

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 21st November, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

DEFERMENT OF SPEAKER'S ROUND TABLE/ KEPSA CONFERENCE

Mr. Speaker: Hon. Members, I have one communication to make. You will all recall that I delivered a communication from the Chair on Tuesday, 20th November, 2012, to the effect that the Kenya National Assembly in partnership with the Kenya Private Sector Alliance (KEPSA) and as part of the Speaker's Round Table, will be holding a two-day Conference at Leisure Lodge Resort, Mombasa, beginning on Friday, 23rd to Sunday, 25th November, 2012, for all Members of Parliament, representatives from both the public and private sectors. Due to other international and regional commitments for which the chief guest has to attend during the said period, it has become necessary to reschedule the conference to Monday, 17th going on to Tuesday, 18th December, 2012. Consequently, hon. Members travel arrangements will be rescheduled to Sunday, 16th December, 2012.

Therefore, I am asking the indulgence and understanding of the House for the deferment of this conference. We also regret the inconvenience it may cause to our invited guests both from the public and private sector and we seek their understanding of the matter.

Thank you.

PAPERS LAID

The following Papers were laid on the Table:-

Sessional Paper Number 4 on the National Pharmaceutical Policy

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

NOTICE OF MOTION

SESSIONAL PAPER NO. 4 ON THE NATIONAL
PHARMACEUTICAL POLICY

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts Sessional Paper No.4 on the National Pharmaceutical Policy laid on the Table of the House today, Wednesday, 21st November, 2012.

QUESTIONS 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?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I would like to make an apology for not coming with this answer for the simple reason that as I speak with you, the Permanent Secretary, Ministry of Foreign Affairs is in Saudi Arabia. The information I have is that he has gone there to personally follow on this matter as he is doing other business. Presumably, he will give us a definite answer by next week on Tuesday without fail. The reason is that hon. Kabogo had made a particular request and needed certain substantiations which I made sure I requested the Permanent Secretary, who then decided to go. I believe he should come with a substantive answer on this matter.

Mr. Kabogo: Mr. Speaker, Sir, I am very surprised by the answer from the Assistant Minister because I had a word with him a few minutes ago unless he has just found out that information; that he had no answer. He was asking me to understand his frustrations. Now, I doubt whether what he is telling the House can be factual or truth.

Mr. Speaker, Sir, the last time this Question came to Parliament on 12th October, 2012, we did agree that I would accompany him to Saudi Arabia because I gave him the recording of a telephone call between me and the captive girl and the telephone number that I used to get to her and he said he will be able. What he told me in confidence is that he is frustrated by the Permanent Secretary who cannot even facilitate him to go and get this girl from Saudi Arabia. He even tells me further that he cannot even use a Government vehicle due to those frustrations.

So, really, Mr. Speaker, Sir, he has frustrations from his Ministry, but he is not able to express himself. So, I would really urge you to help me here. This girl has been held captive in Saudi Arabia. This Question has been to the House eight times.

Mr. Speaker: Mr. Assistant Minister, I would want your reaction to all those assertions by the hon. Member for Juja before I give a final direction.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Thank you, Mr. Speaker, Sir. To be honest, I would like to reiterate that hon. Kabogo has said the truth in so far as the fact that I have been feeling very frustrated. I have been frustrated for the reason that, one, the Speaker actually ruled that we were supposed to have travelled, but it was not possible for the

Ministry to facilitate us in terms of *per diem*, tickets and all that we needed for the team that was supposed to have travelled.

Mr. Speaker, Sir, in terms of the frustrations, that is what I told him. But in terms of my vehicle, that was with a light touch. In terms of the issue as to whether I mentioned to hon. Kabogo, yes, I told him that my frustration was that I was not able to travel as we had discussed when you ruled on this matter. But as I was walking in, an officer called me and told me that the Permanent Secretary – and indeed he is not in the office – had travelled the day before yesterday on this matter as he is conducting his other business.

Mr. Speaker, Sir, I believe that if by Tuesday we do not have a precise answer on this issue, then I would come and tell the House that I am unable to solve the problem.

Mr. Speaker: Fair enough! Hon. Member for Juja, I will not hear you again. But I want to give the following direction. I believe the Assistant Minister because I have formed the impression that he is completely honest. He has owned up to being frustrated, unfortunately by a person that ought to be his junior under normal administrative circumstances. So, he has my sympathy.

Hon. Member for Juja, I will direct that this Question be deferred to Tuesday, next week at 2.30 p.m. I will also direct as follows. That this House does not act in vain. Since we comprise the second arm of Government--- After the Executive, it is the Legislature. I direct that in the event that the Ministry of Foreign Affairs is unable to facilitate your travel, Assistant Minister, together with the hon. Member for Juja to Saudi Arabia, Parliament will do so because those resources are from Government coffers. That is my direction. I hope it does not get to that.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I am much obliged. I remember yesterday you also made a ruling that there were documents that I was to table. I managed to get the documents---

Mr. Speaker: Just before we move to that, we want to wrap up this matter of Rosemary. I want to give the Floor to the hon. Member of Juja.

Hon. Member for Juja, could you, please, stick to the subject?

Mr. Kabogo: Mr. Speaker, Sir, I appreciate your ruling and I am happy with it. In addition, I just want to make a request through the Chair. As you know, we have said many things about Kenyans held in Saudi Arabia. I requested for a diplomatic passport to be able to go there, worried that with an ordinary passport, I will get into trouble. The same Permanent Secretary has refused, even after hon. Kajwang wrote to him, to either acknowledge to either give me a diplomatic passport for the purpose of travelling to Saudi Arabia. So, I do request the Chair to help me in the same line.

Mr. Speaker: Fair enough! We will take that on board even in the directions that I have given; that if the Ministry fails to facilitate you to travel to Saudi Arabia, the Legislature will take up that matter and facilitate your travel.

(Question deferred)

Mr. Assistant Minister, we may now hear you on a different matter; not on the same!

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Thank you, Mr. Speaker, Sir. Your office had requested that we table certain documents, which included the translations of the medical records from the post-mortem of Madam Esther Muthoni Ngerge to the House. I was also expected to present the complete version of the translation from Arabic into English. I

would like to table that translation. I would also like to table the English and the Arabic versions of the same for certainty.

Mr. Speaker, Sir, the second issue that was raised was as to whether we were able to bring back Madam Lillian Nyambura, who was a sister to Madam Esther Muthoni Ngerenge. I personally had a telephone conversation with the Kenyan Ambassador to Saudi Arabia. He told me that he personally had spoken to Madam Lillian Nyambura and she said that because her sister had passed on, she was comfortable staying behind. She did not want to come back home and she was willing to speak to anybody, including the Member of Parliament, Capt. Clement Wambugu, to confirm the same.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Just table it; the hon. Member for Mathioya will have time to go through them. If need be, we will then list the Question on the Order Paper.

(Mr. Onyonka laid the documents on the Table)

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, that means that with the tabling of this document, I would want yourself to, maybe, intervene and make a request that the hon. Member could ask the family to deliver a 'no objection note' to the Ministry of Foreign Affairs, so that we can send it to Saudi Arabia for us to make sure that the body is here by the weekend.

Mr. Speaker: That is fair enough, Mr. Assistant Minister. The Clerk of the National Assembly will ensure that, that is communicated to the hon. Member for Mathioya, so that he will co-operate.

Next Question by the hon. Member for Marakwet West.

DELAYED RELEASE OF FUNDS TO CHEBARA SECONDARY
SCHOOL BY MINISTRY OF EDUCATION

Mr. Kaino: Mr. Speaker, Sir, I beg to ask to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that compensation funds from the Treasury through the Ministry of Water and Irrigation earmarked for Chebara Secondary School and other institutions in Marakwet West Constituency have not been released by the Ministry of Education?

(b) Is the Minister further aware that the contractors on site have stopped construction works due to non-payment?

(c) What urgent measures will the Minister take to ensure that Kshs.189,000,000 received from the Ministry of Water and Irrigation for construction of educational institutions in Chebara town is released to the institutions?

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

(a) Yes, I am aware that compensation funds from the Ministry of Water and Irrigation for Chebara institutions forwarded to the Ministry of Education for onward transmission are yet to be fully released to the institutions as envisaged. So far, Kshs117,812,471.60 has been released. This has been occasioned by the disbursement formula earlier agreed between the management of the said institutions and the Ministry, where the release was to be in tranches upon submission of certificates on the progress of works on the side which was to form the basis of replenishing the school accounts.

(b) I am not aware that the contractors on site have stopped construction works for non-payment.

(c) The requisite paper work for authority to release the funds by the Treasury is in progress. As a matter of fact, they are done. The Ministry will, therefore, disburse the entire outstanding amount totaling to Kshs.182,187,528.40 to Chebara Secondary School's infrastructure account No.1128202239 or once the Treasury avails the funds.

Thank you, Mr. Speaker, Sir.

Mr. Kaino: Mr. Speaker, Sir, I am surprised. The Assistant Minister is not even aware that the contractors at Chebara have stopped working. The money in question was not meant for the Ministry of Education. It was supposed to transmit the money directly to Chebara institutions. This is actually compensation money.

Mr. Speaker, Sir, the Ministry had promised to keep this money under a suspense account, so that whenever the money is needed, then it is posted to the schools' accounts. But today the money has been transferred to other developments by the Ministry. Could the Ministry come up with definite dates as to when this money will be released? The Treasurer has already availed the money---

Mr. Speaker: Order, hon. Kaino! Your question is already asked!

Prof. Olweny: Mr. Speaker, Sir, my duty is to prepare the papers and give them to the Ministry which will release the money. My papers are ready. I hope that if the Treasury has money, the school will get all its money by next week. I already said that.

Ms. Karua: Mr. Speaker, Sir, could the Assistant Minister confirm the assertion of the hon. Member that his Ministry already received the money, but they have used it for other purposes and he is now looking for money at the Treasury? If he has not, then he must undertake to get the money from Treasury and tell us by what date.

Prof. Olweny: Mr. Speaker, Sir, I do not know of that assertion. If the Member of Parliament has documents to prove, let him table them. As far as I know, the money lies with the Treasury. We provide the papers and the Treasury then releases the money. I am not aware of money belonging to Chebara Secondary School that was put to other use. The balance is within the Treasury. The paper work, which is already done, was with us. So, let us wait for the money. It will come.

Mr. Koech: Mr. Speaker, Sir, in this country, infrastructure is still a challenge to most institutions. It should be the work of the Ministry to ensure that whenever there is money, it reaches the schools. When did the Assistant Minister receive this money? Very importantly, could he confirm that by next week, he will actually ensure that the money is in school?

Prof. Olweny: Mr. Speaker, Sir, I repeat that my paper work is ready and---

Mr. Speaker: Order, Assistant Minister! Please, resume your seat for a moment. Listening from where I sit, you were asked two questions although it should have been one question. However, you must answer the questions that you have been asked. The first part asked you when you received the money. The second part asked you: "Could you confirm that the money will be released next week?" So, you cannot repeat! Just say when you received the money and confirm whether or not the money will be released next week. That way, you will have answered the question.

Prof. Olweny: Mr. Speaker, Sir, the money was supposed to be released to the school by the Ministry of Water and Irrigation. But that Ministry agreed with my Ministry that the money would be released through the Ministry of Education from the Treasury. So far, the money that Treasury has given us has been released to the school. The Ministry is still retaining the amount

that I have indicated which will be released immediately the Treasury gets our papers which are already prepared. We are giving the Ministry the papers by tomorrow so that the Treasury avails the money if it has it.

Mr. Kaino: Mr. Speaker, Sir, I am perturbed by the misleading information from the Assistant Minister. He is not even equipped with the answers. I stand here to say the truth that all the money had been sent by the Ministry of Water and Irrigation to the Ministry of Education, so that it sends it to institutions in Marakwet. Instead of this, they used the money. The contractors have now been stopped the works. Could he tell us when the money will be released? This is because the money is there!

Prof. Olweny: Mr. Speaker, Sir, let me give a brief background of this issue. The Chebara institutions which include the secondary school were displaced because of the construction of the dam. The agreement between the Ministry of Water and Irrigation and the institutions is that a total of Kshs635 million should be given to the Chebara institutions which include the secondary school and other institutions around. This money is to be given out as compensation. However, so far, the only amount that was agreed between the Ministry of Water and Irrigation and my Ministry is Kshs300 million. Now, Kshs335 million was not negotiated with my Ministry.

As of now, we have agreed with the Ministry of Water and Irrigation that the remaining Kshs335 million be channeled by the Ministry of Water and Irrigation directly to the institutions and not through the Ministry of Education. After all, it was the Ministry of Water and Irrigation that created disturbance to the Chebara institutions and not the Ministry of Education. So, the remaining Kshs335 million will go directly to the Chebara institutions from the Ministry of Water and Irrigation. We are in charge of the remaining Kshs182,187,528.40 and we have prepared the papers. The Treasury will release the money to Chebara institutions.

Mr. Speaker, Sir, I think I have done my job.

Mr. Speaker: Fair enough, Assistant Minister. I have heard you. I direct that so that this matter is dealt with the requisite finality this Question should appear again on the Order Paper 21 days from today for you to confirm that the money has been released. That will be the position.

(Question deferred)

ORAL ANSWER TO QUESTION

Question No.1796

LACK OF EMPLOYMENT OPPORTUNITIES FOR PHARMACEUTICAL TECHNOLOGISTS

Dr. Otichilo, on behalf of **Mr. Chanzu**, asked the Minister of State for Public Service:

(a) If he is aware that there are many pharmaceutical technologists who have not been employed to-date; and

(b) what plans the Government has to find employment for these technologists.

Dr. Otichilo: Mr. Speaker, Sir, Mr. Chanzu is away on official duty.

The Minister of State for Public Service (Mr. Otieno): *(Inaudible)*

Mr. Speaker: Do you have challenges with the Dispatch Box? Maybe the Serjeant-at-Arms will want to assist you. I do not have control of that one. I am dispatching the Serjeant-at-Arms to assist you.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, the scheme of service for pharmaceutical technologists is administered by the Ministry of Medical Services. We requested for the necessary information to answer this Question adequately from the Ministry of Medical Services and we received the answer this morning at 9.00 a.m., which I felt that it was unsatisfactory.

I, therefore, request that this Question appears on the Order Paper next week, so that I can give an answer that should be adequate as required by the hon. Member.

Mr. Speaker: Member for Emuhaya, are you comfortable if we defer this Question? The Minister says that he requires time to get the information.

