore, order that you withdraw for the next 40 minutes, go and look at the HANSARD, look at your point of order and find out if you actually covered any ground in it. I so direct that you withdraw immediately for 40 minutes.

(Hon. Shakeel withdrew from the Chamber)

Members, I have directed that, that Question is deferred to tomorrow morning at 9.00 a.m for the Assistant Minister to answer.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. I had raised a point of order in relation to this Question and the Chair then did not give direction. I wish that you give us direction. Under the Counter Trafficking in Persons Act, this issue has an element of trafficking and the parent Ministry is not the Ministry of Foreign Affairs. If you look at the definition of a “Minister”, it says the Minister for the time being responsible for matters relating to women and children. The Ministry of Foreign Affairs is not responsible for issues of women and children. An agency is to be set up under the Act which falls under the Ministry of Gender, Children and Social Development. Indeed, is this Assistant Minister the one who should be responding to this Question?

Mr. Speaker: Order! If he had any difficulties, hon. Odhiambo-Mabona, then he would have said so. He has not indicated that he has any difficulties whatsoever. In that

case, then he is the rightful Assistant Minister to give the answer to this Question. Now that I have ordered, already, that the Question comes on the Order Paper tomorrow at 9.00 a.m., you had better be here and witness for yourself how he deals with it. You will have an opportunity to ask supplementary questions if you catch the Speaker's eye.

I so direct!

(Question deferred)

That brings us to the end of Order No.6. Next Order!

MINISTERIAL STATEMENTS

Mr. Speaker: Any Statements due for delivery this afternoon? Deputy Leader of Government Business, I know there are a number of Statements pending. Is any of your Ministers ready with Statements? None! Then we will take requests. I think we approved a few requests.

POINTS OF ORDER

DEATH OF ENOS OGADA IN DUBAI

Mr. Outa: Mr. Speaker, Sir, three weeks ago, I requested for a Ministerial Statement from the Minister of Foreign Affairs concerning Mr. Enos Ogada who passed away in Dubai.

Mr. Speaker: That Statement was supposed to come from the Ministry of Foreign Affairs. Hon. Onyonka, when will the Statement to the Member for Nyando come?

(Hon. Onyonka tried to log into the system)

Which card are you now using, hon. Onyonka? Hon. Onyonka, you know, this afternoon, it has been said that you take this House very casually. I am afraid you appear to be compounding that. You are logging in using a card belonging to the Minister, Ibrahim Elmi. Is that the correct position? Why will you do so? That is the position. The system tells me so. You are logging in as Ibrahim Elmi.

(Hon. Onyonka moved to the Dispatch Box)

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, my apology, Sir. I had not realized that I had either misplaced my card or it was at the wrong place. However, I have a response. Hon. Outa had requested for a Ministerial Statement from the Ministry of Foreign Affairs regarding the death of Mr. Enos Ogada in Dubai.

Mr. Speaker: Order! Can we really do things that way, hon. Onyonka? You see, once again, you are just aggravating it and leaving me with little choice. Can you resume your seat? You will deliver that Statement tomorrow at 9.00 a.m. Perhaps, take some time to hold counsel with hon. Kimunya and he will tell you where you are straying.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. I had a problem with the Assistant Minister for Foreign Affairs, which I think you appreciate now. Mine is a reminder to the Minister for Environment and Mineral Resources of the Chair's ruling last week that he needs to bring a Statement on the circumstances under which Lions House were playing loud music. They are not here today and they have not been there for the last one year. What are we supposed to do?

Mr. Speaker: Deputy Leader of Government Business, Statement pending from last year!

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, indeed, there are several statements that have been pending. We have been trying to allocate time to some of them while on others when the time is available, either the Minister or the Questioner is not here. It is a nightmare trying to manage these things. We will try the best we can to finish them in the next couple of days because that is the most we can do. Probably, we should dedicate one day for these Statements and I will bring everyone who needs to issue a statement.

Mr. Speaker: Indicate whether or not the Statement is ready. If it has been pending since last year, obviously, it must be ready now. The Minister for Environment and Mineral Resources is expected to do better than just keeping it pending.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, this is with regard to the issue of the Lions' Eye Hospital. I confirmed last time that the Minister was in the neighbourhood, he visited the place with the hon. Member and the Statement was supposed to come today but I can see the Member and not the Minister. That is after their visit. Probably, I need to have the two in the House tomorrow so that the Statement can be issued.

Mr. Speaker: I direct that the Statement be issued on Thursday at 2.30 p.m. The Member for Turkana Central, note that we will not take it very kindly if the Minister is not available to issue the Statement on Thursday afternoon.

Mr. Ruteere: Mr. Speaker, Sir, two months ago, I requested for a Statement on the status of our Ambassador's House in Canada. They have been renting a house for the Ambassador with a lot of security thus incurring a lot of losses and up to date, there has been no response. I requested for the Statement two months ago.

Mr. Speaker: Mr. Assistant Minister, can that Statement be made on Tuesday at 2.30 pm? Indicate when it will be forthcoming.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, it will be ready on Tuesday at 2.30 p.m.

Mr. Speaker: Very well.

NON-PAYMENT OF TETU NYAYO ZONE WORKERS

Mr. Nyammo: On a point of order, Mr. Speaker, Sir. I beg your indulgence because the matter I am raising is one which I have personally raised with you in your office. After your directive that I come to see you in your office, I had reason to write to you. This is in connection to a Question I had asked about a year ago regarding non-payment of workers in Nyayo Zone in Tetu. I am still waiting for a reply from your office or your direction as to how to follow up this matter.

Thank you.

Mr. Speaker: Very well. It is noted. My recollection is not very good at the moment and so, I cannot help you. However, I will speak on this matter on Thursday at 2.30 p.m.

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

Mr. Speaker: Very well. We will have to make progress then. Are there any requests for statements?

DISBURSEMENT OF FUNDS TO CONSTITUENCY ROADS COMMITTEES

Mr. Ochieng: On a point of order, Mr. Speaker, Sir. About one month ago, I requested for a Ministerial Statement from the Minister of Roads and up to now, that Statement is not forthcoming.

Mr. Speaker: On which matter?

Mr. Ochieng: Mr. Speaker, Sir, it was with regard to disbursement of funds to Constituency Roads Committees and the usage of 10 per cent in my constituency.

Mr. Speaker: Was it from the Minister for Roads?

Mr. Ochieng: Yes, Mr. Speaker, Sir.

Mr. Speaker: The Deputy Leader of Government Business, it appears there is a backlog which is not too desirable. Can this come on Wednesday, next week in the morning?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, next Wednesday.

Mr. Speaker: And you would like to put in as many statements as possible that morning?

The Minister for Transport (Mr. Kimunya): Yes, Mr. Speaker, Sir. That is right. We can dedicate the morning.

Mr. Speaker: We will allow you one hour to exclusively do Statements on Wednesday, next week in the morning. However, the ones that we have directed to be delivered this week will still be expected to be delivered this week. As much as possible, the balance must come on Wednesday next week in the morning. We can even give you a little more time even up to two-and-a-half hours.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I appreciate your patience on this matter.

Mr. Speaker: The Member for Nyakach, your Statement will be delivered on Wednesday next week at 9.00 a.m.

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

Dr. Nuh: On a point of order, Mr. Speaker, Sir. Mine is to remind you on the guidance or ruling in terms of what we had sought in June with regard to Question Time which now seems to be extended to Statements. More specifically, if at the end of the Order Paper, the Statements which are due for the day can be printed so that Ministers can keep track on them because it seems as if they are losing track when they are supposed to respond to the Statements, maybe this could help resolve the *impasse* that is created by the backlog of the Statements.

Mr. Speaker: Indeed, the Member for Bura, I have directed that the Deputy Leader of Government Business puts together all statements which are still pending so that they come on Wednesday, next week in the morning. We have already furnished the Minister with the information on pending statements. That, in fact, has already happened.

So, just be present on Wednesday, next week in the morning if you have a pending statement.

BOMB EXPLOSION AT ST. POLYCARP ACK CHURCH IN NAIROBI

Mrs. Shebesh: On a point of order, Mr. Speaker, Sir. I would like to request for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security regarding the explosion that occurred at Saint Polycarp ACK Church situated along Juja Road on 30th September, 2012. In the Statement, the Minister should:-

(1) state the circumstances under which the church was bombed and indicate how many suspects in relation to the incident have been arrested so far;

(2) indicate the measures the Government has put in place to ensure that places of worship, especially churches in Nairobi are secure for citizens to worship; and,

(3) provide an update on the progress of investigations into the recent explosions in the Kampala Coach, Bus Station, OTC Bus Stage, Uhuru Park and Assanands Building.

Mr. Speaker: The Minister of State for Provincial Administration and Internal Security, when will that Statement be available?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, it will be available on Tuesday next week.

Mr. Speaker: And it will have to be.

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

Mr. Speaker: Please, ensure you are present on that day.

FUNDING OF POLITICAL PARTIES

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. Mine is on a pending Statement from the Minister for Finance on the funding of political parties. I saw him and thought that he could indicate to us when he can make it available.

Mr. Speaker: I think the Minister for Finance is somewhere in the precincts of the House. So, I direct that, that comes on Wednesday at 9.00 a.m. as well.

Mr. Pesa: Mr. Speaker, Sir, in the same line, I had sought a Ministerial Statement from the Minister for Education regarding employment of teachers as they leave college. He was supposed to be informed of the request by the Leader of Government Business. I can see the Minister here. I do not know whether he is ready with the Statement or not, or whether he has got the information.

Mr. Speaker: Again, it should be brought next week on Wednesday morning. Minister for Education, please, try and co-operate, so that we can dispose of all the pending Ministerial Statements.