Dr. Otichilo: Mr. Speaker, Sir, I want to agree with the Minister that this is a very important Question touching on a very highly specialized field. I will be very happy if he comes up with a very comprehensive answer, so that this House can appreciate the importance of this specialized training.

Mr. Speaker: So, in those circumstances, I direct that the Question stands deferred to Thursday afternoon, next week.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

STALLING OF WORKS ON THOGOTO-MUTARAKWA ROAD

Mr. Mwathi: Mr. Speaker, Sir, I beg to ask the Minister for Roads the following Question by Private Notice:

(a) Could the Minister confirm that the National Environmental Management Authority (NEMA) has stopped the construction of Thogoto-Mutarakwa Road?

(b) Why was the commencement of works allowed without the Environmental Impact Assessment Licence?

(c) What measures is the Ministry taking to ensure that the road is motorable for use by residents of Ndeiya in Limuru; and could the Minister consider compensating the contractor for delayed works arising from the stoppage of works?

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

(a) Yes, I confirm that the NEMA has stopped the construction of Thogoto-Mutarakwa Road.

(b) The commencement of works was allowed without the Environmental Impact Assessment Licence since this was considered a continuation of Phase I of that road project.

(c) The contractor for the project is expected to resume works immediately upon the approval of the report by NEMA and thereafter keep the road maintained to motorable standards as provided for in the contract. Any delay arising from the stoppage will be addressed in accordance with the provisions in the contract signed between us and the contractor.

Mr. Mwathi: Mr. Speaker, Sir, the construction of this road started in 2000 before I became Member of Parliament. This road is from Thogoto to Limuru. It was never deemed to have Phase I and Phase II.

Secondly, the road was done half way. About 15 kilometres of it was tarmacked. If that certificate was given by NEMA, I do not see why he has to get another one unless he is saying his officers were incompetent and they advised the construction of that road commences without NEMA's approval. If that is the case, he must tell this House how he will deal with the loss of public funds by way of delay of those works.

Mr. Bett: Mr. Speaker, Sir, I agree with the hon. Member that the construction of that road started that far. I also want to inform him that at that particular period in time, the Ministry of Roads as directed by this House was undergoing institutional reforms. In the process, the issue was overlooked to submit an Environmental Impact Assessment report that had been prepared. That caused the delay in the construction of the section of the road.

Mr. Speaker, Sir, yes, it may not have been Phase I and Phase II, but I want to indicate that financial resources also control the extent a contract can go in the construction of a road.

Mr. Mwathi: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead this House that the Ministry was undergoing institutional reforms whereas the issue of roads has been there? There is nothing about construction of roads and the NEMA requirements that required institutional reforms. This is simply a procedure. I have been in that Ministry and even before I left, it was just a procedure. So, you cannot say that your officers forgot because you were undergoing institutional reforms. I think he is misleading this House.

Mr. Speaker: Order, Member for Limuru!

Mr. Mwathi: Is he in order to mislead this House?

Mr. Speaker: Fair enough! Minister, would you want to respond?

Mr. Bett: Mr. Speaker, Sir, it is a fact that it happened that way, but I did not know that hon. Mwathi was in that Ministry. He may also have an idea of what really happened. What I have stated is the fact that in 2008, there was a lot of movement in the Ministry in the sense of trying to comply with instructions by this House to strengthen authorities, so that they be efficient and effective in the construction of our roads.

Dr. Eseli: Mr. Speaker, Sir, in these institutions, we appear to increase the bureaucratic red tape in development projects. Could the Minister explain to us whether it is mandatory, therefore, for the respective institutions under the Ministry of Roads to get NEMA certificates for every development even where the road previously existed? Do they need another certificate to do the same work? This is red tape, which is totally unnecessary.

Mr. Bett: Mr. Speaker, Sir, I agree with the Member. There is a requirement that every construction of a road must receive a licence from NEMA. Even for a road which is being maintained, they must obtain a NEMA licence all the time for the simple reason, which they give, that climate change and topographical issues are changing every time. That is a requirement which we have to contend with. We have even started some works late because of having to wait for licences from NEMA.

Mr. Gitari: Mr. Speaker, Sir, I feel a bit bothered by the answer given by the Minister. In part (b), he has said that it was a continuation of phase one. He also says that his officers forgot to submit the environmental impact assessment report. There is a letter from NEMA which says, in part, that the Ministry was advised. It says that:-

“---without undertaking environmental impact assessment as required by law despite our earlier improvement notice”.

Did the Ministry intentionally refuse to submit the report as advised by NEMA?

Mr. Bett: Mr. Speaker, Sir, there was no such action on our part. We would wish that these construction works on our roads are done expeditiously, but we have to comply with requirements of other Government departments, lest we are stopped from working the same way we have been stopped by NEMA.

Mr. Mwathi: Mr. Speaker, Sir, on 13th September this year, in answer to a Question regarding the same project, the Minister stated, having heard my request, that he was going to send a team of engineers to inspect, confirm and ensure that they restored confidence in the public. The usage of the section of the road which is currently not usable would be restored. He said this in this House. To this day, no officers have come and the section that he referred to is not passable. That means that the residents of Ndeiya, whole division, cannot get to the main road.

What urgent measures is he going to take to restore the usage of that section? It should be passable immediately!

Mr. Bett: Mr. Speaker, Sir, I undertake to check what happened after I gave out those instructions earlier on. I seek the indulgence of the House for hon. Mwathi to meet me tomorrow in my office, so that we can address this matter together. Indeed, I sympathize with the users of that road and I want to be part and parcel of a solution to it, so that the Member can also be comfortable.

Mr. Speaker: Hon. Mwathi, I am sure that is music to your ears. Please, be in the Minister's office tomorrow at the time that is convenient to both of you, so that you can get this road done.

ORAL ANSWERS TO QUESTIONS

Question No.1648

CANCELLATION OF LICENCE FOR JATROPHA PILOT PROJECT IN KITANGALE RANCH

Dr. Otichilo asked the Minister for Environment and Mineral Resources:-

(a) whether he is aware that NEMA granted Bedford Bio-fuels a licence for a 10,000 hectare Jatropha "pilot" project in Kitangale Ranch in Tana Delta;

(b) whether he is further aware that East African Wildlife Society objected to the grant and petitioned the Ministry to cancel the licence in view of the expected negative environmental consequences; and,

(c) whether the licence has been cancelled and whether he could assure the House that the Government will not grant such licences in the area in future.

The Minister for Environment and Mineral Resources (Mr. Mwakwere): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that NEMA granted Bedford Bio-fuels an Environmental Impact Assessment (EIA) licence for a 10,000 hectare Jatropha plantation pilot project in Kitangale Ranch in Tana Delta. The EIA licence was granted on condition that the project was going to be implemented on a pilot basis, and that NEMA, in consultation with the Technical Advisory Committee constituted to advise on the project, would monitor its implementation.

(b) I am further aware that the East African Wildlife Society appealed against the decision by NEMA. However, they were advised to put up their case with the National Environmental Tribunal (NET) for redress as required by the law.

(c) The Standards Enforcement and Review Committee (SERC), which was convened on 21st October, 2011, and chaired by the Permanent Secretary, Ministry of Environment and Mineral Resources, approved the cancellation of the licence. It has since been established that NEMA has not effected the cancellation of the licence, citing Section 28(2) of the Environmental (Impact Assessment and Audit) Regulations 2003. The Ministry is now reviewing the matter and the appropriate measures to effect the cancellation are being taken.

Dr. Otichilo: Mr. Speaker, Sir, first allow me to thank the Minister for having taken a very decisive decision to have the cancellation of this licence. Having said that, I want to know why the cancellation has not been effected given the fact that NEMA is under this Ministry. It is the one that is supposed to cancel the licence and the Standards Enforcement and Review Committee has proposed the same.

Mr. Mwakwere: Mr. Speaker, Sir, the law is very clear that the Standards Enforcement and Review Committee has no powers to cancel a decision of that nature made by NEMA. However, a complainant may forward complaints to the National Environment Tribunal for redress. That has not been done. However, I have personally intervened to ensure that this is done and, in the process, effect cancellation as desired.

Mr. Oyugi: Mr. Speaker, Sir, could the Minister tell the House why NEMA that is supposed to be in charge of protecting the environment gives licences contrary to advice and, therefore, forces members to resort to tribunal action?

Mr. Mwakwere: Mr. Speaker, Sir, there is a process that must be followed before NEMA grants a licence. It appears that the company that applied to do the Jatropha project in Tana Delta, namely Bedford Bio-fuels, applied and the due process was followed. In fact, people were invited to give their comments and views. The public and the civil society organizations raised concerns and a lot of examples were given citing potential negative impacts on the environment, loss of biodiversity and inadequate research information on Jatropha. All these were considered. So, having gone through that process, eventually, the complainants accepted that they had received satisfactory explanation; they moved to the next stage as required by the law. Eventually, they were given an EIA licence to do a pilot project on the growing of Jatropha.

Nonetheless, there soon followed additional complaints and these were the ones that made us to effect cancellation. For example, we discovered that there was no place in the world where Jatropha project has been done successfully to complement the supply of diesel to a nation's needs. We feel that this is an experiment in futility and giving up so much land in our food deficient country is not wise at all. Moreover, we have discovered a lot of oil in Turkana, and elsewhere also in the country; there is really no need for us to destroy the environment and deny ourselves additional land for growing food just to do an experiment on Jatropha.

Dr. Nuh: Mr. Speaker, Sir, I have a feeling that the Minister is being too economical with the truth and information. Could he confirm that the report which was produced by the National Environment Management Authority (NEMA) on the strength of which their purported licence was given, had an advice that the licence could not be given and that it was corrupt NEMA officials who gave the licence contrary to the recommendations of the committee and the report that it purports the licence was given?

Mr. Mwakwere: Mr. Speaker, Sir, I am not aware of the allegations that are now being exposed to me by the hon. Member for Bura. However, the bottom line is to have this licence

cancelled. We have other very good reasons to ensure that the licence is cancelled and that is being put into effect by my Ministry.

Dr. Otichilo: Mr. Speaker, Sir, I want to thank the Minister for being honest and for giving real facts concerning this project. What I need him to confirm to this House is when he is going to cancel the licence.

Mr. Mwakwere: Mr. Speaker, Sir, ---

Mr. Speaker: Order, Minister! Minister, will you resume your seat for a moment? Hon. Dr. Noah Wekesa, I have given directions on this matter repeatedly that those hon. Members who wish to consult with their colleagues may sit next to them or withdraw to the Speaker's Chambers at my back to consult. So, please comply. Also, hon. Shakeel should do the same.

(Laughter)

Mr. Speaker: Proceed, Minister!

Mr. Mwakwere: Mr. Speaker, Sir, I would like to confirm that cancellation of the licence will be effected before the expiry of my term of office as the Minister for Environment and Mineral Resources under the Tenth Parliament.

(Laughter)

The Assistant Minister for Education (Prof. Olweny): On a point of order, Mr. Speaker, Sir. Did you see hon. Dr. Noah Wekesa come across, then cross back again to the other side? Is he in order? You said he should have gone back to the Bar at the door to bow and then cross.

Mr. Speaker: Order! Hon. Noah Wekesa, if that happened, you are out of order. So, you will have to go through the motions. Go through the motions on what it takes for you to move from one side of the House to the other.

(Dr. Wekesa went to his right)

Mr. Speaker: Hon. Dr. Wekesa, you will now go to your left. Go to your left first! We want to train you!

(Dr. Wekesa went to his left)

Mr. Speaker: Go and sit next to hon. David Musila! Proceed, hon. Dr. Wekesa! Do not take it lightly!

(Dr. Wekesa sat next to hon. Musila)

Mr. Speaker: Thank you, hon. Dr. Wekesa. Can you now make your way to go and see hon. Cheruiyot?

(Laughter)

(Hon. Dr. Wekesa crossed the Floor)

and sat next to hon. Cheruiyot)

Mr. Speaker: Thank you, hon. Dr. Wekesa, and well done.

(Laughter)

Mr. Speaker: Next Question by hon. Mwaita.

Question No.1806

FRUSTRATIONS FACED BY KENYANS FROM
UK CHARTERED INSTITUTE OF ARBITRATORS

Mr. Mwaita asked the Attorney-General:-

(a) whether he is aware that the new Constitution advocates for the use of Alternative Dispute Resolution in settlement of disputes and if he could clarify whether the accreditation of the mediators and arbitrators is done in the United Kingdom through the Chartered Institute of Arbitrators (Kenya branch);

(b) whether he is also aware that the UK Chartered Institute of Arbitrators is frustrating Kenyans who want to be mediators and arbitrators since only less than 500 persons have been approved as members of the United Kingdom Chartered Institute of Arbitrators since 1984;

(c) why the United Kingdom Chartered Institute of Arbitrators has to approve the courses and mark examinations taken locally and yet there are qualified and competent scholars and tutors in the country to examine and mark examinations; and,

(d) what steps the Government is taking to introduce a local curriculum on mediation and arbitration in order to free Kenyans from foreign domination, frustration and the unwarranted delays.

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

(a) I am indeed aware that the new Constitution advocates for the use of alternative dispute resolution in the settlement of disputes. Indeed in exercising judicial authority, courts and tribunals are obliged to observe the guiding principle set out in Article 159 of the Constitution. On the issue of accreditation of mediators, I wish to state that in this country, their accreditation is carried out through the Accreditation Committee which is, a committee appointed by the hon. Chief Justice under Section 59(a) of the Civil Procedure Act as amended by this Parliament earlier this year in the Statute Law Miscellaneous (Amendment) Act, 2012.

The composition of the accreditation committee includes the chairman of the rules committee, one member nominated by the Attorney-General, two members nominated by the Law Society of Kenya (LSK) and eight members nominated by the following bodies:-

- (i) The Chartered Institute of Arbitrators, Kenya Section,
- (ii) The Kenya Private Sector Alliance,
- (iii) The International Commission of Jurists (ICJ),
- (iv) The Institute of Certified Public Accountants,
- (v) The Institute of Certified Public Secretaries,
- (vi) The Kenya Bankers Association,

- (vii) The Federation of Kenya Employers (FKE); and,
- (viii) The Central Organization of Trade Unions (COTU)

Mr. Speaker, Sir, the accreditation of arbitrators is governed by the Arbitration Act, Act No.5 of 1995 and in taking into account the provisions of Article 159 of the Constitution and those of the Arbitration Act, any arbitration including one done under the traditional justice system are recognized as valid arbitrations under Kenyan law. This means, therefore, that for someone to be recognized as an arbitrator in Kenya, he or she does not have to be accredited in the United Kingdom.

The LSK, the Chartered Institute of Arbitrators, the Arbitrators Society of Kenya and many other organisations are able to appoint arbitrators who carry out valid arbitrations in Kenya and indeed in the region. Parties are free to appoint arbitrators of their choice. These arbitrators do not have to belong to any organization and no accreditation is necessary.

The Chartered Institute of Arbitrators, Kenya Branch, offers training in mediation, arbitration and other alternative dispute resolution mechanisms. The Institute maintains a list of persons who have passed the examination offered by the Institute. Membership categories include associate member, member, fellow and chartered arbitrator status.

I am aware, Mr. Speaker, Sir, that you are one of the members of this institute and it is my privilege to be a member alongside you and alongside other distinguished members like the hon. John Olago Alouch.

(b) I am not aware that the Chartered Institute of Arbitrators is frustrating Kenyans who want to become mediators and arbitrators. I am aware that the institute was established in 1984 and it is one of the branches of the Chartered Institute of Arbitrators of the United Kingdom which was formed in London in 1915.

The Chartered Institute of Arbitrators (CI Arb) Kenyan Branch is an organization that is open to those members who wish to join through undertaking its courses. I am informed by the Institute itself that currently it has 500 members. It projects that by the end of next year, it will have recruited a total of 1,000 members.

Mr. Speaker, Sir, the CI Arb Kenya Branch has considerable autonomy. However, it is a branch of the UK's Institute. The institute in the UK approves the courses and ensures the examinations are set to conform set international standards. Marking involves local tutors who have been credited. The local tutors liaise with the tutors in the UK for moderation purposes ensuring quality control and conformity with international standards.

Our own local universities are currently offering courses on mediation, arbitration and Alternative Dispute Resolution (ADR). Hon. Members will recall that it is just over a month ago when we enacted in this House the Legal Education Act which among other things makes it mandatory for the universities to teach these courses. It is, therefore, not true to say that only the CI Arb has the monopoly in this area of education.

I am not, therefore, aware of foreign domination or frustration or unwarranted delays in the administration of ADR in Kenya. The information presented before you is evidence, I believe and I hope the hon. member will accept of a thriving ADR in Kenya which is very much under the control of Kenyans themselves.

As if to emphasize that, I have this week published the Nairobi International Arbitration Bill which will come before this House when you authorize. It is intended to create a Nairobi International Arbitration Centre which will help to develop Nairobi as the major arbitration centre in the region and in the continent and, one day, in the world.

Thank you.

Mr. Speaker: Mr. Attorney-General, before I call Mr. Mwaita, I just want to thank you for that citation and recognition as extended to the three of us, including yourself. Perhaps to add that we are available to all hon. Members if they want services.

Mr. Mwaita: Mr. Speaker, Sir, allow me to, first, thank the Attorney-General for a very detailed and comprehensive answer which fits the bill. In his part “c” of the answer, he says the UK approves courses and examinations to be taken locally when we have over five or seven universities in this country. Why do we have to get our examinations approved in the UK 50 years after Independence?

Prof. Muigai: Mr. Speaker, Sir, the simple answer is that the qualifications awarded by this institute are qualifications of the UK institute. I think it is true of many other professions, including in accountancy, law, engineering and architecture, you can be a locally trained professional who may choose to take a foreign certified qualification. Unfortunately, you have to take that examination as it is set by the mother institution. What I think the hon. Member, however, has alluded to which is very significant and my office would like to work with him and other like-minded people in the future, is that we ought to develop a local competent certification board of our own. We can do that with our regional partners in the community. I will take up that challenge.

Mr. Chanzu: Mr. Speaker, Sir, I was just going to ask the same last part of it, but also to say that I am proud to be an associate of the CI Arb for quite some time. However, I would like the Attorney-General to be specific on when he can make the ground suitable because what he has referred to like the legal profession or accounts, we have the ACC and then we have our local bodies. What are the timelines to make it necessary for this to be achieved, so that we can have the local examination body here for those who want to do it here and those who want to be accredited internationally can continue having what is going on now?

Prof. Muigai: Mr. Speaker, Sir, I accept the challenge and when we are debating the Nairobi International Arbitration Centre, among the other considerations, we will have in the Legal Committee and elsewhere we will debate the Bill is whether we need to amend the Arbitration Act itself and provide within it a certification mechanism for mediators or arbitrators, so that we obviate for locals to take a foreign qualification in order to be recognized as professionals in this area.

Mr. Olago: Mr. Speaker, Sir, I want to thank Mr. Mwaita for bringing up this issue about arbitration and reconciliation and thank the Attorney-General for a very well researched answer to this Question and for recognizing himself, you and me as premier members of this Society. It must have been noticed by hon. Members that those who are properly qualified and experienced in arbitration approach the issues of conflict with level-headedness. It is a course that I would recommend for all Members of this House. This is because if we do that, then we would be able to resolve some of these conflicts that we have between regions and constituencies. Therefore, in those circumstances for the sake of Mr. Mwaita and those who might wish to know, when is the ground going to be open for any Member of this House who may wish to apply for examinations to be members of the Kenya Chapter of the CI Arb?

Prof. Muigai: Mr. Speaker, Sir, as a matter of fact, a majority of members of the CI Arb of Kenya are not lawyers. I think quantity surveyors and architects predominate the institute. I have found in my own experience, they make very good arbitrators because they are methodical, purposeful and they work with deadlines which cannot always be said of the honourable profession of lawyers. We will open a dialogue with the institute along the line suggested by the hon. Member and I hope to return with a confirmation by the institute before the House breaks.

Mr. Mwaita: Mr. Speaker, Sir, I have no further question.

Mr. Speaker: Very well! Well done, Mr. Attorney-General; you did well.

Question No.1465

NUMBER OF INSPECTORS OF SCHOOLS IN MOMBASA COUNTY

Mr. Yakub asked the Minister for Education:-

(a) how many public schools are in Mombasa County and how many inspectors of schools are in the county; and,

(b) when the Minister will increase the number of the inspectors in the county.

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

(a) There are 32 public secondary schools and 92 public primary schools in Mombasa County. There are six quality assurance and standards officers in the county.

(b) The Ministry is working in a new structure starting for quality assurance and standards officers who will be deployed to these positions once the structures are approved and recruitment done subject to availability of funds.

Mr. Yakub: Mr. Speaker, Sir, the Assistant Minister says there are 124 public schools and six quality assurance and standard officers in Mombasa County. This is one of the reasons for poor performance by public schools in that country. Could he tell us when the last officer was employed among the six whom he has just mentioned?

Prof. Olweny: Mr. Speaker, Sir, I do not have that information with me. The hon. Member wanted to know the number of officers we have in the county. With regard to when they were employed or deployed, I need to consult further to get the personal files and know the data.

Mr. I. Muoki: Mr. Speaker, Sir, I remember about two years ago, I asked a similar Question about increment of zonal and quality assurance officers and the answer was similar to the one which has been given now. It said that they are working on a structure and once it is ready, they will be able to employ officers and services would improve.

It is even worse in some areas like in my constituency where we have about 200 schools with only six officers. How long will the Minister take to finish this restructuring and employ inspectors of schools because it looks like an excuse so that hon. Members can be satisfied?

Mr. Speaker: Order, hon. Member for Kitui South. You know it is Question Time and we have allowed you some latitude but now you are carrying it too far.

Prof. Olweny: Mr. Speaker, Sir, the structure we have been working on is included in the Education Bill which is currently before this House. Across the country - for the benefit of my colleagues - we have a shortage of officers just like we have a shortage of teachers because of inadequate financial support to hire officers. As a matter of fact, we are supposed to have 1,696 quality assurance officers in the country but currently, we only have 866 for the whole country. We do not have enough money to hire officers.

Mr. Njuguna: Mr. Speaker, Sir, the Assistant Minister has just informed the House that there are six Quality Assurance Officers. How are these six capacitated by the Ministry to reach the 124 schools in that region?

Prof. Olweny: Mr. Speaker, Sir, I did not get the number of vehicles they have but at least each district has a vehicle. But just like other Ministries, we do not have enough vehicles although we try to manage the resources we have and we give them on the ground.

Mr. Yakub: Mr. Speaker, Sir, the Assistant Minister is trying to avoid my earlier question. The purpose was to know about the officer we had received last year. Does the Ministry recognize and employ the nursery teachers who are teaching Early Childhood Education (ECD) so that we could have better education standards in Mombasa? They should have a programme which will recognize and employ the nursery teachers in Mombasa County.

Prof. Olweny: Mr. Speaker, Sir, my wish is to employ ECD teachers because we are mainstreaming ECD in our policy. In the last financial year, we employed ECD teachers because Treasury gave us funds to employ ECD teachers per constituency. This financial year, we have not been given anything. So, there is nothing we can do about it.

Question No.1781

PROVISION OF WATER TO WAMBA
TOWN AND ITS ENVIRONS

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

(a) what plans the Ministry has to supply water to residents of Wamba town and its environs, construct Lorok Onyokie Pan Dam in Lorok Onyokie Sub-location and drill the Koiting borehole in Koiting Sub-location.

(b) when the project will be undertaken and commissioned for use.

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

(a) My Ministry, through the Northern Water Services Board, will rehabilitate the Wamba Water Supply and equip two new boreholes to replace the community borehole. Additional streams will be tapped from the ranch to boost the Wamba Water Supply. This would add the water supply to 168 cubic metres per day. The project is funded by the World Bank and the Water Supply and Sanitation Improvement Project where Kshs36,500,000 has been earmarked for the works. The project is at a tender stage and would be implemented in the current financial year, 2012/2013.

My Ministry, through the Northern Water Service Board, has designed the Lerok/Onyokie Pan Dam with a capacity of 10,000 cubic metres which would cost Kshs16,000,000 which will also be implemented during this current financial year. This would serve the residents of Koting Sub-location and my Ministry through the National Water Conservation and Pipeline Corporation would also equip the borehole at a cost of Kshs6,000,000 in the current financial year.

(b) The above project would be completed and commissioned this financial year.

Mr. Letimalo: Mr. Speaker, Sir, I want to thank the Minister for that answer. My only concern is about Wamba Water Supply. I have had the opportunity to look at the design in the Minister's office and the position is that the current water production is 138 cubic metres of water per day and yet the demand is 1,004 cubic metres per day. Now, will Kshs36.5 million be sufficient to meet the demand for water in Wamba Town?

Mrs. Ngilu: Mr. Speaker, Sir, it is true that the current water supply for Wamba is way below what it should be providing. We are in the process of designing a bigger water programme and project for Wamba Town. In fact, I had the opportunity to visit the place with the hon. Member and these are the plans that we have already put in place in the Ministry. So, I will have just to ensure that this is done a little faster so that the Wamba community can get safe drinking water.

Mr. Speaker: Last Question, Mr. Letimalo.

Mr. Letimalo: Mr. Speaker, Sir, now that this project has been earmarked for implementation this financial year, is she able to state when exactly the project will take off?

Mrs. Ngilu: Mr. Speaker, Sir, since the resources are already available, it is possible to put a lot more pressure on our engineers and the people who are supposed to be implementing it so that it is done a little faster. It should be completed even before the end of the financial year.

Mr. Speaker: Next Question, Member for Ikolomani!

Question No.1798

NON-ISSUANCE OF FIREARM CERTIFICATE TO
MR. MICHAEL O. OLE KIRUSUA

The Member for Ikolomani is not in? The Question is dropped.

(Question dropped)

Question No.1767

COMPENSATION FOR FAMILY OF LATE PATRICK NJAU

Mr. Gitari asked the Minister for Medical Services:

(a) whether he is aware that Mr. Patrick Njau was taken to Kerugoya District Hospital complaining of severe headache on 29th July, 2012;

(b) whether he is further aware that his condition worsened on 30th July when the family was asked to pay Kshs3,500 for his transport to Mathari Medical Institute for a head scan but later passed away on the same day before transfer to the medical institute; and,

(c) what action he is taking against the management of the hospital to avoid a recurrence of similar incident and if he could consider compensating the bereaved family for negligence by the hospital management.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I beg to answer.

(a) I am aware that Patrick Njau Murugo aged 49 years from Getua Village, Marua, was admitted to Kerugoya District Hospital on 30th July, 2012 at 2.10 a.m., with complaints of headache, fever and a swollen left hand.

(b) I am also aware that his condition worsened later that day and after review by a physician, a CT scan was ordered but the patient died before the procedure could be done.

(c) No action is being taken against the hospital management neither is it necessary to compensate the bereaved family as the death was not as a result of negligence.

Mr. Gitari: Thank you, Mr. Speaker, Sir. Allow me to thank the Minister for the brief answer. However, I would like him to confirm to this House whether the relatives of the deceased like Pastor Gathira were told by the management of the hospital to make sure that they pay Kshs10,000 to arrange for the deceased - before he died - to be transferred to Mathare Hospital before 3.30 a.m. However, by 3.00 a.m. when they were making a follow up, they found

out that he had not been transferred and they were told that they would do it the following day because it was late. Does the Minister not see negligence in his officers?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I am not aware of the conversation between the relatives and the hospital officers in that regard. What I know is that the patient died as a result of suspected contamination by anthrax. He was reported to have slaughtered a dead animal one week before admission and the symptoms leading to his death were very good indication that the possibility of an anthrax infection could not be ruled out. After that, the conversation that led to the relatives believing that he could be transferred to Nairobi was overtaken by events because he died before anything could be done to that effect.

Eng. Gumbo: Mr. Speaker, Sir, the issue of patients dying in the hands of doctors and nurses as a result of negligence is a worrying concern. The Minister knows that I have been having two running cases regarding Kenyatta National Hospital (KNH) where, clearly, some amount of negligence is evident from the way the patients were handled and yet no action, apparently, has been taken. Could the Minister confirm or deny that the attitude of people at his Ministry is making many Kenyans die because doctors know that whether they kill people or not, no action will be taken against them?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, it is neither the tradition nor the practice of doctors to kill. It is the training and commitment of medical professionals to save life. However, we should know that it is God who gives life in the final analysis. Where there are cases of suspicion of negligence, there is proper procedure followed in the Ministry to the effect that the Medical Practitioners and Dentists Board receives reports from such health facilities. The Board meticulously follows such reports and hearings are heard to ensure that those who accuse health facilities of negligence are properly attended to. The process of reviewing such cases must be meticulous and sometimes take a long time. However, this is because both parties must be listened to; first, the health professionals being put under question and secondly---

Eng. Gumbo: On a point of order, Mr. Speaker, Sir. The Minister should realize that some of these questions are very personal to us because they involve negligent killing of relatives. How can he say that the Board is meticulous when he knows that for two years, I have raised the case of my brother with him and the Board has not even contacted me? These cases are personal and the Minister cannot come here and invoke the name of God when the doctors are negligent.