Yes, Member for Juja.

INSECURITY IN GATUNDU AND RUIRU

Mr. Kabogo: Mr. Speaker, Sir, I seek the indulgence of the Chair on a Ministerial Statement I sought on 30th August regarding the disappearance of a *matatu* operator in Gatundu. This matter has come to the House many times. As at yesterday, the body of this man was found in Thika Mortuary yet the Minister has not even had a chance of knowing what is going on. I seek that, if he is to bring this Ministerial Statement tomorrow; he should tell us what he is doing to arrest the situation.

Mr. Speaker: Does that go to the Minister of State for Provincial Administration and Internal Security?

Mr. Kabogo: Yes, Mr. Speaker, Sir. When we asked the Question on the second person who went missing, or who was killed, he said that they would leave no stone unturned, and that they would make sure that there was security in Gatundu but a third person disappeared and came out dead. What is the Ministry doing to make sure that the people of Gatundu are safe? I would like him to tell the House in his Ministerial Statement tomorrow.

Mr. Speaker: Minister of State for Provincial Administration and Internal Security, will you be ready with the Statement tomorrow morning?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, we are aware of this matter. The Ministerial Statement is ready.

Mr. Speaker: Will you deliver it tomorrow morning, at 9.00 a.m.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khangati): Yes, Mr. Speaker, Sir.

Mr. Speaker: Member for Juja, please, note. That brings us to the end of Order No.7.

Next Order!

BILL

First Reading

THE CLIMATE CHANGE AUTHORITY BILL

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

COMMUNICATION FROM THE CHAIR

DEFERMENT OF COMMITTEE STAGE PROCEEDINGS OF THE FINANCE BILL

Mr. Speaker: Hon. Members, before we get to Order No.9, I wish to communicate as follows.

As we started the sitting this afternoon, I received information to the effect that there are amendments which have not yet been fully processed and this was enriched by further requests from the Chief Whip, on behalf of a section of the membership of this House and, indeed, the Minister for Finance; that, the requisite amendments are not yet in final form and, as a matter of fact, they are actually being negotiated. So, on that basis, I will defer Order No. 9 (i) to Thursday at 2.30 p.m.

Please, be guided accordingly.

*(Committee Stage proceedings of the Finance
Bill (Bill No.26 of 2012) deferred)*

Mr. Speaker: Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL

Clause 2

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

THAT, Clause 2 be amended in the proposed new subsection (2) by deleting the words “this Act” immediately after the words “upon commencement of” and substituting therefor the words “the National Cohesion and Integration Act, 2008”.

Mr. Temporary Deputy Chairman, Sir, the purpose of this amendment is to reflect the Act that is intended to be amended, which is the old Act – The National Cohesion and Integration Act – so that the amendment take place on the old Act, and not on the Act arising from the National Cohesion and Integration (Amendment) Bill. The amendment is to be effected on the old Act of 2008. This is what the amendment is supposed to reflect. It was erroneously done. It is intended to correct a grammatical error contained in the initial amendment Bill.

(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)

Mr. Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, we have a further amendment to this clause by hon. Nyambati.

Hon. Nyambati, you need to be alert and alert the Chair that you have an amendment to the clause before it is concluded.

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

THAT, Clause 2 be amended in the proposed new subsection (2) by deleting the words “four years” immediately after the words “shall hold office for a term of” and substituting therefor the words “six years”.

Mr. Temporary Deputy Chairman, Sir, this Commission has a life comprising of two terms of three years each. So, we do not need to have four years. We can have two terms of three years each making a maximum of six years.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Ethuro): I can see immense interest. This is not going to be contribution. It is just interjection.

Mr. Midiwo:---(off-record)

(Mr. Midiwo failed to log in)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Midiwo, you know how to engage the Chair. You do not attempt to engage the Chair in a shouting match.

Yes, hon. Baiya.

Mr. Baiya: Mr. Temporary Deputy Chairman, Sir, I beg to oppose the amendment.

We have just sought to extend this Commission’s term to four years, the reason being that its first three year term had already expired. We are giving them one year, because we did not act in time to ensure that its members were replaced. The mechanism for appointments to constitutional as well as statutory commissions under the new Constitution is that they undergo a competitive appraisal, where the public participates. So, this Commission is enjoying an additional one year as an exception, especially in this electoral process. It is intended that, after this one year, the members of the Commission will be subjected to the constitutional process. It is unconstitutional to give them three years. They need to undergo appraisal before their term is extended to a full three-year term. The extension of three years would be unconstitutional.

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, this is a curious amendment by Mr. Nyambati. I rise to oppose it for the very reason given by Mr. Baiya. As you may remember, this is a negotiated position, that is one year. It took us almost three weeks haggling over it. So, to come here and then ambush us with an amendment to allow making of an appointment for four years through the backdoor is unfair to this House.

I oppose in the strongest terms.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, I also wish to oppose the proposed amendment by my very good friend, Mr. Nyambati. As my friends have said, the intention of this amendment is to allow for one year for this team to complete their work, and also to ensure that this country does not go into an election without a Commission because that would be dangerous for the country. We know what happens during the campaign time. There is hate speech that we are already seeing. So, we need this Commission just for one year. We will also be proposing further amendments to allow for the procedure. We asked for this because Section 19 did not provide for the procedure. We agreed that we do this extension for a year but we will have a proper procedure in place after the one year. We will then have to go through the normal process, where the Public Service Commission will provide the names, Parliament will approve and then the appointments will be made. So, that procedure cannot be escaped through a shortcut like this one.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I know that the hon. Member is very well intentioned and I would support that position except that it would create a legal technicality. If we do not look at it carefully, it may amount to giving these officers a term of nine years. I think it would be prudent for us to give this one year and then after that we can, as provided by law, give a further three years after having put in place the procedures, as the Minister has stated. Otherwise, his intentions are very noble.

The Temporary Deputy Chairman (Mr. Ethuro): I will take the last two requests as per my list.

The Minister for Transport (Mr. Kimunya): Mr. Chairman, Sir, I also rise to oppose this amendment again for purposes of full disclosure. Yes, the intention was not to renew their term. That needs to come out clearly. The hon. Member stated that it is a term being renewed for a further three years to make it six years. We are only proposing to extend for purposes of them completing what they are doing. It will also guide the decision on what basis it would be extended and what lessons have been learnt from the first term of operation. So, I would really urge the hon. Member to appreciate where we are coming from. We are not opposing this amendment because it is from Mr. Nyambati, but it is because it would not be in the best interests of this country to extend a term of a Commission in a roundabout way without going through the rigorous process that everyone else is going through.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, the amendment sought by my friend, Mr. Nyambati, is outright denial of public participation and Parliamentary approval. Therefore, this is not a very healthy amendment, and I oppose it.

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

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

Mr. Baiya: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the National Cohesion and Integration (Amendment) Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE CONSUMER PROTECTION BILL

Clause 2

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

THAT, the Bill be amended in Clause 2 by-

(a) inserting the following new definitions in proper alphabetical sequence-

“accredited consumer organization” means society registered under the Societies Act, Cap.108, Laws of Kenya, for the purposes of consumer protection and related matters;”

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to trade and industry.

(b) deleting the definition of the word “consumer” and substituting therefor the following new definition-

“consumer” means-

(a) a person to who particular goods or services are marketed in the ordinary course of the supplier’s business;

(b) a person who has entered into a transaction with a supplier in the ordinary course of the supplier’s business, unless the transaction is exempt from the application of this Act;

(c) a user of particular goods or a recipient or beneficiary of particular services, irrespective of whether that user, recipient or beneficiary was a party to a transaction concerning the supply of those particular goods and services; and,

(d) a franchisee in terms of a franchise agreement, to the extent applicable in terms of this Act.”

The justification is that this will define the threshold of consumer organization, so as to avoid ambiguities of every group purporting to be representing consumer interests.

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, you will realize that the proposed amendment is not on the Order Paper but we had circulated it.

(Question of the amendment proposed)

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Chairman, Sir. We have not seen that additional Order Paper that has been circulated. So, we are not very

conversant with the amendment that is being proposed. Much as I do not intend to oppose, I need to know it.

The Temporary Deputy Chairman (Mr. Ethuro): That was why I was bringing the matter to your attention so that you can confirm to the Chair whether you have the amendments. They are being circulated. So, Serjeant-at-arms, make sure there are enough copies for hon. Members.

From the Government side? I guess the Chief Whip represents the interests of the Government. My understanding is that they were circulated before the start of the House and so, that was sufficient notice. But we will be waiting for hon. Ogindo to tell us whether he is happy or not.

Hon. Ogindo, you may also wish to know that hon. Midiwo, as the Mover of the Bill, can introduce amendments at any stage.

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, right now, I am holding the amendments and I am in agreement with them. So, he may proceed.

*(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

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

THAT, the Bill be amended by deleting Clause 3 and substituting therefor the following clause-

- Interpretation
and purposes of
Act
3. (1) This Act must be interpreted in a manner that gives effect to the purposes set out in sub-section (4).
- (2) When interpreting or applying this Act, a person, court or the Advisory Committee may consider –
- (a) appropriate foreign and international law; and
 - (b) appropriate international conventions, declarations or protocols relating to consumer protection.
- (3) If a provision of this Act requires a document to be signed or initialed by a party to a transaction, that signing or initialing may be effected in any manner recognized by law, including by the use of an electronic signature as defined in the Kenya Information and Communications Act.”

(4) The purposes of this Act are to promote and advance the social and economic welfare of consumers in Kenya by —

(a) establishing a legal framework for the achievement and maintenance of a consumer market that is fair, accessible, efficient, sustainable and responsible for the benefit of consumers generally;

(b) reducing and ameliorating any disadvantages experienced in accessing any supply of goods or services by consumers;

(c) promoting fair and ethical business practices;

(d) protecting consumers from all forms and means of unconscionable, unfair, unreasonable, unjust or otherwise improper trade practices including deceptive, misleading, unfair or fraudulent conduct;

(e) improving consumer awareness and information and encouraging responsible and informed consumer choice and behaviour;

(f) promoting consumer confidence, empowerment, and the development of a culture of consumer responsibility, through individual and group education, vigilance, advocacy and activism;

(g) providing a consistent, accessible and efficient system of consensual resolution of disputes arising from consumer transactions; and

(h) providing for an accessible, consistent, harmonized, effective and efficient system of redress for consumers.

(5) To better ensure the realization of the purposes of this Act, and the enjoyment of the consumer rights recognized or conferred by this Act, the Advisory Committee, in addition to its responsibilities set out in this Act, is responsible for—

(a) taking reasonable and practical measures to promote the purposes of this Act and to protect and advance the interests of all consumers across all sectors of the economy, whether of a private or public nature;

(b) monitoring and reporting each year to the Cabinet Secretary on the availability of goods and services including price and market conditions, annual state of consumer protection report, conduct and trends affecting consumer rights and any other matter relating to the supply of goods and services.

(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 3 as amended agreed to)

(Clauses 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, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87 and 88 agreed to)

Clause 89

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 89 of the Bill be amended-

(a) in sub-clause (2) by deleting the word “registered” appearing in subparagraph (i) of paragraph (d) and substituting therefor the word “accredited”

(b) in sub-clause (2) by inserting the following new subparagraphs in paragraph (d) –

(v) one person with experience in banking, accounting, economics or insurance matters;

(vi) one person nominated by the Law Society of Kenya.

(c) in sub-clause (3) by inserting the words “by the Cabinet Secretary in consultation with the Committee” at the end of the sub-clause.

(Question of the amendment proposed)

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, could the Mover explain to the House the motivation on this amendment?

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, the first amendment; that is “a” is so as to make the clause be in line with the definition of a consumer organization in order to avoid ambiguities. The second one in “v” is to have skilled persons to offer expert advice on most complained about issues of banking and financial sector.

*(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 89 as amended agreed to)

Clause 90

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 90 and substituting therefor the following new Clause-

Functions of the Committee

90. (1) The functions of the Committee shall be ;

(i) advising the Cabinet Secretary and ensuring relevant action on all aspects relating to consumer protection;

(ii) formulation of policy relating to this Act and legislative proposals in the interest of consumers and the modification, consolidation or updating of legislation providing protection to consumers in the areas covered under, or related to this Act;

(iii) the co-ordination and networking of consumer activities and the development of linkages with consumer organizations and the competent authorities and agencies locally and outside Kenya for the protection of consumer interests;

(iv) promotion or participation in consumer education programmes, locally and elsewhere, and activities, the dissemination of consumer issues with a view to proposing corrective measures;

(v) providing advice to consumers on their rights and responsibilities under appropriate laws, and making available to consumers general information affecting the interest of consumers;

(vi) creating or facilitating the establishment of conflict resolution mechanisms on consumer issues, investigation of any complaints received regarding consumer issues, and where appropriate, referring the complaint to the appropriate competent authority and ensuring that action has been taken by the competent authority to whom the complaint has been referred;

(vii) working in consultation with the Chief Justice, county governors and other relevant institutions on the establishment of dispute resolution mechanisms;

(viii) monitoring and keeping under review the trading and business practices relating to the supply of goods and services to consumers and to activities related or ancillary thereto;

(ix) undertaking or commissioning any study or research which may be necessary to promote consumer protection and thereby publish the State of National and County Consumer Protection Annual Report;

(x) monitoring the working and enforcement of laws that directly or indirectly affect the consumer;

(xi) drawing up and reviewing consumer protection directives and minimum service standards for submission to the Cabinet Secretary;

(xii) monitoring the development of consumer associations and drawing up and reviewing the rules of practice for registered consumer associations;

(xiii) examining and determining whether a consumer association has the requirements to be an accredited consumer organization in accordance with this Act; and

(xiv) doing anything or all things that are necessary, expedite or convenient for or in connection with the performance of its functions under 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 90 as amended agreed to)

(Clauses 91 and 92 agreed to)

Clause 93

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

THAT, the Bill be amended by deleting Clause 93 and substituting therefor the following new Clause-

Regulations

93. (1) The Cabinet Secretary shall make regulations for the better carrying out of the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations made under this section shall—

(a) prescribe anything that is required to be prescribed under this Act;

(b) provide for passenger rights and the standards of service by air carriers including access to necessary services while on a grounded air carrier, customer complaints, notification of delays, cancellations, overbooking, baggage concerns, compensation for passengers and the right to deplane where such rights are infringed.

(3) There may be annexed to a breach of the regulations made under this section a penalty of a fine not exceeding the sum of five hundred thousand shillings or imprisonment for a term not exceeding two years or both such fine and imprisonment.

(Question of the amendment proposed)

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

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

(Clause 93 as amended agreed to)

New Clause 94

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

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 93-

Representation

94. There shall be consumer representation on all regulatory bodies and the respective appointing authorities shall have due regard to accredited consumer organizations and the Advisory Committee in making such appointments.

The Temporary Deputy Chairman (Mr. Ethuro): Do you have a seconder?

Mr. Midiwo: Yes, Mr. Ogindo.

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, I wish to second that Clause 94 be part of the Bill. I wish to say that it is imperative that when you are protecting consumers, then they are represented at their advisory committee. With that, I second.

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

Mr. Njuguna: Mr. Temporary Deputy Chairman, I rise to support this radical New Clause because the voice of consumers has not been given any accommodation and this one opens that democratic right. Therefore, I support the new amendment. Thank you.

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

(The new clause was read a Second Time)

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

(Title agreed to)

(Clause 1 agreed to)

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Consumer Protection (Amendment) 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 NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the National Cohesion and Integration (Amendment) Bill and approved the same with amendments.

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

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa) seconded.

(Question proposed)

(Question put and agreed to)

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, I beg to move that the National Cohesion and Integration (Amendment) Bill be now read the Third Time.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa) seconded.

(Question proposed)

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, let me start by thanking the Chair of the Justice and Legal Affairs Committee with his members for a job well done. Secondly, I call upon the Commission to be more dedicated so that it can complete all the pending work concerning the various issues being raised in the country. I also urge them to visit Lari Constituency where there are some social ills that need to be addressed. I hope with the expanded tenure of one year, they will be able now to conclude fairly all the issues that need to be concluded.

I support.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, there is a lot of interest and I will restrict you to a minute or two. Hon. Wamalwa, remember this is the Committee Stage.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Speaker, Sir, I would like to thank hon. Baiya and his Committee and hon. Members for supporting this amendment. It was an absolutely necessary amendment to allow this very critical Commission to complete its work, particularly at this time when we are going into an election period and when tensions are rising.

I just returned yesterday from a trip to Tana River and there was one prayer from all Members; our colleagues, hon. Mungatana, Dr. Nuh and all the Members who come

from the Tana Delta area and the Tana River County that they would like the NCIC to go to the ground. They would like the NCIC to bring together the Pokomo, Orma and all communities living there. I am urging Dr. Mzalendo Kibunja that their first stop should be in the Tana Delta area. Let them work with these communities in order to bring them together and ensure that peace is restored. Security has been restored but we need lasting peace between the communities living there and that is part of their work. So, we want to thank them for what they have done so far but tell them that the critical stage we are entering now is more important and they must discharge their mandate for the remaining one year without fear or favour.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Jakoyo!

An hon. Member: The imposter or the real one?

The Temporary Deputy Speaker (Mr. Ethuro): Which is the real one?

Mr. Midiwo: I am Ojaamong, the real one.

Mrs. Odhiambo- Mabona: He is the Ojaamong and I am the Jakoyo!

The Temporary Deputy Speaker (Mr. Ethuro): You need to indicate to the Chair, who is who. I mean the Jakoyo, that is “Ojaamong”.

(Laughter)

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, just two things. Let me thank hon. Baiya for seeing that this was necessary only to say that we want to plead with the Executive, and hon. Wamalwa is here, to replace Members who left the Commission because the Act stipulates how you replace them. You already have the names, so that the members, who are not there; Mary Onyango who died or the gentleman who left to go and contest somewhere in Rift Valley, are replaced so that this Commission can continue being cohesive and doing its work.

Secondly, I want to plead with Dr. Mzalendo Kibunja and his Commission that a lot more education is required. I think Kenyans out there still do not know the line between free speech and hate speech and how we are supposed to live with one another. I think we need to empower and give them more money for education so that we can know when and where not to cross the line.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Temporary Deputy Speaker, Sir, I would also like to thank the Mover, hon. Baiya, for bringing this very important Bill which has gone through.

Mr. Temporary Deputy Speaker, Sir, you realize that this is a very “hot” time. Many people are going to make erratic statements which will bring unnecessary fear to the citizens of this country. We want to see the results of this Commission. We have given them the fangs. It is now time to bite people who will try to bring unnecessary utterances to this nation. Most politicians tend to go that way. This is the opportunity we want Kibunja’s Commission to be on the lookout for and apply the law appropriately.

Mr. Temporary Deputy Speaker, Sir, before I sit down, I am happy that we have made this extension to sail through. I would like to take this opportunity as Assistant Minister for Defence to congratulate our troops for doing a wonderful job and being able to bring peace to a country which had not seen peace for many years. Our defence forces are a semblance force and unmatched in this region in terms of professionalism.