Mr. Speaker: Order, the Member for Rarieda! I know that you are fairly passionate about that. It is a valid point of order except the method you have adopted to prosecute it. However, the Minister has got the gist that he is misleading the House when, in fact, the Member for Rarieda has a live case which fits that category of professional negligence. He has cited it to you.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the substantive Question I am answering is from Kerugoya. However, if, indeed, the hon. Member wants to bring a substantive Question regarding his case, I can answer it after receiving relevant documentation from the Medical Practitioners and Dentists Board. I would not like to answer a question on guess work. I have told you and the House that---

Mr. Speaker: Order, Mr. Minister! The way you are going about your answer does not fit within our practice and rules. The Member for Rarieda raised a valid point of order; whether or not you are in order to mislead the House that this case does not amount to professional negligence, whereas there is a case he cited of his brother in which the facts are almost similar and it amounted to professional negligence. So, Mr. Minister, your answer would simply have

been, from what you have said that you are not aware unless a specific Question is brought. The rest of the story you are telling is unnecessary.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I thought I was being helpful but if, indeed, I am not being helpful, then I am not aware.

Eng. Gumbo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, the Member for Rarieda! You will not speak to me from your sitting position but I will give you an opportunity to raise your point of order. Tread carefully!

Eng. Gumbo: Mr. Speaker, Sir, is the Minister in order to say that he is not aware of that case when I have written to him more than four letters? This is a---

Mr. Speaker: Order, the Member for Rarieda! The Minister is in order to say that he is not aware. You cannot force the Minister to give the answer that you want or the response that you want. If you want to challenge the Minister, then table those letters that you have written to him. That is the only way I can moderate in a situation like this or even the Members of the House can be aware that the Minister is misleading the House. Do you have those letters?

Eng. Gumbo: Mr. Speaker, Sir, can you give me up to tomorrow morning to bring those letters here?

Mr. Speaker: Fair enough! I will. We can let this Question reappear on the Order Paper on Tuesday and we want you to come with those letters.

Mr. Koech: Mr. Speaker, Sir, most of our medical practitioners are doing a good job in this country, but the Minister should be aware that there could be some errant ones. When a Question like this one is raised, what the Minister does is to ask the same personnel to give him answers.

Mr. Waziri, what other avenues do you use to get information so that you are able to guide and correct mistakes where they occur?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the only avenue I can use is the health professionals themselves; the Questions asked are specific to specific health institutions where health services are delivered. It will be unprofessional, on my part, to seek information from any other person other than from the medical practitioner, who performed either an operation or was involved in a case. It will be hearsay to involve other parties who are not professionally qualified to deal with life.

Mr. Gitari: Mr. Speaker, Sir, looking at the answer the Minister has given, I wanted to ask whether he can accompany me to Kerugoya where the incident happened to get the fact that these people were asked to pay and they paid by 1.30 a.m. They were promised that the patient was to be transferred to Mathari Hospital by 3.00 a.m. But at 3.30 a.m., they were told that it was a bit late for them to transport the patient and that patient died that same day. Could the Minister accompany me to Kerugoya to get these facts on the spot?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, yes, the relatives made a request for the patient to be taken to either Mathari Mental Hospital or Nyeri Provincial General Hospital for a CT scan. But by the time the relatives were ready for the patient to be taken for a CT scan, he was unstable and could not be transported to these places for a CT scan. It would have been professional negligence to transport a patient over that distance; he was already too unstable to be transported from one facility to another. It was unfortunate that the patient died, but he was already in such a condition that he could not be transported from one facility to another. Those are the facts as they are.

Mr. Speaker: Order, Minister ! I am satisfied, Member for Kirinyaga Central, that this Question is adequately answered; all the requisite ventilation has been permitted, as indeed, it

should. But I will defer the Question to 10 days away from today for the Member for Rarieda to table his documents; that is the only aspect of the Question that you may have to deal with, namely the point of order raised by the Member for Rarieda; however relevant it will be, Minister, it will be up to you to determine how best you will want to deal with it.

(Question deferred)

Question No.1827

GOVERNMENT EXPENDITURE ON
SIMBARA-KAMATONGU WATER PROJECT

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

(a) how much money has been allocated to Simbara-Kamatongu Water Project since 2002;

(b) whether she could indicate the specific activities the money was intended for; and,

(c) whether these activities have been carried out efficiently and effectively by the people implementing the project.

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

(a) My Ministry together with International Fund for Agricultural Development (IFAD) allocated and spent Kshs19,276,530 in the implementation of Simbara- Kamatongu Water Project since 2002.

(b) The specific activities the money was intended for included construction of intake, procurement of pipes and fittings, both GI and UPVC, construction of storage pressure tanks, construction of anchor blocks, pillars, valve chambers, thrust blocks and also repair of pipelines.

(c) Certainly, it could have been better but due to poor community participation in the project not all the activities were carried out as efficiently and effectively by the people implementing the project as would have been expected. However, my Ministry, through the District Water Office, has carried forensic audit of the remaining works which will now be completed within this financial year. Already funds have been set aside for this purpose.

Mr. Warugongo: Mr. Speaker, Sir, let me thank the Minister for coming up with such a good answer but I have one question. Could she in future channel money intended for water projects through the MP's office? As we have all heard, there must be some money which has been misused?

Mrs. Ngilu: Mr. Speaker, Sir, the only Exchequer funds that are channeled through Members of Parliament office is the Constituency Development Fund (CDF). Since we do not have a policy to channel funds through Members of Parliament offices, we will continue using the channels that we have been using until things are changed by this House.

Mr. Warugongo: Mr. Speaker, Sir, I want the Minister to tell us exactly when the works for this project will resume.

Mrs. Ngilu: Mr. Speaker, Sir, the works will resume immediately, and we will make sure that they are completed soon. I know Kieni is a water scarce constituency, and I would ensure that the work is done expeditiously.

Question No.1832

CONSTRUCTION OF KAVISUNI-MALIKU-MBITINI ROAD

Mr. Nyamai asked the Minister for Roads:-

- (a) whether he is aware that there is no road connecting Lower Yatta, Kisasi and Mbitini districts,
- (b) what plans the Ministry has to construct a road from Kavisuni and Maliku to Mbitini through Kisasi; and,
- (c) when the Ministry will construct a bridge to link Kawongo in Lower Yatta to Maliku in Kisasi District.

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

(a) I am not aware that there is no road connecting Lower Yatta, Kisasi and Mbitini districts because I think there is a connection.

(b) My Ministry will consider construction of a road from Kavisuni and Maliku to Mbitini through Kisasi as maybe prioritized by the Constituency Roads Committee in their work plan.

(c) My Ministry has undertaken a structures inventory for construction and rehabilitation works within this region and the estimated cost to construct a drift to link Kawongo in Lower Yatta, to Maliku in Kisasi is Kshs15 million. I want to inform the Member that Kitui West Constituency Roads Committee should prioritize this drift for funding.

Mr. Nyamai: Mr. Speaker, Sir, I seek your indulgence just to say one word before I ask the specific question.

Mr. Speaker: If you do not overdo it, yes I would permit it, otherwise, no.

Mr. Nyamai: Mr. Speaker, Sir, the roads I am talking about are roads connecting two districts; one district was formerly Lower Yatta, but which is in Kitui West, and the other district is in Kisasi, which is in Kitui Central. These places have been combined to make Kitui Rural Constituency. So, as we discuss this, please, note that there is currently no Constituency Roads Committee which can do what he wants to do.

Nevertheless, I would like to ask him, in view of the fact that communication was one of the considerations which were taken into account when the new constituencies were being created, and there are no roads linking these two districts, what his Ministry's plan is to construct main roads to connect the two districts, so that the constituency residents can communicate?

Mr. Bett: Mr. Speaker, Sir, yes, I agree that one consideration in devolution is road connectivity because it is important for delivery of farm produce and other items from the main industrial sector to the farms.

I also agree with the hon. Member when he says that the CRC money available may not be able to do that construction. I am simply asking the hon. Member to place that particular road in the work plan at CRC so that we may pick it up from there to give additional funding from a relevant source in the Ministry. Otherwise, we cannot look at it until they prioritize it themselves.

Mr. Speaker, Sir, I am also aware that there are some roads which are linking up this area like Road E720 from Kavisuini Lower Yatta District through Kawagongo to Mandongoi E511 which is 28 kilometres. There is also another road D511 connecting Mandongoi to Kavisuini which is two kilometres. There is also another road which is Road D732 connecting Kavisuini D511 to Kisasi District headquarters which is 20 kilometres. The only difficulty I see is the issue of CRC funding and I share the hon. Member's view regarding that. I would want him to prioritize at least one of the roads and we sit together to see how we can fund that road.

Mr. I. Muoki: Mr. Speaker, Sir, this constituency is actually formed by three districts. So, in effect, there were no roads interlinking it. Between the Lower Yatta and the other two districts, there is Thiba River which is actually a bigger river with a very big span. Could the Minister ask the Regional Manager the possibility of opening that area, so that he can use his special funds to do so because none of the CRCs can handle the opening of that constituency?

Mr. Bett: Mr. Speaker, Sir, I will do that but I would want the CRC in that constituency to prioritize this particular road and bridge in their work plan. It is out of the workplan that they submit to us after prioritizing that we will work on it.

Mr. Nyamai: Mr. Speaker, Sir, I want to thank the Minister for his willingness to assist. In view of the fact that the CRCs have already submitted their workplans for next year to the Ministry and these roads were not considered, how do you want us to do it? What kind of framework do you have in mind?

Mr. Bett: Mr. Speaker, Sir, I am available for amendment of the workplan. So, if any hon. Member has submitted to us a workplan for next year and they would wish the same to be amended for this reason or the other, I want to say we are available for such amendments.

Question No.1834

KILLING/MAIMING OF KURESOI FARMERS'
DONKEYS BY KFS GUARDS

Mr. Cheruiyot asked the Minister for Forestry and Wildlife:-

(a) whether he is aware that guards from the Kenya Forest Service have shot, maimed and killed more than 17 donkeys belonging to farmers in Kuresoi from December, 2011, to July 2012,

(b) under what circumstances the above actions were undertaken; and,

(c) what action the Government has taken against the concerned officers and whether he could consider compensating the affected farmers.

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Speaker, Sir, after signing this answer, I have received information from the ground which suggests that there is need for us to do more investigation. Therefore, the House should allow me one week to get more information regarding this Question because the answer is very unsatisfactory. I have discussed this with the Member for Kuresoi and I think we concur.

Mr. Speaker: Member for Kuresoi can you confirm your concurrence?

Mr. Cheruiyot: Mr. Speaker, Sir, indeed, I have consulted and I see signs of the donkey curse in the answer. I agree the Minister can give us a better answer.

Mr. Speaker: Very well! In those circumstances, the Question is deferred to Wednesday next week.

(Question deferred)

Hon. Members, that brings us to the end of Order No.6.
Next Order!

MINISTERIAL STATEMENT

RECENT ATTACKS ON SECURITY OFFICERS
IN SAMBURU NORTH DISTRICT

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, I wish to make a Ministerial Statement on the recent attacks on security officers in Samburu North District which occurred on 10th November, 2012.

From the onset, may I inform this august House that Samburu County is dominated by pastoralists who unfortunately have been involved in a long standing and complex pattern of raids and counter-raids.

The recent development arose from the chronology of the following events: On 19th October, 2012, suspected Turkana raiders attacked a Samburu Manyatta in Samburu North District and stole about 5,000 herds of cattle. Security officers who were pursuing the stolen animals encountered bandits two days later at Lomerok area where a fierce exchange of fire ensued forcing the security officers to withdraw to seek reinforcement. This prompted the local leaders led by the Samburu County Commissioner to initiate dialogue between the two communities with a view to recovering the stolen animals peacefully.

Unfortunately, by 9th November, 2012, only 44 animals had been surrendered by the Turkana leaders through reconciliation. The Samburus accepted 36 animals and declined eight on account that they were too weak. On 29th October, 2012, Samburu morans in an attempt to recover the remaining animals raided Lomerok Village and made away with 19 camels.

The District Security and Intelligence Committee was not aware of this raid. Unfortunately, 12 Samburu morans were killed by the Turkana bandits. Consequently, on 10th November, 2012, the Provincial Security and Intelligence Committee, Rift Valley and the Samburu North District Security Intelligence Committee mounted a security operation comprising of 108 security officers and 49 Kenya police reservists to recover the stolen animals.

Unknown to the security officers, this information leaked and they were ambushed by bandits at around 8.00 a.m. at Lomerok area, Nachola Location of Samburu North District. During the incident, 28 police officers and eight Kenya police reservists were shot dead while 13 police officers and five police reservists sustained gunshot wounds.

The injured were flown to Nairobi on Sunday, 11th November, 2012 for treatment at the Kenyatta National Hospital and they are in a stable condition. However, one police officer is still missing and the search for him is still ongoing. The bandits also took away certified firearms.

On Sunday, 11th November, 2012, my Permanent Secretary in the Ministry of State for Provincial Administration and Internal Security held a meeting with the heads of security agencies and took the following action:-

1. Dispatched additional aircraft to locate the bandits and assist in the rescue efforts.
2. Mobilized additional 600 security officers who are currently undertaking the operation.
3. Mounted a disarmament operation in the area to mop up illegal firearms.
4. Advised the Rift Valley Provincial Security Intelligence Committee to relocate from the Provincial Headquarters to the ground for proper coordination of the operation.

Mr. Speaker, Sir, again, on 12th November, 2012, I convened a meeting with leaders from the two communities to address the matter and he agreed to advocate for peace and reconciliation. I will hold another meeting again for leaders of the same community tomorrow with respect to peace and reconciliation activities.