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, I also want to take this opportunity to thank hon. Members and my colleagues for passing this Amendment Bill and more so after initial hesitation. I remember there was a lot of hesitation from the likes of hon. Midiwo and others who were wondering why we should extend the mandate of this Commission.

This is one of the Commissions that arose after the Agenda IV reforms just after 2007. It is very important for our leaders, who have become the target of scrutiny by this Commission, to remind themselves that none of them has actually been accosted by this Commission without offending the law and the spirit of cohesion and integration in this country. We all realize that it plays an important role. As politicians, we now realize that we need an institution if not really to haul us to court, but at least to remind us of the limits that we must not overstep because it is the leaders' utterances that can actually help to build cohesion and integration and it is actually from the same leaders that we can actually dismantle this country.

Mr. Temporary Deputy Speaker, Sir, most importantly, this Commission is not just about addressing issues of hate speech. It is also dealing with all matters of policy. It is actually supposed to advise the Government in terms of integration and cohesion. It is a very critical institution and we believe that it has risen to the challenges that have been raised by Kenyans in general.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! I will have the last three on my list; hon. Oyugi, hon. Shabaan and finally hon. Odhiambo-Mabona.

Mr. Oyugi: Mr. Temporary Deputy Speaker, Sir, I wish to congratulate hon. Baiya's Committee for a job well done.

I would like to support the Bill and state that there ought to be an amendment to the National Cohesion and Integration Act. It is in the duality of giving the NCIC the job of both investigating and participating in cohesion that makes them not have the necessary teeth to bite. It also inhibits how much the NCIC can move in terms of making prosecutions.

I think the NCIC is doing a very good job in terms of cohesion work but where they have not proved the point is in terms of prosecuting hate speech which is left to the Director of Public Prosecutions. I want to see some work done on this.

The Minister for Gender, Children and Social Development (Dr. Shaban): Asante sana Mh. Naibu Spika wa Muda. Ninataka kujiunga na wenzangu kuzungumza juu ya Tume hii ya Uwiano na Mariadhano ya kitaifa ambayo imepewa muda wa kuendelea na kazi, hasa makomishna walioko. Makomishna wako na kazi kubwa ya kufanya. Makomishna hawa wanafahamu ya kwamba kazi yao ni kuleta jamii za Wakenya pamjao bila wao kukosana ovyo ovyo na kuzozana, haswa wakati huu tuko karibu kuenda kwa uchaguzi.

Ninataka kumpongeza Mheshimiwa Baiya na Kamati yake kwa kazi nzuri waliofanya, na wenzangu Wabunge ambao walizungumzia swala hili.

Jambo ambalo ningependa kuwatajia makomishna hawa ni kwamba, wasisahau ya kwamba mwanasiasa yeyote anakula chakula chake. Ni kashfa kuwa wenzetu wanataka viti. Kwa hivyo, waangalie sana kuwa wasije wakatunyima kuzungumza ama kutufunga midomo ili tusiweze kuomba kura vile inavyofaa.

Asante sana. Ninawapongeza kwa ile kazi waliofanya, lakini waweze kuifanya na kuimalizia kwa muda wa mwaka huu mmoja ambao wameongezewa.

*(Mrs. Odhiambo- Mabona spoke
from the Front Row)*

Mrs. Odhiambo- Mabona: Mr. Temporary Deputy Speaker, Sir, I want to congratulate the Members---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Odhiambo-Mabona! Being the Chair of the Committee of the whole House does not assume certain powers of being a Member of the Executive---

Mrs. Odhiambo- Mabona: Mr. Temporary Deputy Speaker, Sir, I just wanted to taste how it feels to be in the Executive.

The Temporary Deputy Speaker (Mr. Ethuro): I think you have tasted so far. Now go where you belong.

(Laughter)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I want to congratulate Members for supporting this amendment. I also want to thank the Committee that I sit on; that is, the Departmental Committee on Justice and Legal Affairs. I just want to encourage hon. Members that wherever we go to campaign, please, let us start by preaching peace. I want to agree with my younger brother, hon. Augstinho Oyugi, that we gave this Commission as a carrot and stick. In future, we need to take away the stick from them. Even as they move on, they need to focus much more on the carrot now. We encourage Mr. Tobiko to focus on the stick, so that they can focus on building cohesion in Kenya.

The Temporary Deputy Speaker (Mr. Ethuro): I see two hon. Members are interested. Given that the debate is quite important, I will give a chance to hon. Kamama, hon. Nyammo, and finally, hon. Ogindo in that order.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Temporary Deputy Speaker, Sir, I want to congratulate hon. Baiya for coming up with this very important amendment. I want to advise Dr. Kibunjia to actually move with speed and teach Kenyans the value of peace and cohesion. Kenyans must be able to draw a distinction between hate speech and love speech, because we seem to be confusing the two.

In addition to that, we want them not to be toothless. We want them to bite. Where there are people preaching insecurity and violence, they should be able to deal with them firmly and promptly. I also want to urge the Commission to look at the hotspots. After we came up with the 47 counties, we had specific hotspots, especially with regard to some specific counties which I do not want to name. He gave a list of all of them because we do not want trouble in the next election.

We want the Commission that was appointed by the President recently to inquire into the Tana River conflict to look at the military aspect. You know there is the military wing that attacked our soldiers at Kilelengwani. They were attacked with military precision. They should go to the bottom and get to know who is training the youth in that particular place.

Mr. Temporary Deputy Speaker, Sir, I was a District Officer (DO) in Garsen and also in Ijara. Some people are trying to paint the name of hon. Yusuf Haji---

The Temporary Deputy Speaker (Mr. Ethuro): Your time is up!

Mr. Nyammo: First and foremost, I want to congratulate hon. Baiya for moving these amendments. I would like to request the Commission to engage in education. Our people are ignorant. They know that the Constitution conferred some rights and freedoms on them, but they must be told that no freedoms are absolute. Any freedom has an obligation. Any freedom has a counter requiring a citizen to be mindful of others.

I would like to congratulate our troops in Somalia for a job well done. They put themselves in danger to keep us free. Once, again, I congratulate all the troops and the leaders of those troops.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, let me congratulate hon. Baiya and his Committee on this amendment. I think the whole essence of this amendment was to extend this term, so that the country is covered during the run up to the general election. I want to now urge the Commission to be very strong. It should be ruthless with people who incite Kenyans against each other. They also need to go and find out--- There are areas where the tensions are not inter-ethnic, but intra-ethnic. Above all, it is important that the values of cohesion and national integration are espoused rather than running after a few errant individuals. Examples must be there for all and sundry to see, particularly at this time when we are going to elections. We do not want to see a repeat of what happened last time.

With those few remarks, I beg to support.

(Question put and agreed to)

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

THE CONSUMER PROTECTION BILL

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the Whole House has considered the Consumer Protection Bill (Bill No.50 of 2011) and approved the same with amendments.

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

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa) seconded.

(Question proposed)

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, let me congratulate---

The Temporary Deputy Speaker (Mr. Ethuro): Microphone off!

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I agree.

(Laughter)

(Question put and agreed to)

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I beg to move that the Consumer Protection Bill (Bill No.50 of 2011) be now read a Third Time.

I want to take this opportunity to thank hon. Members who have supported this process. It has been a long and winding process. It has taken about seven years for us to see this Bill through, because it affects so many sectors of our lives and this economy. It is natural that you will meet opposition along the way. I want to thank the Attorney-General and the State Law Office. Let me also thank COFEK in particular for facilitating this process endlessly for seven years.

I move, and ask hon. Kimunya to second.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to second the Third Reading of this Bill, and to also take this opportunity to thank hon. Midiwo for the efforts he has put in to ensure that consumers are protected. I also want to thank the House for the efforts that have been put in to bring this matter to a conclusion. We hope that with the implementation of this Bill, we will start having the awareness creation about the protection that consumers need in terms of ensuring that they get fair value for what they purchase; the industry out there will become far much more observant of what needs to be done.

I second.

(Question proposed)

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, from the onset, let me start by thanking the Government Chief Whip, hon. Midiwo, for finding time to prepare this crucial Bill. Consumers in this country have been exploited for a long time by unscrupulous traders in the society. This Bill will now rein in those unscrupulous business people and the health of Kenyans is likely to improve.

With those few remarks, I beg to support.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, allow me to congratulate hon. Midiwo on this successful legislation. This is going to change this country fundamentally. For the first time, we have The Consumer Protection Bill. We are going to have an economy that is now regulated in the interest of the consumers. I want to challenge consumers to form their consumer organizations centrally, so that they can engage the industry. It is also important that information be made available because now it is a legal requirement. Just yesterday, many consumers suffered because several phones have been switched off. This is because there was no regulatory or legal framework to protect the consumers.

Lastly, this Bill is very timely. The notorious banking sector now must be on notice. We want to encourage the consumers of the banking services now to take up the challenge and stand up the banking sector, so that they can get their rights as consumers.

With those remarks, I support.

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, allow me also to join my colleague, hon. Ogindo, in congratulating hon. Midiwo for bringing this timely Bill. The consumer in Kenya has been bombarded by a lot of irresponsible advertisements. For example, every day, I watch an advert on Lifebuoy which claims to be able to make families disease free. It is important that those who place those kinds of advertisements

take responsibility for their action. It is important that the Kenya consumer is protected. It is also important that we have a regulatory framework that recognizes that in any market where you buy and sell, the consumer is king. I thank hon. Midiwo, once again, and wish to support the Bill very highly.

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Speaker, Sir, let me take this opportunity to congratulate hon. Midiwo for this Bill. This is a legislation that will protect the Kenyan consumers, whose rights have been violated all along by traders in this country. In fact, there have been occasions when consumers have been sold dangerous commodities, commodities that are even poisonous to use. With this legislation, those unscrupulous traders will be dealt with according to the law. Conning consumers in this country will be handled properly.

I beg to support.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I want to congratulate hon. Midiwo and also the Members of this House. One day when we will look back, we will have made history as the House that passed the most Bills. I know that at the moment, Kenyans may not see that, but, in future, they will see that we have passed some of the Bills that are most responsive to the needs of this country. I want to thank hon. Midiwo for thinking, especially about consumer rights.

I support.

(Question put and agreed to)

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

PROCEDURAL MOTION

REDUCTION OF REFERRAL PERIOD OF THE KENYA NATIONAL EXAMINATIONS COUNCIL BILL

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

THAT, notwithstanding the provisions of Standing Order 111(2), this House orders that the referral period for the Kenya National Examination Council Bill (Bill No. 50 of 2012) to the relevant Departmental Committee be reduced from 10 to 6 days.

As Members will be aware, we need to shorten the publication period of this Bill. This Bill is important as the Mover will be telling us in due course, in terms of the oncoming examinations. It will be important for this House to have its input to the examinations that our children are about to sit. I will be asking the Members if we can agree to shorten the period, so that we can get to the Second Reading and, hopefully, finalize this Bill before the examinations commence.

Our prayer is as brief as that. I hope for the usual Members' co-operation and support.

I beg to move and request the Minister for Education to second.

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, allow me to second this very important Motion. It cannot have escaped the attention

of the country that this is a very fundamental area now. We had had enormous challenges, including in the 2011 examinations year. Therefore, shortening this period will help us to enact this law if Parliament agrees. I would like to mention that we have, as a Ministry, engaged Parliament extensively. We had a huge retreat for the Members of Parliament and they have had opportunity to contribute to this. We have had enormous consultations.

I beg to second.

(Question proposed)

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion. In the interest of time, it is important that we move to the Second Reading because we all see the necessity of fast-tracking this process.

I support.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Speaker, Sir, I also rise to join my colleagues in support of this Motion because of the coming examinations and what this Bill seeks to achieve.

I support the shortening of the publication period as prayed.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, it is important that we reduce the publication period to create the necessary debate on stamping out the experienced irregularities and cheating in our national examinations. Therefore, I support the immediate passage of this Motion.

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Speaker, Sir, I also beg to support this Motion. We all know that we have very little time left before the national examinations are done. Furthermore, this Parliament has very little time although we still have a lot of work ahead of us. So, shortening the period for this Bill would be the best thing to do.

(Question put and agreed to)

BILL

Second Reading

THE KENYA NATIONAL EXAMINATIONS COUNCIL BILL

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Kenya National Examinations Council Bill, 2012, Bill No.50 of 2012, be now read a Second Time.

I speak with confidence when I say that Kenya's window to human capital and human resource can only be operationalized through a transparent, good and reliable examinations law. The existing Kenya National Examinations Council Law, Act No.225A of 1980 is already out of sync with the needs of Kenya's economy and Kenya's socio-economic activities. It was only revised once in 1980. It is my humble privilege to present to this country a revised Kenya National Examinations Council law that deals

with all the challenges as best as I could ascertain in my office and through consultations at this point through this Bill.

One of the challenges has been the security of examinations. We have had serious problems with the security of our examinations at any given time, thereby, creating a serious weakness regarding the perception of those examinations. Those security challenges over the years have led to serious problems which have led to cancelling of results of candidates, which is in itself a very unacceptable method of bringing up our youth. Therefore, this House will be aware of the enormous public outcry and challenges in ensuring an achievement of free and compulsory basic education for all children. To offer such a thing in the Constitution when you cannot examine the children in a transparent manner and protect the examinations is unfair. You will find that Section 15 of the existing Act, only provides a very shallow offence, if I may call them, legal sanctions. It is very unfortunate because the Act only addresses simple things like knowingly revealing the content of an examination paper or a question to unauthorized persons.

Again, we have had problems with willful and malicious damage of examinations material. We have had impersonation taking place during examinations and forged certificates being offered. In fact, it is only this morning that I was addressing the Parliamentary Committee on Equal Opportunity. We ended up with nearly 300 forged certificates in one of the recruitment exercises that my Ministry undertook of subordinate staff. Therefore, I beg to ask this country, through this House, to accept the recommendations that we have brought forth for completely repealing the existing Examinations Act.

Mr. Temporary Deputy Speaker, Sir, the other one is on the role of administrators of examinations. We want to bring a new law so that these people understand that what they are doing is in trust both to the country and the children of this country. There has also been serious public outcry to punish the examination handlers rather than the children. You will remember that in Kenya, right now under the existing law, if a child is caught cheating in examinations and it is clear that the paper has been smuggled or a text message has been sent to him, we only punish the child. I would like to recommend to the country, through this House, to change that so that these fraudsters who undermine the integrity of our examinations are also punished. Therefore, we have recommended, as you will see, that Section 15 which only now offers imprisonment for a term not exceeding 12 months or to a fine not exceeding Kshs5,000 or to both, imprisonment and fine, be repealed completely.

Since 2008, over 40 persons have been arrested and charged in court in connection with engagement in examination offences. Of these people, two paid a fine of Kshs5,000, three were sentenced to serve a jail term of 12 months each while one was put under probation for six months. The other cases are still pending before court. This is outrageous and as a senior counsel of this country, I want to present this Bill which has seen serious consultations across the country so that the integrity of our examinations can be respected and above all, we can start taking advantage of exporting human capital after we utilize this law.

I would like to ask hon. Members to look at the Bill, particularly, the outline and Clause 26 which provides for persons handling examinations issues to sign an oath of secrecy, which is a departure from the past, and abide by it. Contravening that oath of

secrecy calls for imprisonment of five years or a fine of Kshs1 million. Clause 27 provides for a stiff penalty of imprisonment for a jail term not exceeding 10 years or a fine not exceeding Kshs2 million for a person who commits an offence of being in illegal possession of examinations materials. In the current Act, this penalty was a fine not exceeding Kshs5,000 or imprisonment for six months.

Clause 29 provides for a stiff penalty for a person who is charged with the responsibility of managing and handling examinations and acts negligently leading to loss, damage or exposure of examinations materials. The penalty is a jail term of five years or a fine not exceeding Kshs1 million. This was not fair in the retiring Act.

Clause 31 provides for a very stiff penalty for impersonation. It provides for a jail term not exceeding two years or a fine not exceeding Kshs2 million. In the current Act, this penalty is a jail term not exceeding six months. Therefore, fraudsters were happy committing these offences. Clause 32 prescribes that copying from other candidates, communicating to other candidates or if somebody is in possession of text books or electronic communication devices inside the examination room, constitutes an examination offence. This addresses the issue that has erupted in the country of mobile phones which have given us sleepless nights leading to serious challenges where you find that the examiner or the supervisor cannot discover all the phones because some of them are very small and they can be hidden. Therefore, we want to make sure that never again will our children be subjected to these things.

Clause 33 prescribes that causing disturbances and/or being in possession of offensive weapons in an examination centre is an offence. This is not addressed in the retiring Act. Clauses 34 and 35 provide for stiff penalties or a jail term not exceeding two years or a fine of Kshs1 million for forgery of certificates. As you are aware, Kenya has become an incredible place where people can go to some streets in the city that I will not name, and come up with forged certificates.

In the current Act, the penalty is Kshs5,000 or imprisonment for six months. This is outrageous. Therefore, time has come for us to put our foot down and say that we want a modern human resource that is not contaminated by the challenge of forgery of certificates.

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

*[The Temporary Deputy Speaker (Mrs.
Odhiambo-Mabona) took the Chair]*

Madam Temporary Deputy Speaker, I would also like hon. Members to look at Clause 36, which prescribes disclosure of interest for the Kenya National Examination Council (KNEC) employees and any person working for or on behalf of the Council. This aspect is not addressed in the current Act. If these persons have an interest of whatever nature, they have to disclose it, failing which they are committing an offence.

Clause 40 prescribes that aiding or abetting, inducing, inciting or acting in a manner that facilitates the commission of an offence, under the Act, constitutes an offence. This aspect is not addressed in the existing law. The purpose of using the words “aiding, abetting, inducing, inciting or acting in a manner that facilitates---“ in this Bill is

to address ourselves to the adults or the people who facilitate our children to get “Y” results at the end of an examination.

Madam Temporary Deputy Speaker, as a Ministry, arising from the challenges that we had last year, where nearly 2,000 candidates got “Y” results because of these problems, we have arranged for the candidates who were affected, without exception, to register for this year’s examination. Therefore, my challenge, which I throw to this House is: Can you, kindly, enact this law for us, so that the examinations that will begin on 15th October can be conducted under this law?

I want to assure this House that this is a law which will protect the integrity of our education. The legal framework that we have created is extremely strong. It will survive for a reasonable period of time. For the first time, we are offering this country an opportunity to deal with the culprits who assist and aid our candidates to commit examination irregularities.

Madam Temporary Deputy Speaker, I am sure that you are aware that we have evidence material showing that one person, sitting somewhere, was able to send messages regarding the questions and the answers to a countless number of candidates. The time for this law has come.

With those remarks, I beg to move. My learned friend, hon. Wamalwa, has agreed to second the Bill.

The Temporary Deputy Speaker (Mrs. Odhiambo-Mabona): Yes, hon. Wamalwa.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Madam Temporary Deputy Speaker, may I say that I wish to second this Bill and start by congratulating my senior learned friend, who was my predecessor at the Ministry of Justice, National Cohesion and Constitutional Affairs, for the very able leadership he has provided at his new Ministry.