I later issued a Press statement to inform the public on the Government effort to restore peace and security in the area and called upon the leaders to preach peace as well. On Tuesday

13th November, 2012, His Excellency the President chaired the National Security Council meeting which directed as follows:-

1. That all security organs to liaise closely in restoring peace and security in the area. In this connection, the Council authorized the Kenya Defence Forces to be deployed in Samburu County and other areas alongside the Kenya Police Reservists, to assist the police in apprehending the bandits and recovering the stolen animals and arms. This was pursuant to Article 241(3) (b) of the Constitution which states that the Defence Forces shall assist and cooperate with other authorities in the situation of emergency or disaster and report to the National Assembly whenever deployed in such circumstances. So far, from the Military, we have only utilized aerial surveillance, comprising two helicopters.

2. Peace, reconciliation and disarmament exercise in all the affected areas countrywide be fast-tracked.

3. As a long-term measure, a military unit be established in Suguta Valley to deter the use of the valley by the bandits as a safe haven.

Mr. Speaker, Sir, the following also have been arrested and arraigned in court---

Mr. Midiwo: On a point of order, Mr. Speaker, Sir. I rise on a point of order to bring to your attention a matter which I think is of grave national importance, which has been alluded to by the Minister of State for Provincial Administration and Internal Security. I think this matter will have a bearing on how this country wishes to implement this Constitution.

Mr. Speaker, Sir, the Minister has alluded to the fact that the National Security Council, using the provisions of the Constitution, particular Article 243(3)(b), which says that the Military can be used in times of emergency and disaster to aid other Government departments during such calamities or disasters. It is important for you to guide this nation. Was what happened in Baragoi a disaster of the nature alluded to in the Constitution or is the article which was relevant to that the one that follows which says that the Military can be used to restore peace only with the approval of Parliament? It is very important because I see nowhere in the Constitution where the military can go on combat internally without the approval of this Parliament. The Minister has even confirmed that the Military was there offering aerial support, which is combat. It is important and imperative that you make a ruling, because what has just happened in Baragoi and Garissa for that matter, opens a window where any rogue individual will get the military to the streets to fight helpless Kenyans. It is important and crucial because I think it is against the United Nations (UN) Convention for any country to use the Military on its own people. I seek your guidance before the Minister continues with this Statement. I think this Statement is based on wrong interpretation of the Constitution or it is meant to clean a wrong or it is meant to open a window where the military will be used, including the time of elections wherever there are skirmishes, to stop Kenyans from electing their leaders. I say this because of the experiences of 2007 and looking forward to 4th March, 2013. I say this also because word is in the air that there are a few people in this country who say that change shall not come in this country. They are saying: "Hook or crooks, even if it means bullets."

Mr. Speaker, Sir, you must guide this country.

Mr. Speaker: Fair enough, the Member for Gem. You are also our Chief Parliamentary Whip. I will be prepared to give directions, but first, by slip of the tongue, I think you have used a word that I will want you to withdraw, so that we expunge it from the record. You have said: "By hook or"--- You said something else there. I want you to withdraw the word that preceded "hook."

Mr. Midiwo: Mr. Speaker, Sir, I withdraw it!

Mr. Speaker: So, I direct that the word be expunged forthwith from the record. We will leave “hook or crook.” Thank you, the Member for Gem for that understanding.

Hon. Members, I understand the concern by the Member for Gem. Indeed, it raises very serious issues. I will certainly want to give directions on that matter. At the moment, I will not want to take further contribution on that aspect. I will, obviously, want to give directions on that matter, but, the Member for Gem, our practice is such that if a Minister wishes to give a Ministerial Statement, he or she is at liberty to do so. But as to whether or not he can use that Ministerial Statement to justify breach of the Constitution is an important matter on which I will give directions as, indeed, I am under duty to do.

(Applause)

In the meantime, Mr. Minister, you may proceed, but I am concerned over your use of the word “deployed” because you have used it not very long, before the intervention by the Member for Gem. I want you to be clear. Are you saying that the Army was deployed? You must be very specific.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, I want to make it very clear that the Army was not deployed. As I speak---

Mr. Speaker: Order, Mr. Minister! In that case, are you withdrawing the word “deploy” because I heard you clearly from where I sit?

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, the Army was just asked to assist and cooperate with the police. The Council just authorized that the Defence Forces help and assist the Police in that operation. The only assistance they have given is the aerial surveillance. Only two choppers are in Samburu County with pilots who are military officers. There are no other military personnel in Samburu County.

Mr. Speaker: Mr. Minister, I will want you to carry on and conclude your Statement and I will allow interventions. I will give directions after those interventions to which you will be expected to respond.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, I am just concluding.

The following arrests have been made, one councillor, two chiefs, two assistant chiefs, two teachers and two Kenya Police Reservists (KPRs).

Lastly, I wish to take this opportunity to assure Kenyans that the security agencies, with the help of the military aerial surveillance, are doing everything possible to arrest the bandits and have them arraigned in a court of law and recover the Government firearms. This operation is targeting criminals and not innocent citizens or a particular community. Thus, the members of the public should volunteer information on the perpetrators, financiers of rustling and persons illegally holding firearms.

Mr. Speaker: Hon. Members, I will allow some interventions in this matter. Because of the gravity of it, we may have to go beyond the standard five, but we will do so in batches of five. We want to begin with the Member for Ndhiwa. Minister, please take notes and follow very carefully.

Mr. Oyugi: Mr. Speaker, Sir, looking at the ages of the young police officers who died, most of them were under 25 years of age. Why would you deploy or send such young

inexperienced police officers to a terrible rugged terrain such as the Suguta Valley? These were young boys who did not have a lot of experience in terms of dealing with cattle rustling and the complex security issues of that particular region.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I thank the Minister for the comprehensive response. He has indicated that they are not targeting any ethnic community. Could he give the ethnicity of the persons who have been arrested if there is no ethnic profiling?

Mr. Njuguna: Mr. Speaker, Sir, let me start by sending condolences to the two families whose bread earners perished in this incident. Could the Minister inform the House what help the Government is extending to the affected families, so that they can bury their loved ones?

Mr. Keynan: Mr. Speaker, Sir, I want to thank the Minister for the comprehensive Statement. It seems we are just dealing with the symptoms of the insecurity crisis in the Republic of Kenya. I do not want to go to the merits and the demerits of the deployment. I would have asked the Minister, first of all, to avail copies of his written Statement, because that is what we would have believed in, but since you assisted, I do not want to take that route. This country has different security sectors and the KDF is one component. We have the police and within the police we have the GSU, the Rapid Response Unit, the Kenya Police Reservists, the Administration Police and the Anti-Stock Theft Unit.

What measures has the Government put in place as a result of this sad incident? It is clear that our police officers are demoralized because of the many years of neglect. What are we doing to revamp our Police Force, so that in future we do not resort to the Army, which should be used as a last resort, to do policing activities? What are we doing in terms of equipping the police, raising their morale, re-training them and about their many years' delayed allowances like risk allowances? We know that because we live in this country what has happened has not happened along any Kenyan border, but inside Kenya. What has happened to the intelligence? Was this not known to the intelligence entity in the Republic of Kenya? Why did the Government not detect that there were criminal elements who were out to cause havoc within the communities of Kenya?

Mr. Letimalo: Mr. Speaker, Sir, the Minister has said in his Statement that the raid took place on 19th October, 2012 and it was not until 9th November that security officers were deployed to recover the stolen animals. Why did it take that long before the security personnel pursued the stolen animals? Secondly, the intention of the security operation being carried out is to apprehend the bandits and recover the stolen animals. Could the Minister tell us whether any progress has been made in respect of the recovery of the stolen animals and equipment?

Mr. Speaker: Minister, will you make your responses to that set and we will take the next one?

The Minister for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, I want to start with hon. Oyugi's concern. He asked why the officers who were less than 25 years old and inexperienced were deployed. There will be a recruitment exercise for police officers tomorrow across the whole country and everybody has seen that the minimum age requirement is 18 years. I believe that the 25 year old officers have met the requisite age to join the police service. Secondly, in terms of experience, it takes the police 15 months to undergo the training. I want to assure this House that it was not the experience which was lacking. I want to give an example here. We had a similar problem in Tana River. The police officers who had just graduated--- After the official pass out, they headed to Tana River. They were 1,600. From that day, no life was lost and no attack was made again in Tana River. That tells you that it is not a must for you to be experienced to go for your duties. It is just that the

terrain was terrible in Suguta Valley or Baragoi; two, there was an ambush on these officers. It was a trap. It is very difficult, however experienced you are, to get out of an ambush.

Hon. Odhiambo-Mabona talked about the ethnicity of those who have been taken to court and charged. First of all, I have said that it is not one community which is being targeted; I am very sincere and I mean it. It is good to note that the Baragoi problem is happening within one constituency, namely Samburu West Constituency. Samburu North District is within the Samburu West Constituency. The area is inhabited mostly by the Turkanas and the Samburus, who are all pastoralists. When giving my Statement, I said that there have been raids and counter-raids by both sides. It is a historical thing and that is why I will agree with one Member who asked how we can deal with this problem once and for all. It is not one community that is targeted. This incident is happening when the Turkanas had raided the Samburus. Otherwise, a month or two months ago, there were raids from both sides. It is in public domain that all along, the Samburus raid the Turkanas and the Turkanas raid the Samburus. I can assure the Member and the House at large that no community is being targeted.

Hon. Njuguna has asked what help the Government is giving to the families of the deceased officers. First of all, it may need a long-term plan for us to do something for our police officers in terms of long-term insurance cover and benefits. In this case, we have assisted the families in burial expenses. We also provided each family with Kshs50,000 after the burial. That is not enough, but it just came out administratively because there is not much that has been done for the police in terms of insurance cover and other benefits to their families.

Mr. Speaker, Sir, this brings us to what hon. Keynan was asking; the long term plan for our police. I think this lies in the full implementation of the Ransley Report that has recommended a lot for both the security agencies in terms of enhancing our security and also enhancing their welfare. The implementation of the Ransley Report requires a lot of money and I am happy this Parliament now has the role of making the budget. I presented this yesterday to the Departmental Committee on Administration and National Security. The Ransley Report recommended that the police must be provided with enough vehicles and those which are there must be maintained well. They need to be provided with aircraft that can maneuver many areas, specialized fighting equipment, enhanced training and salaries, housing and other welfare issues. Those are some of the things that the Ransley Report indicated that might help in assisting our police officers.

Mr. Speaker, Sir, hon. Letimalo asked why it has taken a long time since 19th October to 9th September when this operation was launched. I want to say that it has taken long because this is a historical thing that happens from both sides of the communities and where traditional mechanisms of peace and reconciliation have been used in the past. So, in that duration; from 19th October to 9th September, the leaders agreed to return those stolen livestock through traditional peaceful mechanisms. In that way, 44 of them were returned. That is why we have taken a long time. On whether we will recover these livestock and the progress made so far, I want to say that at the moment, none of them has been recovered but we are hopeful that we will recover them.

Thank you.

Mr. Speaker: We will take the next five beginning with hon. Ethuro.

Mr. Ethuro: Thank you, Mr. Speaker, Sir. First, I want to thank the Minister with a heavy heart for attempting to come to this House and explain certain things. However, you realize he was trying to edit his own report and this is the problem when we do not have hard

copies of the statement. If you look at the Constitution, Article 240, the council which orders the deployment of the military it is stated that:-

“The Council shall report annually to Parliament on the state of the security of Kenya.”

Mr. Speaker, Sir, this Constitution was promulgated in August 2010. From August 2011 it is one year. August 2012 is another two years. Is this submission part of the annual report to the House or is it just brought by the fact that they have done atrocities to the Kenyan people? He needs to confirm that.

Mr. Speaker, Sir, I would also like the Minister to confirm his understanding of emergencies and disasters and his understanding that the KDF can only operate under supervision of the civil authority. What were the forces doing in Lodwar Town if they are supposed to assist civil authorities? We did not see those other authorities. However, those are legalities.

My substantive request to the Minister and which he has owned up; there was a raid by the Turkana in Baragoi on a Samburu *manyatta* and before the Government took that operation to Turkana *manyatta*, the Samburus had already raided a Turkana *manyatta*. So, the question we are asking is: Where is the fairness in the operation? If community “A” has raided community “B” and community “B” has raided community “A” and you want to perform an operation, do you target one and leave the other or do you target both of them that are involved? That is what we want the Minister to clarify and also, under what circumstances the security forces could record the attack of the Turkana to the Samburu but they are not aware of the most recent attack which should be fresh in their memory.

Mr. Speaker, Sir, finally in 2010 between 11th October and 11th November, when the attacks took place in Turkana County, there were no helicopters in whatever form. We never saw them. This is where we are seeing discrimination and bias. What informed the Kenya National Security Council to try to protect a particular incident when there were too many incidents that should have been protected?

Thank you.

Mr. Konchella: Mr. Speaker, Sir, what we are seeing in these particular raids and infighting in the country is just a tip of the iceberg on what is going to happen in this country in the future. Unless this country comes up with a marshall plan to address the issue of the youth and trained personnel who are retired or who were fired from the armed forces like the army, navy, air force and the police, so as to create a way by which these people are integrated into society through training and allocating funds for them to start businesses---

The way you look at the fighting, killing and ambush of trained people, it was not done by local Turkanas or Samburus, it was by trained people who have retired because they are idling at home. Nobody identifies them. So, could the Government take some trouble to carry out a census of all retirees and call them and talk to them, counsel them, train them and provide them with revenue so that they are busy? Look at the issue of Eastleigh, for example. We have a lot of youth who have been trained by the *Al Shabaab* in Somalia. Now, they are back here. They are causing havoc because nobody recognizes them.

Mr. Speaker: Order, hon. Konchella! There is a point of order by hon. Kimunya.

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Speaker, Sir. You have heard hon. Konchella allege that the ambush is attributable to retired officers who have served in the various commissions in this country. Is he in order to attribute these heinous acts to officers who have diligently served this country and have retired? Is he in order to actually blame

them for this ambush unless he has any evidence he can table here to show that this ambush was actually conducted by retired officers of the various disciplined forces in this country?

Mr. Speaker: Hon. Konchella, press “intervene”. Make your response, hon. Konchella.

Mr. Konchella: Mr. Speaker, Sir, to respond to hon. Kimunya, I only sympathise that he does not know what he is talking about.

Mr. Speaker: In a nutshell--- Hon. Konchella, please resume your seat for a moment.

(Hon. Konchella resumed his seat)

Hon. Konchella, in a nutshell, hon. Kimunya has asked you to substantiate your assertion if you made that assertion, because I did not hear it in those terms. If your claim was that the insecurity has been caused by retired officers then hon. Kimunya has asked you to substantiate that assertion. Are you able to substantiate?