I also wish to congratulate him for battling it out when teachers in this country went on strike. The teachers were out on the streets, and it was not easy. One thing we were able to learn from all these developments is that, through candid and open genuine negotiations, no problem is insurmountable in this country.

Madam Temporary Deputy Speaker, we also saw this in this House when we had The Anti-Terrorism Bill and we had colleagues who had fears. Through dialogue and negotiations, we were also able to resolve the problem of having to shelve the Bill yet again, as we have done in the last eight years. I believe that if we embrace the same spirit, the doctors’ strike will also be resolved, so that we can proceed for Christmas and have elections without any strikes next year. We hope to have peaceful elections.

Just like we sought to create a strong legal framework to deal with terrorism in this country, it is equally necessary to have a strong legal framework to deal with the issue of fraudsters who are threatening the integrity of our national examination. Kenya is one of those countries which are greatly respected. Any certificate earned through our process of education is respected anywhere in the world. We believe that those who have tried to bring our examination process into disrepute over the years, through forgery, will have to move to another country and try those activities there because what my senior learned friend has, through this Bill, put in place, is a very strong legal framework.

Madam Temporary Deputy Speaker, while we were previously talking of small fines of just Kshs5,000, if you look at Part IV of this Bill – Offences and Penalties – you

will see a very hefty fine of not less Kshs1,000,000. Some fines are up to Kshs2,000,000. One will have to think again. If one is getting a few coins to get some examination papers to try to assist a student to cheat, one will pay heavily.

It is also encouraging that, whereas in the past, under the old Act, one would just serve a few months in prison, we are now looking at long periods of imprisonment. Under Clause 27, upon conviction, one would serve imprisonment of a term not exceeding ten years. This is for being in unauthorised possession of examination materials. It would be as dangerous as having drugs like cocaine. If you are caught with national examination materials, under Clause 27, you will be in very serious trouble.

Madam Temporary Deputy Speaker, there is a lot of sense in what the Minister has said. We need to put this law in place before the commencement of our national examinations, which will start on 15th October. Therefore, we need to move with urgency to have it passed. The last Kenya National Examination Council Act was enacted in 1980. I was then a little boy in primary school. I had not seen a computer in my local school. If you were shown a computer in those days, you would have thought it was a television set, because we had very limited technologies in the rural areas, where some of us grew up.

Looking at the time that has passed, first forward to 15th October, 2012, over 22 years later; technology is almost magical. We are seeing young people, just through their mobile phones, mobilising and bringing down governments. We have seen the Arab spring, beginning with what happened in Egypt and Tunisia. We have seen dictators who thought that they were all powerful, come down. We have seen young people communicate through Tweeter and Face book and bring down governments.

Madam Temporary Deputy Speaker, it is now very easy to manipulate technology to cheat in national examinations. We are saying that the technological advantages that have come for the benefit of our citizens have also put new tools in the hands of our young people and fraudsters, who can actually manipulate the process and cheat in national examinations. This Bill seeks to deal with that problem as technology advances. We know that we can now deal with the new ways of cheating in national exams. This will go a long way in guaranteeing the integrity of our examination process.

This Bill has gone through wide consultations. There has been a stakeholders' input, following wide consultations, leading to this quality piece of legislation. I want to congratulate my senior learned friend for bringing it to the House.

With those remarks, I whole heartedly second the Bill.

(Question proposed)

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Madam Temporary Deputy Speaker, I stand to support this Bill. In supporting the Bill, I want to commend the Kenya National Examinations Council (KNEC) for the work that they have been able to do so far amid the problems that the Minister for Education has highlighted. It is very important that the integrity of examinations is maintained. There is no doubt that in our country we have had lots of problems with examinations. Whenever examinations are being administered, we hear of examination papers flying all over the country and a lot of confusion ensues. In the end, you find results being cancelled causing a lot of suffering to children. You can imagine that parents who struggle to get these children through school have a lot of expectations that their child will pass and move to a

higher level, and then they are told that the examination results have been cancelled due to cheating. In some cases it is not the fault of the child.

Therefore, I whole heartedly welcome this Bill if it is going to seal all these loopholes that have made many parents and children suffer as a result of cheating in examinations. As a nation, we must ensure that due to the examinations we administer, anyone who sees a certificate from Kenya accepts that it is a certificate from a credible country or organization. Therefore, we must do everything as a House to ensure that the integrity of examinations in this country is protected.

Madam Temporary Deputy Speaker, forged certificates continue to be a serious challenge to the administration of examinations in this country. Many hon. Members have been complaining that whenever recruitments are done, candidates are turned back with forged documents. We must punish those people who attempt to forge certificates, because the integrity of examinations that I have alluded to is undermined by the forgery of these papers. Clause 34 of this Bill provides for punishment for forging documents and it is very much welcome. Clause 35 talks about counterfeiting of these documents. I feel that the punishment that the Minister has proposed may not even be enough. When we go to the Committee Stage some of us would like to see a more serious punishment for offenses of this nature, that is, offenses like forged documents or counterfeiting.

While on this, I want to regret that university degrees are not covered, because only examinations that are administered by the KNEC are covered. We know for a fact that the mushrooming of universities in this country has given rise to certificates and degrees which are doubtful. Therefore, I would like to see the Minister reining in such universities, so that degrees from these universities are credible. They can only be credible if there is some centralized examination of the university education, so that when we see a degree it is a degree. You do not have to look at it and ask where it is coming from. It is a degree in Kenya; it should be credible.

I would like to ask the Minister for Education to go further and see how university degrees can be included, if not in this Bill, then in another Bill, so that people can have confidence. We know that many countries are producing degrees some of which come to this country but we cannot even employ the degree holders because you are not sure of their validity. I do not want to name those countries but we know them. We want to ensure that Kenya has a reputation where certificates from the KNEC are always given the respect they deserve. Degrees from the Kenyan universities should be given the respect they deserve, because without confidence in these documents, we cannot claim to be providing the world with a labour market as we want to do. We want to make sure that Kenyans can go to South Africa or all over the world with their recognized degrees. We do not want to have any doubt whatsoever; that will depend on the kind of administration of examinations we will undertake.

Madam Temporary Deputy Speaker, let me in passing urge the Minister to make sure that there is a level playing ground for children being examined. I have always argued in this House that the education system in this country favours some areas against others. When you give a school with eight classes, three teachers and another school with the same classes, twelve teachers and the children do one examination, the ground is not level. Since the Minister is able to see things, I am sure he can find a solution to this worrying problem, where today some schools have no teachers, others have more teachers than they need and when you come to a rationalization programme, it just lasts a

few days. In some instances, teachers are posted to schools and they refuse to go to them and nothing happens.

(Mr. M. Kilonzo consulted with another hon. Member)

I would like to plead with my hon. friend to let the Minister listen to what I am saying.

This is very important. I am saying that we have many schools and I want the Minister to find a solution to this; recently the teachers went on strike and their salaries were harmonized with those of civil servants. My interpretation of this is that they can work anywhere in this country. Therefore, if that is the case, we want enough teachers to be posted from Nairobi to Turkana, and from Mombasa to Mwingi, so that all schools have enough teachers; if there is a shortage of teachers, let it be across the board and not just in one section of this country. That way, we will ensure that the examinations that we administer are fair, and that all children go through the same education system.

Finally, you will recall that in 2006 after I brought a Motion to this House, the Government finally released certificates that had been held for many years by schools; children had sat their examinations but the results had been withheld by teachers due to fees balances. I want to thank the Government because in 2006 they ordered that the certificates be released from 2006 backwards. I have now realized that since 2006, it is now nine years and the certificates are now being withheld by teachers on account of fee balances. If the KNEC conducts these examinations, they must make sure that the certificates they offer are released to the students and not withheld by principals of schools because the child owes money to the school. It is meaningless for the KNEC to administer examination, a child passes, yet he or she cannot access a certificate.

So, I would like to propose that the Minister can even bring this amendment right away to the effect that the Kenya National Examination Council (KNEC) certificates will be given directly to the students. If the principal of a school wants to follow his debt with the child, he can follow with the parents through courts or wherever. However, there should be no linkage between the certificate and the fees balance that the child owes the school. I will sleep very well if the Minister introduces an amendment now, which will ensure that from today the student is assured of getting his or her certificate after doing the KNEC examinations.

The Minister for Education (Mr. M. Kilonzo): I will!

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Madam Temporary Deputy Speaker, with that assurance, I will sleep very well because it is one issue that is not only prevalent in one constituency but across this Republic. Children cannot access employment because principals have retained their certificates. This has been going on for a long time. So, I want us to make it a law that no principal will withhold any certificate for any child on an examination that has been administered by the KNEC.

Madam Temporary Deputy Speaker, I beg to support this Bill.

Mr. Ogindo: Madam Temporary Deputy Speaker, I rise to support this Bill. We realize how important examinations are in this country and the world over. Examinations are a measure of how much knowledge one has accumulated. We want to see a situation where there is a clear legal framework of administering these exams.

Madam Temporary Deputy Speaker, the amendment that is being proposed by hon. Musila is very timely. It is important that in this era we go with technology in terms of registration of students for examinations. Time and again, it has been suggested in this House that we standardize our registration process by giving Kenyans a single identity at birth, which they need to carry throughout their lives.

With our elections coming, we have gone the biometric way. I want to propose that equally for the registration of examinations, let us try some biometric identification system so that when a child, pupil or student sits for the exams, the certificate that comes out is unique to him or her. We have seen situations where children lose their certificates in fires or when they are mugged and it becomes a nightmare getting another certificate. I think this is an opportunity for us to now ensure that there is a mechanism of ensuring that a graduate of any level can have his certificate replaced without the risk of the certificate being fraudulently obtained. Since I can see the Minister nodding, I believe that he will make the necessary amendments that will ensure that lost certificates are replaced with ease and without compromising the certificates outflow.