Mr. Konchella: Mr. Speaker, Sir, I will educate the Minister before I am asked to substantiate. I can advise him that under---

Mr. Speaker: Order, Mr. Konchella! Once again, resume your seat. Is it your contention that the insecurity is being caused by retired officers? Is that your assertion?

Mr. Konchella: Mr. Speaker, Sir, my assertion is that we are not doing something to rehabilitate our retirees and people who have been trained by *Al Shabaab* to integrate them into society.

Mr. Speaker: Order, Mr. Konchella! There is something that we must get clear for the purpose of the record. This is a Parliament of record. Are you, therefore, now saying that you do not agree with Mr. Kimunya who is also the Minister for Transport, that you have claimed insecurity is being caused by retired officers, we want to be clear? If that is your assertion, then applying our Standing Orders, you are under duty to substantiate. If it is not, it is a different matter.

Mr. Konchella: Mr. Speaker, Sir, I am trying to guide the Minister on possible ways of trying to address the problem.

Mr. Speaker: Do not guide the Minister. I have asked you to repeat what you said to the House. Was it your assertion that the insecurity is being caused by retired officers?

Mr. Konchella: My answer is no, Mr. Speaker, Sir.

Mr. Speaker: That was not your assertion?

Mr. Konchella: No, Mr. Speaker, Sir.

Mr. Speaker: Okay; in that case you may proceed.

(Mr. Kimunya consulted loudly)

Mr. Konchella: Mr. Speaker, Sir, I am addressing the Minister of State for Provincial Administration and Internal Security, not the Minister for *matatus*. So let me just address the Minister of State for Provincial Administration and Internal Security.

Mr. Speaker: Order, Mr. Konchella! That part you will have to withdraw. Please, concentrate on your core business which is to interrogate the Minister of State for Provincial Administration and Internal Security. Will you please withdraw “the Minister for *matatus*”? I do not think that is relevant. Withdraw and apologise.

(Laughter)

Mr. Konchella: I withdraw and apologize to my friend and former Secretary-General.

Mr. Speaker, Sir, my point here is that I would like the Government to be serious on what I am saying because we are creating a big problem for this country, if we do not address the issue of our youngsters who are leaving the services fully trained on how to use firearms and on maneuvers in the battle field. We need to rehabilitate them into society so that this country can be safe. I see myself as somebody who is properly trained.

Mr. Speaker: Fair enough; we will take Mr. Midiwo.

Mr. Midiwo: Mr. Speaker, Sir, as I await your directions on the other matter, I wish to seek clarification from the Minister over this issue because in the media and in public domain, it has been explained that a meeting to plan this raid was done by the district security committee. The media goes further to say that chiefs were invited to that meeting. My clarification that I would like to get from the Minister---

Mr. Speaker: Order, Mr. Midiwo! Before you proceed, what media are you quoting bearing in mind the provisions of the Standing Orders?

Mr. Midiwo: Mr. Speaker, Sir, I saw specifically on *Citizen TV* yesterday morning and as they said the meeting which decided this raid--- It was *Citizen TV*, Mr. Mutegi Njau in particular.

Mr. Speaker: Then you may proceed, I am satisfied.

Mr. Midiwo: Mr. Speaker, Sir, in this meeting, chiefs were called to listen to the planning of this meeting. Why did somebody not think that the chiefs would go and warn the Turkanas on the impending raid and the revelation that there was a plan? Why would the Government go to a heavily militarized area with recruits? If it was planned, why did they not get enough firepower to protect their own lives? Why do it with reservists, first of all? Why do it with only one senior officer? Could it also be confirmed, therefore, that somebody was setting up this massacre to happen? The chiefs knew they would go back and warn people to get ready and that they did not send enough troops as per rules of any combat.

Mr. Duale: Mr. Speaker, Sir, on the outset, I want to ask you and Parliament to rise to the occasion on the massacre that has taken place in Garissa. Parliament has an oversight role. I want you to listen to the death, destruction and cries. As I speak here, the chief of Modika has died; a staff of the Minister of State for Provincial Administration and Internal Security was killed by the Kenya Defence Forces (KDF) under his own colleague, Mr. Haji. I want you to live to that expectation. I want him to clarify to the nation---

Mr. Speaker: Order, Mr. Duale! That part where you are naming Mr. Haji, I am afraid, that you have to withdraw and apologize because it cannot stand the test of the Standing Orders.

Mr. Duale: Mr. Speaker, Sir, I want to withdraw and apologize, but I will rephrase it that the chief of Modika died one hour ago from gunshots, a chief who is a staff of the Minister of State for Provincial Administration and Internal Security was killed by the KDF who are under the Minister of State for Defence and the Commander-in-Chief of the Armed Forces of the Republic of Kenya. I want the Minister to confirm to the nation---

Mr. Speaker: Order, Mr. Duale! You know the Standing Orders that I have drawn your attention to say that you cannot impute an improper motive on a Member of the House unless you bring a substantive Motion. That is where I was. So when you say you name Mr. Haji as being in charge of an operation that resulted in the death of a chief or you turn it round and say Minister of State for Defence, obviously, it does not make the difference. So withdraw that part, apologize and proceed. Address what is relevant now; what is on the Floor much as you have my sympathy as a Kenyan and as a leader in this country. Indeed, I will condone with the family of a

chief if a chief is dead, but do not mix matters. You understand? This is a very sensitive matter. We must address it with sobriety even if it is emotional as it might be. We are the leaders of this country. Proceed.

Mr. Duale: Mr. Speaker, Sir, I apologize and withdraw, but I want it to go on record that the chief of Modika has been killed by the KDF. That is a fact. The Minister of State for Defence went to my constituency, visited the people who were shot by the KDF, the chief being one of them. The matter is bigger than sympathy. The matter is of great national interest. We, as leaders, will not sit down when our own constituents and voters are being butchered. Our towns are being destroyed by the KDF.

Mr. Speaker: Order, Mr. Duale! Emotional as you may be, you must stick to the rules. If you want to discuss Mr. Haji or the Minister of State for Defence, for that matter, bring a substantive Motion and I will allow it.

Mr. Duale: Mr. Speaker, Sir, we will even go further and bring a substantive Motion against the Government of Kenya over the death of our people. I promise you that.

Mr. Speaker: That would be within the rules.

Mr. Duale: Mr. Speaker, Sir, I promise that we will bring a substantive Motion against this Government over the death of our people. I want the Minister of State for Provincial Administration and Internal Security to confirm to the nation that there is a Provincial Security Committee based in Garissa, there is a District Security Committee based in Garissa and the law provides that for any operation to take place, the concurrence of those two committees must be sought. I want the Minister to confirm to the country whether the death, destruction, killing, raping and the looting by the Kenya Defence Forces (KDF) in Garissa was sought from the committee. If so, he should table the minutes.

Mr. Speaker: Fair enough! I will take the hon. Member for Kuresoi as the last one in that group.

Mr. Cheruiyot: Mr. Speaker, Sir, I would like the Minister to tell the House who planned this operation and what his or her state of mind was. Are they normal people to send people to Suguta Valley? We would like to know.

Mr. Speaker: Fair enough! Minister, you will speak to those.

Hon. Members, in view of where we are, we will do another five and that will be it because we have a further Ministerial Statement tomorrow which I think will be issued by the Minister of State for Defence. That is a Statement sought by the hon. Member for Lagdera and it is coming tomorrow afternoon.

Proceed, Mr. Minister!

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, I want to start with Mr. Duale. I want to confirm that it is true that there is the Provincial Security Committee and the District Security Committee. There are also intelligence organs in Garissa. They were not involved in what happened yesterday in Garissa because they were not consulted.

I also want to tie what Mr. Cheruiyot and Mr. Midiwo have said about the raid. I want to say that it was sanctioned by the Provincial Security and Intelligence Committee and the District Security Intelligence Committee for Samburu North. The operation was sanctioned by those committees but what they had in mind was that they were going to recover livestock and not fight. They were not going to fight anybody. In fact, the strategy was that they go early in the morning before livestock is taken for grazing and get them in the *manyatta*. They were not going to kill or fight anybody.

Mr. Konchellah asked about retired officers and I want to say that I do not have any evidence linking our retired security officers, be they from the military or the police. I do not have any evidence linking them to this raid. The most substantive issue is what Mr. Ethuro had asked. First of all, I want to confirm that this is not a report that is supposed to come to this House as earlier asked but I want to agree with him that there should be fairness to all communities. That is very paramount. I fully and totally agree with him that there should be fairness to all these pastoral communities involved in cattle rustling. Surely, two wrongs should not make a right. The issue is so big and it is not only about Baragoi. If we have to get solution to this problem of cattle rustling, we have to go wider and involve all the counties where cattle rustling exists. A lot of literature has been written over this; that it is being done for political or economic reasons and so on. The most important thing is to involve all the counties starting from Isiolo County, Samburu County, Baringo County, West Pokot and Turkana counties.

There is need to totally disarm these communities and also do development for them. For example, in Suguta Valley, there should be a lot of development. Even roads are not there. This is historical. There have been a lot of disarmament activities done before but they have not been very effective. The reason is that these cattle rustling activities go across the border to Ethiopia and Sudan. When you want to disarm then you must disarm from all sides and do it simultaneously. In this particular time, I will seek the concurrence of all the leadership of those areas. Let us do this thing and agree to have them done at the same time.

It may have been bitter this time because actually losing 40 security officers is not an emergency but a disaster for this country. This country had never lost such a big number before.

Mr. Speaker: We will take the last five beginning with the hon. Member for Eldoret North.

Mr. Samoei: Mr. Speaker, Sir, I want to join my colleagues in sending my condolences to the families of citizens including our security personnel who have lost their lives in the last three months.

I appreciate the Minister's position very much. He has mentioned about raids and for a very long time we have had a country where children do not go to school. Many lives have been lost. I was in Suguta about a month and a half ago, at Nachoda, the very place where this happened. There are many children in that region who are not going to school because of cattle rustling and insecurity. There are no teachers in schools and there is no business going on. It is just mayhem. The question I want to ask the Minister and the Government is: When, how and what strategy does the Government have to stop this menace of cattle rustling that is taking this country backwards? When the Minister says casually that "this community is raiding the other or the other village is raiding another village" it looks very casual and looks like business as usual. When is this going to stop being business as usual? Does the Minister sincerely believe that we must rein in the cattle rustlers so that we can allow the children in this area to go to school, citizens to live as the rest of the country and contribute in turning around this economy?

Mr. Speaker, Sir, we vote a lot of money for this Ministry which is responsible for security. What is the Minister doing for Kenyans to get value for that money? What is he doing so that we open up security purchases whether they are hardware or software to competitive bidding so that this country can supervise the use of colossal amounts of money that we put in our security docket that I am afraid we are not getting value for? What is the Minister doing because we keep complaining?

Mr. Speaker: Order, hon. Member for Eldoret North! You also have to stay within the rules. You have used the words “what is the Minister doing” four times. I have allowed latitude but you know you must stay within the rules. You have to avoid being repetitive.

Mr. Samoei: I will, Mr. Speaker, Sir. In the Constitution, Section 240, under the establishment of the National Security Council, the Constitution clearly mandates all security agencies to work in tandem and integrate their activities.

The Minister must begin to think outside the box and ensure that rather than waiting until they carry out an operation when the act has already happened, he should be thinking of how to get all our security personnel, military and policemen included and properly integrated in securing this country. He should not use security agencies to go and beat up innocent citizens when the action has already happened. What has the Minister done to make sure that those security personnel, whether they are the military or the police are integrated in a way that they can multi-task? Whenever we need the services of our military personnel, it should be possible for the Minister, at the slightest of instructions, to mobilize all our security agencies and hardware to protect the citizens of this country. What we are witnessing is unacceptable and it must not be business as usual until we sort this out.

Mr. Minister, what are you doing?

Mr. Speaker: Order, the Member for Eldoret North! Your point is made. Do not belabour it. I want to take the Member for Naivasha.

Mr. Mututho: On a point of order, Mr. Speaker, Sir. I start by condoling all the families and relatives of those who have died in this most unfortunate situation. How long will the Minister of State for Provincial Administration and Internal Security take to embrace technology so that he does not do things the way they were done during the 14th Century, that is following men with horses in a combat situation and take up challenges in technology that will enable him, from the air, to monitor the people who are moving and tracking the animals? How much more money will it take than what he has?

Mr. Kapondi: Mr. Speaker, Sir, I had waited for too long until I decided to switch off my equipment.

Mr. Speaker: If you have switched off your equipment, I will give the chance to another hon. Member.

Mr. Kapondi: Mr. Speaker, Sir, I want to say that cattle rustling is something that has been recurring many times as admitted by the Minister. The objective of the operation is to recover stolen animals and to disarm people. It is quite clear that disarmament has never been successful and it will never be successful in this country. What has the Minister done to address the critical issues that compel these communities to engage in cattle rustling activities which, in this case, are neglect in terms of development?

What has the Minister also done to provide the necessary economic infrastructure on the ground to dissuade these cattle rustlers from engaging in futile and vicious activities that take their communities nowhere and instead engage in productive ventures?

Mr. Speaker: Order, the Member for Mount Elgon! Up to where you are, examining yourself very consciously, how different is your issue from what the Member for Eldoret North raised? Honestly, let us use our time optimally!

Mr. Kapondi: Mr. Speaker, Sir, honestly, that is why I switched off the microphone, but because you gave me the microphone again, I had to make a point.

Mr. Speaker: Order, the Member for Mount Elgon! If your point of order is already spent, then you leave it and give the opportunity to other hon. Members. I could see that you were still making a request.

Yes, Mrs. Shebesh!

Mrs. Shebesh: Thank you, Mr. Speaker, Sir. The Minister was probably part of the rest of Kenyans who watched the interviews that were going on in search of the Inspector General of Police. One of the interviewees who happens to be the spokesman of the Police, Mr. Kiraithe, clearly said that as far as he knows, that was not an operation of the police. That was a statement that shocked Kenyans because that was the Police spokesman who spoke. Could the Minister clarify that what Mr. Kiraithe said is true; that the operation in Baragoi was not an operation of the police as was said by the Police spokesman?

Dr. Munyaka: Thank you, Mr. Speaker, Sir. In the past, there has been a question in this Parliament on the use of electronic devices that are planted in the rumen of cattle that can be used to track down stolen animals. This has been used in the past in countries like Swaziland successfully. When will the Minister implement that so that we can track down stolen animals?