Madam Temporary Deputy Speaker, the Minister should also ensure that there is harmony between the lower and higher level of education. You will realize that Kenya has taken its education system very seriously and our graduates are a pride of this country. However, there are other people who leave this country to go and fetch education outside. In this House we have repeatedly passed legislation that says “a degree from a recognized university.” You will find that different countries have different levels of recognizing degrees. This is the case and yet when these people come back to this country, they compete with our children who have their hard-earned certificates. The competition is normally at par. I urge the Minister to look into that area so that there is standardization in terms of the people who have the same content that is examinable and the people who have less content. You will realize that when this House passed a Bill in this House recently that made it mandatory for Members of Parliament to have a degree, there was this question by some hon. Members although I believe it was in jest that: Is it possible for the universities to give degrees in advance, so that people can read for them in a higher purchase fashion? You will realize how people want certificates for the sake of it and not as a proof of the content of which you are.

It is important that this law becomes ruthless with the people who play around with examinations, particularly those who try to steal the examinations as it were. The law must be very ruthless with these people. I have seen situations where we have instituted investigations into who caused the stealing of examinations and everybody keeps on looking behind and we end up catching nobody. So, the law must be very ruthless with the handlers of these examinations.

Madam Temporary Deputy Speaker, last but not least, it is important that we enhance our examination so that we remain competitive worldwide.

With those few remarks, I support this Bill.

Mr. Njuguna: Madam Temporary Deputy Speaker, let me take this opportunity to start by thanking the new Minister for Education for the very serious steps that he has taken to reform the Ministry. I know that he is a very serious Senior Counsel in this country and a crusader of human rights and justice. I urge him to move on so that the whole country can continue benefiting from his experience.

It is important that while addressing the Council we bear in mind that the whole country desires to have a credible examination council that will be able to provide credible examinations and produce results that will not be questioned. We recall that in the past parents from Musa Gitau Primary School cried for results that had been provided by the KNEC, and on remarking, the pupils from that school who had failed passed. That was a big question mark on the credibility of the KNEC.

Madam Temporary Deputy Speaker, aware that some of the neighbouring countries in this region have already started doing our examinations, like South Sudan, we should be able to maintain very high standards of confidence and trust so that we can expand our role and participate in providing enlightenment in this region.

If I look at the Bill, I find that the Headquarters of the KNEC is not properly stipulated. It should be indicated properly where it is so that even people coming to this country will know exactly where it is. It is appalling that the Headquarters of the KNEC that has been under construction for the last 24 years is not complete up to now. So, I call upon the Government to make sure that adequate funds are released to complete the Headquarters of the KNEC, which is the pride of this nation.

In addition, it is important - as desired by Kenyans - that the necessary reforms in terms of management and supervision of the council are speeded up. Concerning the appointment of the chair of the council, it is clearly spelt out that the appointment will be done by the President. I would suggest that the vetting process to conclude the whole appointment must involve this Parliament. The chair's experience is expected to be in the region of 15 years. I think that with the big number of graduates in this country "tarmacking", the experience period must be re-considered.

Madam Temporary Deputy Speaker, concerning exam malpractices, in this country, there are some people who have continued to enrich themselves through the national examinations. They are harvesting where they never sowed. In Grogan Road in Nairobi, any examination paper is procured there and, therefore, it is important that, with the passage of this Bill, examination malpractices will be addressed. I would suggest that the penalty for committing that irregularity must be enhanced to ten years. Even fines should be increased.

On impersonation, this has been a big question mark. I think the penalties proposed in the Bill must be enhanced. Counterfeiting of academic certificates is serious because during interviews for jobs, many fake certificates have been produced. The Kenya National Examinations Council (KNEC) must have the necessary mechanisms to detect some of those irregularities. Even some people have decided to engage in that illegal trade. Those people should not be given leeway to engage in that illegal trade. Therefore, I am calling for higher penalties.

Madam Temporary Deputy Speaker, on the security of examinations, examinations have been leaked out while on transit, storage and delivery. Therefore, it is important to involve the security agents in this country. It has emerged that in 2010, when the National Security Intelligence Service (NSIS) was involved, examinations did not leak out. But who decided not to involve that very important body in 2011? That calls for a big question and I think in 2012, the NSIS and other security organs like the Criminal Investigations Department (CID) and other bodies must be invited by the KNEC to facilitate maximum security of the examinations.

Time and again, invigilators and supervisors have cried because of not being paid their dues on time. I hope the new Minister will address that concern so that those invigilators are fully motivated. Concerning the withholding of certificates and results for the Kenya Certificate of Primary Education (KCPE) and Kenya Certificate of Secondary Examination (KCSE) by our school principals, the Minister should be able to address that. That is because it is the children of the poor who have continued to suffer and they are the majority.

Madam Temporary Deputy Speaker, I hope that with the passage of this Bill, our examinations this year will be credible. With those few remarks, I fully support this timely Bill. Thank you.

The Assistant Minister for Education (Prof. Olweny): Madam Temporary Deputy Speaker, I just want to give three short examples in support of this Bill.

Madam Temporary Deputy Speaker, this year, when the results of last year's examinations came out, one teacher in my constituency was told to step aside because the results indicated that there were irregularities in that school. When investigations were done, it ended up that the parent of one of the candidates was the one who gave his daughter some written materials which the daughter took to the examination room. That tells us that people can be victimized for crimes that they have not committed. The Kenya National Examination Council (KNEC) did not have proper legislation to deal with such cases.

*[The Temporary Deputy Speaker
(Mrs. Odhiambo-Mabona left the Chair)]*

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

Another example, which I want to indicate here is that sometime back, one of the Ministry of Education Officers who was charged with supervision of examinations in some part of the country, which I am not going to specify here was killed simply because he was strict and could not give in to those people who wanted to cheat in the examination room. It is good today we are going to give the KNEC the right legislation to deal with such cases.

Mr. Temporary Deputy Speaker, Sir, lastly, we are going to elections next year. There are going to be cases of several fraudulent certificates. I will suggest that certificates of anybody who is going to give his or her name for elective post in this country be verified. Otherwise, we are going to have people who have got all kinds of papers in the names of certificates and yet all are fake.

The Temporary Deputy Speaker (Prof. Kaloki): Very well, Prof. Olweny. Hon. Njuguna. Is he in the Chamber, or somebody is using his card?

Hon. Members: He has contributed.

The Temporary Deputy Speaker (Prof. Kaloki): Yes, but I am seeing his name. Hon. Odhiambo-Mabona, proceed.

Mrs. Odhiambo- Mabona: Mr. Temporary Deputy Speaker, Sir, I support the hon. Minister for bringing this Bill. I will be very brief. Indeed, he seeks to regulate examinations. I just want to encourage the Minister to look at some issues of concern,

one of which is the issue of setting standards. It is not provided for here. I think that should be the primary thing that this Bill should seek to do, which is to provide standards in terms of examinations, not just to regulate but to provide standards because of our falling standards of education. I was an employer before I came to this Parliament and, indeed, I can say that our standards of education are falling alarmingly. I have said it before. Therefore, I will want to propose that the Minister either on his own or I will initiate an amendment that seeks to regulate that or to set standards.

Mr. Temporary Deputy Speaker, Sir, the other issue of concern to me is the issue of the offences. As much as I know we want to punish, if you look at the way the offences are stipulated, a lot of them will affect or are likely to affect young people who are 18 years old and below, because it relates to examinations. This must be looked at in line with the constitutional provisions in relation to children and the Children Act and in issues relating to imprisonment of children. I think the standards that are put here might be in violation of the Children Act and the constitutional provisions in relation to children.

My final comment is in relation to the issue of limitation of rights and fundamental freedoms. I understand that the Minister does not want any interference especially during the examination period. But you cannot limit a right in a manner that takes away the scope of that right. Therefore, I will want the Minister to relook at the limitation of the right to strike, whether it does actually take away that fundamental freedom or right.

As much as we want to ensure that we do not disrupt examinations, the Constitution provision is very supreme. When we want to take away that right, we want to indicate whether there are no other means of achieving our intended purpose. One of the ways of achieving that intended purpose is to ensure that the examiners are paid their dues on time and efficiently. They need to be given their just payment. This is because those are the reasons that, a lot of times, make examiners go on strike. Once you do that then if people want to strike then you can provide that as a limitation. My worry is that the way you are bringing limitation to rights, very soon somebody will challenge us in a court of law because we are giving with the right hand constitutionally and taking away with the left hand. So, unless it is really necessary, you should not limit a right.

I support.

Mr. M.M. Ali: Mr. Temporary Deputy Speaker, Sir, I stand to add my voice to this very important Bill. Examination is a process by which young men and women are prepared to go into the future, so that they can be responsible citizens. Of late, we have seen this very important exercise being abused severally, thereby ending up wasting all the efforts that were put into preparing some of the young men. Many at times, in several counties, we have had cases of examination cheating and, therefore, examination results being cancelled and people being told to repeat or being denied an opportunity to do examinations at all. This is very serious.

As much as we have very nice proposals in this Bill, unless we enforce what we write down and talk about, then the results will be the same. In years past, even those of us who took examinations know that people used to do their duties. The people who were employed to guard the examination rooms did it properly. The teachers prepared their students properly and there was confidence. People did the examinations without any

problems. Unless we enforce the very rules and regulations that we pass here, then we will be wasting a lot of time.