Mr. Speaker: And finally, the Member for Rangwe!

Mr. Ogindo: Thank you, Mr. Speaker, Sir. Of late, I have heard of several applications being directed to you to join certain parties. I have seen that you have been very generous to the TNA - URP Group.

Mr. Speaker: Order, the Member for Rangwe! That is completely unwarranted.

Mr. Ogindo: Mr. Speaker, Sir, I apologise.

Mr. Speaker: If you want us to take that line, I am afraid, I will ask you to do much more. However, I am glad that you have apologized.

Mr. Ogindo: And I withdraw, Mr. Speaker, Sir.

Mr. Speaker: Thank you. Proceed.

Mr. Ogindo: Mr. Speaker, Sir, according to Article 240 of the Constitution, the National Security Council comprises of the President, the Cabinet Secretary in charge of Defence and Internal Security which the Minister of State for Provincial Administration and Internal Security occupies. The Chairman of the National Security Council is the Commander-in-Chief of the Defence Forces. I believe that the Commander-in-Chief commands the Defence Forces. When the Minister says that the Kenya Defence Forces were asked to help, I do not know what command would come in the language of: "Can you, kindly assist?" That is not a command. So, I do not know how the Minister will wriggle out of this but I believe that a resolution of the National Security Council to the KDF to take up certain assignments is deployment. But more fundamentally is the fact that of late, there has been a tendency to invite the military to every internal insecurity situation. This was the case in Tana River, Baragoi and Garissa. We are fast approaching the General Election. What has the Minister done, in his capacity as the Minister of State for Provincial Administration and Internal Security, to ensure that the internal insecurity situation is left in the hands of internal security organs so that the country gets demilitarized in readiness for the General Election so that we do not get into the elections with the military all over the country?

Mr. Speaker: Mr. Minister, please make your responses!

The Minister of State Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, I will start from hon. Ogindo. I want to put the record straight that there was no military intervention in Tana River. It was not also invited in what happened in Garissa. That is very clear.

Mr. Speaker, Sir, the clarification sought by hon. Muniyaka and hon. Mututho is the same. It is an issue of using technology. I would agree fully with them that with technology a job that is manually done by 600 officers can be done by a group of not more than ten officers. This just calls for resources and you will need armoured vehicles. You will also need a lot of specialized equipment. This brings me to what hon. Samoei was asking in terms of whether we are getting value for money. I want to respond by saying that this Ministry is not given a lot of money.

I appeared before a Parliamentary committee yesterday and I informed the Committee that security agencies are under-funded by 48 per cent of the required budget. We requested for Kshs125 billion this financial year but we were only allocated Kshs65 billion. That is slightly more than a half, 52 per cent. So, the much the security officers are doing with respect to police services is actually their best given the available resources that they are given. I want to make a kind appeal to this House, as we go to the Supplementary Estimates that is coming before the end of the life of this House---- We are now approaching the general election. Surely, even if we have to stop doing one road, I kindly request that enough resources be allocated to the security agencies to be able to deal with this heightened tension as we approach the general election.

Mr. Speaker, Sir, I also want to respond to my good friend hon. William Samoei and actually tell him that I am not casual when I say one community raids the other. I want to make it very clear that I am a pastoralist 100 per cent, pastoralist No.1. This is to emphasize that I am not casual, in the county I come from you will never hear of cattle rustling. That tells you the seriousness that I take to ensure that cattle rustling stops. I am a pastoralist No.1, 100 per cent and we do not engage in cattle rustling. So, it is a business that I do not really entertain.

Mr. Speaker, Sir, finally, I want to say that to bring to an end cattle rustling business---

(Mr. Nanok sought an intervention)

Mr. Speaker: Hon. Nanok, I see you want to rise on a point of order!

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, it is a point of information to the Minister.

Mr. Speaker: Mr. Minister, do you want information from your colleague, the Assistant Minister? You have the liberty; it is either yes or no.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): No, I do not want it.

Mr. Speaker: Very well. What is it hon. William Ruto?

Mr. Samoei: Mr. Speaker, Sir, while I appreciate what the Minister is saying and agree with him that he does not entertain cattle rustling in his region, there is cattle rustling going on in Kenya. That is what we are concerned about. I asked him a very direct question, value for money. Why is it that even to buy a Land Rover to be used by our security men, it is a security budget? What is so secretive about buying a car for the police? That is the question we are asking. That is how we pay more than we should for very simple things. So, I am asking him, when are security hardware and software going to be subjected to the supervision of this House in terms of competitive bidding, so that Kenyans can get value for the money they spend, and so that he can even have the moral authority to ask for more money?

Mr. Speaker: Fair enough, Mr. Minister you apparently have not responded to that request for clarification. Please do so.

The Minister of State Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, what I meant by saying I do not entertain cattle rustling is that I mean serious business in looking for ways to end cattle rustling in Kenya.

Mr. Speaker, Sir, the issue of motor vehicles, let me inform this House that the police require 4000 motor vehicles as per the Ransley Report. But what is provided for in a financial year is only 200 motor vehicles. We have in these country 290 districts. We have 180 OCPDs. Now, every district--- Take for instance the District Security Committee that comprises of not less than five officers, a District Commissioner (DC), an Officer Commanding Police Division (OCPD), an intelligence officer and the officer in charge of the Administration Police (AP). So, a minimum of five vehicles in one district, times 290 districts gives you 1000 plus vehicles. But what they are given in a year are 200 vehicles. So, it is not the issue of procurement that is difficult. It is first of all the money to buy the vehicles required.

(Mr. Ethuro sought an intervention)

Mr. Speaker: What is it Member for Turkana Central?

Mr. Ethuro: Mr. Speaker, Sir, I thought the Minister should not get away with this one. He says he is a pastoralist but the county he comes from does not engage in cattle rustling. I just wish to contradict you. His own Assistant Minister--- In fact, the hon. Member for Samburu West, hon. Lesrima, who has no problem with both communities in his constituency, is at the centre of this business.

The hon. John Munyes, Minister for Labour---

Mr. Speaker: Order, Member for Turkana Central! We have to get you clear. When you say the hon. Lesrima, the Assistant Minister in the Office of the President is at the centre of cattle rustling, what are you saying? Otherwise, you will be in breach of the Standing Orders? You have the Floor but I do not see your request.

Mr. Ethuro: Mr. Speaker, Sir, I meant, with utmost respect to the hon. Lesrima, that he is not the agent or the perpetrator of cattle rustling. But cattle rustling, especially what we are taking about in Baragoi is happening in his constituency. That is what I meant.

Mr. Speaker: That is clearer. Okay, carry on.

Mr. Ethuro: Mr. Speaker, Sir, thank you for according me the opportunity to clarify on this good man.

Mr. Speaker: It would have gone down very badly.

Mr. Ethuro: This one I can confirm. I wanted to confirm further the hon. John Munyes, Minister for Labour, in fact is being sought by the Criminal Investigation Department (CID) because of cattle rustling. The hon. Samuel Phoghisio, Minister for Information and Communications, cannot even communicate because of cattle rustling where he comes from; hon. Assistant Minister for Forestry and Wildlife, Mr. Nanok, cannot have peace. He was just released today from the court because of cattle rustling. Is it in order for the hon. Minister to mislead this House by saying just because Ministers come from certain counties, they cannot engage in cattle rustling? This problem is bigger than mere Ministers.

Mr. Speaker: Minister, do you want to respond to that? Yes, Proceed.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, first of all I have not said that if you are a Minister there is cattle rustling in your area. I was just giving an example. It has been taken as if all pastoralists engage in cattle rustling. I want to invite my good friends and colleagues to join hands with me and

share the experience of the area I come from, where we do not engage in cattle rustling; use that experience and replicate it in those other pastoralist areas to end cattle rustling.

(Mrs. Odhiambo–Mabona sought an intervention)

Mr. Speaker: What is it hon. Odhiambo-Mabona? I see you want to rise on a point of order!

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. Whereas I know the hon. Minister has the right to seek consultation, I am just wondering whether it is in order in a matter of this magnitude for him to be getting consistent directions and guidance from hon. Kimunya. When his own colleague asked to give information, hon. Kimunya told him to say “no” and he said “no”. We are watching from here. He is getting consistent directions. Is he telling us that he is not in charge of the Ministry? Is he in charge? Should Mr. Kimunya be answering directly on issues of security?

Mr. Speaker: Mr. Minister, maybe, you want to respond to that.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, first of all, hon. Kimunya is not just a colleague but he is also the Deputy Leader of Government Business. Two, the reason why I said “no” to my good friend, hon. Nanok’s offer of information, although he is a Minister like me, is because I want him to inform me elsewhere so that we use that information to handle this situation.

Mr. Ochieng: Mr. Speaker, Sir, my colleague and I here are the ones who actually pressed the button first and we have not been given the opportunity---

Mr. Speaker: Order, Member for Nyakach! You do not have the capacity to know who presses the button first unless you want to replay our system before you can make that assertion. So, I am afraid you will have to withdraw that contention.

Mr. Ochieng: Mr. Speaker, Sir, first of all, I want to apologize and I want to thank you very much for taking my consideration. For the last five years, I have lost 15 people in my constituency because of this menace. When policemen are killed in Baragoi, the Government readily sends its military people to go and deal with the rustlers down there.

What I wonder is whether this country has intelligence officers or are they posted just to trail politicians and not to track down the rustlers in every place that they attack? Has the intelligence gone to sleep? Did they pass this information before this mayhem happened in Baragoi?

Secondly, does the Modogashe rule still apply and when does it apply?

Mr. Speaker: Minister, you may respond and I am afraid at this rate, I do not see the requests for points of order being accurate because you are not living within the letter and spirit of the rules. So, that will be the last one Minister.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, I want to assure my colleague, the Member for Nyakach that the intelligence is working and their work is not to trail the politicians but to ensure that we live in a peaceful and secure country by gathering security information.

I hope you meant the issue of compensation for---

Mr. Ochieng: Compensation---

Mr. Speaker: Order! Proceed, Minister. I want you to complete this.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Just a clarification on Modogashe rule. That is the one I am asking him.

Mr. Ochieng: Mr. Speaker, Sir, I had wanted to know whether this particular incident that happened in Baragoi was properly passed on to them and if it was, what action they took. Secondly, I asked whether the Modogashe rule still applies when---

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): What is the Modogashe rule?

Mr. Ochieng: They know. They are security people and they know.

Mr. Speaker: The Minister wants you to explain. So, can you kindly do so?

Mr. Ochieng: Mr. Speaker, Sir, I may not guide him because he knows and that is why he is there.

Mr. Speaker: Order! I am directing you as the Speaker to explain what Modogashe rule means.

Mr. Ochieng: Mr. Speaker, Sir, the Modogashe rule applies when animals are taken from one particular community to another community, the security forces go, trail those animals and bring them back. If they are not able to bring back the same animals, they get animals from the other community until the other ones are availed.

Mr. Speaker: Fair enough! Minister, you may now respond.

Mr. Ochieng: You see I have been affected so I know all these things.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, that is what I tried to explain to the hon. Member about compensation. This is because getting animals from the other community when yours are lost is compensation.

What I can assure the hon. Member is that, that is what is happening in the operation; that is we are going to get the stolen animals. I cannot confirm at the moment because the operation is meant to recover stolen animals. It is not currently extending to getting animals from the other community. We want those stolen animals.

Mr. Speaker: Fair enough! Member for Nyakach, this matter has to come to an end and, indeed, it is now.

Hon. Members, that brings us to the end of Statements which were due. If there are any other Statements we will take them tomorrow. But we will take a request for a Statement. I think there is one that I approved this afternoon.

Hon. Member for Eldama Ravine, yours is not yet approved. Member for Turkana Central, you may proceed.

POINTS OF ORDER

RELEASE OF CDF FUNDS

Mr. Ethuro: Mr. Speaker, Sir, mine is a simple one just to ask the Minister for Finance when he will release more money to the CDF as he had promised this House.

Mr. Speaker: Hon. Amos Kimunya, Deputy Leader of Government Business, when will this be forthcoming?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, we will communicate to the Minister. This is a fairly straight forward matter and we can get a response to this tomorrow afternoon.

Mr. Ogindo: Mr. Speaker, Sir, I just want to again apologize to you for that out of line statement that I made.

Mr. Speaker: Fair enough! I have taken it in my stride and I have accepted the apology. Perhaps what you may want to do is go and look at the HANSARD and take the statistics, work percentages of what you believe are parliamentary political parties as participated in the business this afternoon. Perhaps, you will be satisfied that I was very fair.

There is an explanation for why I called hon. Shebesh before I called you. Trust me as the Speaker that I do my work very diligently. I was aware that there is need for gender balance, gender parity and so I called her before you. She had to have priority before you because otherwise the lady hon. Members were marginalized.

CLARIFICATION OF ARTICLE 243 ON EMERGENCY/DISASTER

Mr. Midiwo: Mr. Speaker, Sir, I thought you would be issuing a clarification on the Minister's reference to Article 24(3)(b) as a basis for deployment of the army. Further, it was reinforced by Mr. Ethuro that we need to clarify what is an emergency and what is a disaster and also so that for the purposes of implementation of this Constitution, we know when and how to deploy the military. It could have been ignorance or mischief but I think you need to guide us because I think it is important and you had promised so.

Mr. Speaker: Yes, indeed, I am aware that I made that commitment and I will give directions on Wednesday next week. This is a constitutional matter. Allow me time also to look at my books; Wednesday next week at 2.30 p.m.

We want to move to the next Order.

BILL

Second Reading

THE UNIVERSITIES BILL

(The Minister for Higher Education, Science and Technology on 20.11.2012)

(Resumption of Debate interrupted on 20.11.2012)

Mr. Speaker: Who was on the Floor?

Mrs. Odhiambo you have 18 minutes.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I had indicated concerns before we rose about education standards at the university. I had also given general comments. I just want to look at specific clauses in the Bill. I will refer the Minister to Clause 13. I will bring an amendment for one of the standards that need to be included. The standards provided under Clause 13 should relate to infrastructure.

Mr. Speaker, Sir, there is also provision for degrees, including honorary degrees. Again, I will indicate that we need to provide for standards, especially for degrees. This is because nowadays, we have provided for standards for certain degrees. There is information that people get degrees after two or three months. That is unfair because there are people who have to study for years to get those degrees. So, it is not in order for others to get degrees in six or four months. If it is possible for everybody to get degrees in six months, then we should all be told that it is

part of accreditation so that all of us can very quickly get degrees in six months. But we should not have a privileged few who get their degrees in six months.