The Bill, however, is timely. It is very important because we have to save the lives of our young people. We have to ensure that examinations are genuine and people have confidence in Kenya's examinations; we should rank people as it used to be done in the past. We have to restore the confidence that I have mentioned.

Mr. Temporary Deputy Speaker, Sir, I think it is the duty of this House to ensure that what we pass is what is proper for the country at large.

I support what hon. Millie has just mentioned, about setting the standards. I think that is something the Minister will have to relook at, so that this fallacy of generalization is removed. We want to have something that is very clear that everybody will adhere to.

I do not want to take your time. I want to congratulate the Minister because this is important. It is time we started protecting the integrity of the examinations that we do in our country. This is one such measure which is important for us to support.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Mutula Kilonzo to respond now.

The Minister for Education (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I want to tell the House that I have heard very well. I will bring a number of amendments to reflect the issues that have been addressed. These include issues to do with certificates and standards and so on. I want to thank the House for this wonderful opportunity to put the protection of our examinations on the Table.

I beg to move.

(Question put and agreed to)

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

MOTIONS

ADOPTION OF REPORT ON ACCOUNTS OF LOCAL AUTHORITIES/UDD/CDF

THAT, this House adopts the First Report of the Local Authorities and Funds Accounts Committee on the accounts of local authorities, countrywide projects done by the Urban Development Department (UDD) of the Ministry of Local Government and the accounts for the CDF for the 2006/2007 and 2007/2008 financial years laid on the Table of the House on Thursday 14th October, 2010.

(By Mr. Mwadeghu on 6.6.2012)

(Resumption of debate interrupted on 7.6. 2012)

The Temporary Deputy Speaker (Prof. Kaloki): Is the Chairman of the Local Authorities and Funds Accounts Committee (LAFAC) here to move the Motion?

Mr. Mwadhegu, you have 52 minutes. That is the time allocated. You do not have to use the entire time. Please, proceed and make your remarks.

Mr. Mwadhegu: Thank you, Mr. Temporary Deputy Speaker, Sir. Given that this debate was interrupted on 7th June, 2012 and we had moved a substantial amount of information, it is my recommendation and that of the Committee that all issues that have been addressed in this Report be taken into account by the House and that the Report be adopted. I will not be able to move the contents of the Report given time and since it was laid on the Table.

It is my humble request that I ask hon. Njuguna to second.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, in seconding this very important Motion, I would urge for swift action on those public officers who have embezzled public finances. The Ethics and Anti-Corruption Commission must move in to make sure that they have arrests and prosecutions. I support the entire content of this Report.

I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, I do not see any request for contribution. I believe that you have accepted. Therefore, I would like to call upon the Mover to reply.

Hon. Mwadhegu, you may now proceed.

Mr. Mwadeghu: Thank you, Mr. Temporary Deputy Speaker, Sir. I move that this House adopts the Report laid on the Table of this House on 7th June, 2012.

(Question put and agreed to)

ADOPTION OF SESSIONAL PAPER NO.3 OF 2012 ON
POPULATION FOR NATIONAL DEVELOPMENT

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Lesrima, you were to move this Motion on behalf of the Minister for Planning, National Development and Vision 2030.

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

THAT, this House adopts Sessional Paper No.3 of 2012 on Population for National Development laid on the Table of the House on Thursday 16th August, 2012.

The development of this policy involved intensive and extensive consultation across the country to seek opinions on the continued and emerging population challenges both internationally and at the local level.

Hon. Members, the policy has incorporated views from the fora of regional leaders, national leaders, conference on population development held in November 2010, the retreat for Members of Parliament held in July, 2011 and inputs from the Attorney-General's Chamber. The policy takes cognizance of the interrelationship between

population and development whereby population is a critical factor in production and consumption processes.

The policy also recognizes that improvements in socio-economic conditions especially improved levels of education and income have significant effect in reducing fertility and mortality. The policy advocates for acceleration of socio-economic development as a long-term measure for influencing population dynamics and the use of family planning as a short term measure for fertility reduction without compromising the rights of individuals and couples. The policy has proposed measures to tackle critical population challenges in the following thematic areas.

- (i) Rapid population growth and youthful population structure;
- (ii) population distribution rapid urbanization;
- (iii) population and socio-economic development planning;
- (iv) population and poverty reduction;
- (v) population and environmental sustainability;
- (vi) population and education;
- (vii) gender equity, equality and empowerment of women; and,
- (viii) morbidity, mortality and reproductive health and reproductive rights.

The policy proposes effective management of population through intensified population policy advocacy and population information, education and communication at all levels and repositioning of family planning and integration of family planning with other reproductive health services including HIV/Aids.

An implementation framework is also proposed in the Policy Paper through a multi-sectoral approach with implementation plans to be considered with Kenya Vision 2030 medium-term plans. The National Council for Population and Development will work closely with the line Ministries, Government agencies, the private sector, Non-Governmental Organizations and Faith Based Organizations (FBOs) to develop, implement and monitor effective population programmes and activities.

Our expectations are that the successful implementation of the policy will contribute to the attainment of the Kenya Vision 2030 goals. Other expected results include reduced fertility and mortality rates, substantial amounts of resources freed for national development, enhancement of youth skills and utilization and socio-economic and environmental sustainability. Therefore, I request hon. Members to take note of this country's policy on population for national development and approve it.

With those few remarks, I beg to move and request Prof. Anyang'-Nyong'o, who is a former Minister for Planning, National Development and Vision 2030, to second the Motion.

The Temporary Deputy Speaker (Prof. Kaloki): Proceed, Minister.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I would really like to second Sessional Paper No.3 of 2012 on Population for National Development.

Statistics and population information is very important for planning for national development. Without a good knowledge of the demography of the country, its structure, geographical spread, the manner in which it uses space and its health status, we cannot plan effectively. Apart from the information that we get from demographic and health surveys, the Government cannot rely on any other data to help in planning for national

development. We need to get all the variables derived from the study and analysis of our population.

Therefore, this Sessional Paper comes at an extremely timely moment. We are now moving towards a devolved system of government, where, again, population, as a statistic, will not only help us determine how the devolved resources should be moved to the grassroots level, but will also help the National Government to determine how to distribute the Equalisation Fund, which will try to address those forms of inequalities that will still arise when devolved resources are distributed to the counties on the basis of 15 per cent per county.

Therefore, this particular Sessional Paper sets out a policy framework for accessing of population data and for use of that data for planning and effective national development. Before I go far, I would like to point out three forms of vulnerability we have in this nation, which affect the bulk of the population, and which will be taken into account when we use population statistics for planning purposes for national development with a view to achieving the goals of Vision 2030. These vulnerabilities have to do with famine in the rural areas of Kenya.

The population which lives in the rural areas is very vulnerable to famine. Famine is itself a threat to the quality of the population and, eventually, to the productivity of this population. The second form of vulnerability, which we should gather data about among our population, is the vulnerability to disease by poor Kenyans. The demographic and health survey that has been taken throughout the years by the Ministry of Planning, National Development and Vision 2030, and other statistics gathered by the Ministry of Health, will demonstrate that the poor are very vulnerable to various types of diseases. Therefore, if we do not deal with the prevalence of disease among the poor, it will affect the quality of our population, hence the productivity of this population and in the final analysis the economic growth in our nation. So, when we say and appeal that the Government should put measures in place that can help the poor access healthcare and, therefore, the nation can have a better quality population among the poor, it is in the interest of national development and the meeting of the goals of Vision 2030.

This is so fundamental that if you look at the history of nations that have made it since the World War II from the status of being poor and under-developed nations to the status of being middle income, or even industrial nations, they have always addressed this form of vulnerability among the poor. This is vulnerability that comes as a result of easy acquisition of certain diseases. In this country, there is no other way to do this other than by establishing universal social health insurance as a way of ensuring that the poor can escape from vulnerability to diseases.

The third form of vulnerability that I wanted to talk about is vulnerability to marginalization of the poor. Marginalization is not only in areas where people live in semi-arid and arid lands, and where the problem of marginalized has been prevalent from colonial to present times; even in urban centres, the poor who live in slums are equally marginalized in relation to access to various factors that influence economic growth. There is marginalization to good education and hence upward mobility, marginalization to disease and marginalization with respect to malnutrition. I think this Sessional Paper will provide us with data on the poor in urban areas, where public policy that can affect the development of slums will be very important in including these poor into the central matrix of national development.

Therefore, a Sessional Paper like this one is extremely important for this nation. I do hope that when Members of Parliament come to discuss it and pass it, it will mark a landmark in the history of our nation; it will become part and parcel of those sources of information that we need for policy making and enhancing national development.

With those few remarks, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Odhiambo-Mabona, proceed.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I know my good friend, Mr. Ethuro, wanted us to finish today but I want to indicate that the issue of policy on population--- It would be irresponsible for me to be in the House and not speak to it because it affects women and children; as the hon. Member representing that constituency in this House, I have a duty to always remain true to that constituency.

I want to start by indicating that I have written a novel called; “The Things we Lost With Freedom”. I want to say that some of the issues I have raised here actually touch---

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mrs. Odhiambo-Mabona, I will allow a few minutes, so that we can deal with this particular Motion and deal with other matters the following day.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I was saying that one of the things that I wrote in the novel “The Things we Lost with Freedom”---- Although it is fictional, it is anchored on some of the things I saw as I grew up. In this country we were able to access many things and there was a lot of hope for a better future. We lost that with the coming of freedom, even though---

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mrs. Odhiambo-Mabona. You will be able to proceed when this Motion is on the Order Paper next time.

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, it is now time for us to adjourn the House, and the House is, therefore, adjourned until tomorrow, Wednesday, 3rd October, 2012 at 9.00 a.m.

The House rose at 6.30 p.m.