Again, in the clause that also talks about accreditation, I will also move an amendment that provides that the public must be informed about accredited universities to avoid wastage of resources. This is because I know several people who have attended universities for three years and after they have completed, they are told that, that university is not accredited. This is the case and yet the university has been mounting courses with the knowledge and information of the Government of Kenya.

Mr. Speaker, Sir, the other issue that I had concern with is filling vacancies in offices, which arise afterwards. This should be done in the same way as the original appointments. It should not be left at the discretion of the Minister. I will also bring an amendment to establish a university for each county. This is because under the Constitution, the issue of higher education is the role of the national Government. We talk about issues of equality and equity even in this Bill and we cannot realize that if we have counties that have universities and others that do not have, that is unfair. To bring fairness, my amendment would say that within a period of ten years, each county must have a university.

Mr. Speaker, Sir, I will also bring an amendment that seeks, within the Fund that is already provided, especially under Clause 31, to include scholarships for needy and indigent students. This is because there are very many brilliant students who are not able to access university education because they are orphans or the parents are extremely poor. Because of the scourge of HIV/AIDS, we have seen students who are brilliant but cannot get higher education.

Mr. Speaker, Sir, one of the things that the Minister should consider doing is to include as one of the roles of the council, to approve quality standards. I am not particularly incensed about this, but I would like the Minister in her response to indicate why the chancellors should be subject to vetting by Parliament. Again, I would also like her to tell us whether this is deliberate or accidental or it is a way of purging the university; that by provisions of Clause 73--- My understanding thereof is that Prof. Olive Mugenda, who has been reappointed, one year later must quit her job. That is my reading and understanding. Is that intended or accidental? She is doing a good job and I would like her to continue doing the good work that she is doing. So, I would like to know whether we are seeking an absolute reform, including staff. This is because my reading of that is that you will create new staff for universities. If lecturers are included as staff, it means that they will have, after a short while, to reapply for their jobs, especially for the persons whose contracts will end in less than a year.

Again, I am also not very comfortable with the effect of the letter of interim authority that is given to universities, especially as relates to standards. This is because we give a university an interim letter of authority when we have not established the standards that we are pleased with. To me, I think we are putting the cart before the horse. If you want to establish a university, adhere to the standards that are set by the law. You can be given an interim letter, which should basically show the Government whether you are meeting the other software standards and not the hardware standards which are infrastructural. For instance, you should show whether you actually have the teaching staff that you are saying you should be having and all that, before you are given the actual charter. But where you give an interim letter and subsequently give the charter if people set up buildings and all that as standards, I really think that, that is wrong. That is why we are having low standards.

Mr. Speaker, Sir, on the issue of accreditation, we have alluded to foreign universities and said that the universities that they partner with should have accreditation, but we have not

provided standards for those foreign universities to be accredited within their own countries. This is because we have universities that are not accredited within their countries, but they partner with universities in Kenya. When you ask in their countries of origin, it becomes embarrassing because you will find a community level college partnering with a university and purporting to be a university or of a university standard.

Mr. Speaker, Sir, the other issue of concern is that of student body. Clause 40 says:-

“Every university shall have a students’ association, elected by the student body.”

What is “the student body?” There is no definition of a student body. If you do not define that what that means is that the university teaching staff can decide to elect ten people as the student body, who will then have a students’ association. To me, if you do not define what a student body is, we might be playing games and denying students their rights. We must define what we mean by “a student body.”

Mr. Speaker, Sir, under Clause 55, where you find the functions of the placement board, I would like us to add a sub-clause 3 to the effect that as much as possible we should allow students to access courses of their preference or the next alternative courses they apply for, especially in light of affirmative action, so that we do not say--- This is based on the earlier remarks that I had made yesterday, where you find young girls like my niece who did exceptionally well but did not qualify with straight “As”, cannot qualify for a course number 1, 2, 3 or 4. So, why was she bothering to get an “A”? She might as well get a “D” and go fishing anyway, because you do not need to get an “A” to get the courses that you qualify for, and, yet, you will find people who have lower marks getting the courses that she prefers to go for. Also, allow people to go to the universities that they choose. Do not force people to go to universities that they have not chosen, unless the courses that they want are provided in those universities. We want to ensure ethnic balance, which I really support and promote.

Again, we do not want to promote somebody who went to primary school in Murang’a, secondary school in Murang’a and university in Murang’a. Their world view would be about Murang’a and that person would not know that in another county there are also Turkanas.

Mr. Speaker, Sir, I have several amendments I want to propose, but because other Members would want to contribute, I will stop there. I once again thank the Minister for bringing this Bill.

Mr. George Nyamweya: Thank you, Mr. Speaker, Sir. I would like to congratulate the Minister for Higher Education, Science and Technology. This is a very timely Bill. For the first time, we are going to have a comprehensive way of dealing with university education. The Minister’s staff has done a commendable job; in particular they are aligning everything, namely the standards and the manner of getting a charter. I know that there are at least 15 universities waiting for charters and this will be the most exciting news for those who have been pleading to have this law in place, so that they can get charters. Among them is the Kisii Constituent College. I have been pleading on behalf of not just that university, but it is just a specific one that I am very keen about, understandably.

The other thing that I wish to mention is that we should get universities in all the 47 counties. Sometimes it is lost that a university creates employment and other opportunities like businesses. Many cities have grown from university environment. So, it will be a useful thing if we aim, as a Government, to establish universities in each of the counties. It would also help stimulate economic activities in the counties and give them pride. You are proud to have a university and to belong to a university. So, it is also something useful when you are devolving Government for people to see for themselves that education is also being brought to our areas.

We will also use it for national cohesion. I do not take it that universities will only admit people from their counties. It should be countrywide. When we want to look at the quality--- Even if you have 47 universities, they can all specialize in different lines. You do not have all of us doing agriculture or law. Others can do whatever is suitable in a particular area.

I want to emphasise that, perhaps, the ones which are ready we can give them their charters now, and it will be a wonderful thing for them to go for Christmas as we work towards the next set of universities. We should look at how much the Government should put in. We must also encourage the private sector to invest in universities and have foundations which can set up universities. Through this, we can manage the thousands and thousands of our children who go to India and the United States of America simply because universities are not available in Kenya.

The one thing that I want to conclude with is in respect to the appointment of chancellors. I am not sure whether we necessarily need to have people apply to become chancellors of universities. This should be something open. We can encourage respected senior citizens or people with credibility to apply to become chancellors. I know that many people who would be suitable to be chancellors might find it very difficult to apply because it is not like they want a job. This should be a service to this nation. Some of retired leaders might be very useful as chancellors. Some people might have useful experience because they have held Ministerial positions and have ties across the world. They would be very useful, but I wonder whether they would really want to apply to become chancellors.

Finally, I would like to commend the Minister and urge that we all support this Bill.

Mr. Koech: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this very important Bill. We have been longing, especially as a Committee, to see this very important transformation in our higher education. This Bill is addressing so many challenges that we have faced in our universities.

One very pertinent thing that this Bill contemplates is to have one Act in place of so many Acts that we have. For the information of the House, currently, we have eight different Acts for eight different universities. Therefore, the management of universities varies from one to the other. This Bill will bring harmony and ensure that issues of university education are addressed from one point.

Very fundamentally is the quality of education in our universities. We must all agree that we, as Kenya, are not doing very well in the ranking internationally. We, as a country, must endeavour to ensure that our universities competitively compete with other universities internationally. One thing this Bill is addressing is the issue of the Commission for Higher Education whose successor, in this case, will be the Commission for University Education. As I speak now, it has only been in charge of private universities. Our public universities have been independent. Their programmes have not been subject to approval by this very important Commission.

The functions of this Commission are critical to the extent that all our universities programmes should be approved by it. One of the functions of the Commission as provided for under Clause 5(1)(c) is to promote quality of university education. That is an area that we have always longed for to ensure that all the programmes that are in our public universities are approved. This removes the challenge that some of our engineer students in some of our universities have been going through at their registration stage. Our universities have been starting programmes without bringing on board some of the regulatory bodies that are very important for this country.

This Bill is also contemplating a very clear way of appointing the managements of our universities. Over the past, we have seen many people being appointed along political lines; maybe because you like somebody, you put him in a place where he may not be the right person. I want to thank the Minister for proposing that the management shall be appointed competitively.

The other thing that we have here is that the Joint Admissions Board that has been trying to place students in our universities has been an anamorphous body. This Bill is contemplating the appointment of a Placement Board which will ensure that all actors in the education sector will participate in placing of our students in universities. The concern that hon. Odhiambo-Mabona raised will be addressed by this very important Board; it will ensure that our students will have a chance to decide in which areas they are good at.

This Bill gives power to the President to put place specialized universities. This is very fundamental for our nation. Today, we may want to have certain specific personnel that we do not have in the country. If we want nuclear energy, for example, we should be in a position to establish a university to have our human resource developed there before we invest in nuclear, so that we do not again make use of foreigners in whatever programmes that we have as a country.

Mr. Speaker, Sir, on the issue of Vice-Chancellors, I really want to thank His Excellency the President for appointing people to assist him as chancellors of universities. The President, of course, is a very busy person and all universities require somebody who is able to be in touch with the universities always. This Bill contemplates that the chancellors will be people of integrity and high academic qualifications. They will be appointed by the alumni.

Mr. Speaker, Sir, as we pass this Bill, we, as a country, are aware that we belong to the global world and that the exchange programmes have really assisted many countries all over the world. We want to see the first exchange programmes coming to our universities courtesy of their competitiveness. We shall be proposing a few amendments. Just to mention one or two is on the selection panel of the commission for university education. I take note that the people who have been proposed in this Bill include the vice chancellors of our universities which is the same five chancellors whose programmes are to be approved by the same commission. So, we feel there is likely to be conflict of interest and, therefore, we will propose an amendment on the same.

Mr. Speaker, two is what hon. Odhiambo-Mabona said. We have our eight universities and to make radical rapid changes immediately may not really be very good for us. So, we shall be proposing that maybe the current vice chancellors could be given a chance to complete their term before they are subjected to the procedures in the programme.

Mr. Speaker, Sir, on the appointment of chancellors, what this Bill has proposed in the Second Schedule is a situation whereby the alumni of the university will pick one. If you look at Clause 4, it reads as follows:-

“The applicant ranked first by a majority of the alumni responding to the request by the Senate shall be deemed to be elected to be the chancellor”.

This is not giving the President any chance. By any chance, there could be a possibility that one candidate could be ranked first by all the universities, but the issue of balancing comes in. So, we shall be proposing that the alumni will be sending three names to His Excellency the President to pick one from them, so that we can ensure the balancing in the country.

Mr. Speaker, Sir, lastly is the concern that we, as a country, must ensure that our students access university education and the issue of fees being paid in our universities must be captured, so that we do not have a programme in Moi University being charged higher than the same similar programme in Kenyatta University and, at the end of it, the students get the same grades.

I beg to support.

The Assistant Minister for Industrialisation (Mr. Muriithi): Mr. Speaker, Sir, I stand to support this Bill and I also congratulate the Minister for this excellent work. In examining the history of this country, education has been and perhaps continues to be the number one filter that is used to stratify society in various ways. If you were to look at the number of children in Class 8 and then compare that to those who make it to Form Four and then compare that to those who get to university, you would see a very sharp pyramid.

Mr. Speaker, Sir, in colonial times, in my reading of history, it was never intended that many of us Africans should rise to the top of the social apex. In those old days, access to university in my view had been restricted. Therefore, there is this move to standardize the management of the universities. There have been calls that we provide a university in every county. I support these calls because education is the only certain way of transforming society. All of us hon. Members would not have been here if it were not for education. Therefore, we must aspire to get the highest possible level of education for our people.

Mr. Speaker, Sir, I want to point to two specific improvements on university objectives. We all know universities are agents of social change in our society. So, I would like to see a specific objective directing or encouraging universities to have an outreach or extension like in many other universities in the world.

If you look at the role of Silicon Valley and the Stanford University and other institutions play in development of their country, is lacking in our universities. For example, a university in Maralal must specialize in the management of rangelands. A university in rural Laikipia, for example, must come up with programmes aimed at improving farming. It must help us to train agricultural extension officers in order for us to improve our produce. I urge each university to establish an extension department. For example, ICT is a key component for the development of this country. We should see many universities providing specialization in software development, in writing applications for mobile phones or for any smart gadget that may come about. So, before a university is granted a charter, it must state which area it will specialize in. It is important to encourage universities to specialize in specific fields if we want to develop this country.

Another area of concern is engineering. Today we have an estimated 6,000 engineers in the country. About half of them are registered with the Engineers Registration Board (ERB). According to my Ministry we need over 15,000 engineers. The economy of Vision 2030 will require ten to 15 times that number. So, again, in the granting of charter, we must encourage universities to specialize in engineering discipline.

Finally, I would also encourage them to train more technicians who will assist engineers. In fact, we need thousands of technicians in this country.

Again, even as universities specialize, we must encourage them to provide diplomas and degrees in humanities.

[Mr. Speaker left the Chair]

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

Although we might have provided for continuing education, we must encourage a majority of the population to get university education.

I can see there are very many hon. Members anxious to contribute. So, with those few remarks, I beg to support.

Dr. Otichilo: Mr. Temporary Deputy Speaker, Sir, I want, first of all, to thank the Ministry, the task force that was involved in drafting this Bill and all the key stakeholders who took a lot of time to discuss it. I also want to thank all those key stakeholders who made our Committee and gave very good proposals on how to make this Bill much better. I want to thank all of them.

Mr. Temporary Deputy Speaker, Sir, this is a Bill that will completely revolutionize our university education. It is a Bill that will focus our university education to the socio-economic needs of this country. Therefore, I want to say that the Ministry has done a commendable job. We want to ensure that this Bill goes through as soon as possible.

Since a lot has been said about this Bill, I do not want to go through the Articles in it, but I want to say that it is a Bill that is timely. We should support it and have it enacted as law before the life of the Tenth Parliament ends. This Bill will bring sanity in our university education. Therefore, I want to support it wholeheartedly.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I just want to add my voice to this Bill by requesting the Minister to consider that all examinations are carried by the university as it used to be with the Cambridge University. Ultimately, the universities are the consumers of these students. The onus will be on them to have quality examinations. That would also be a cost saving measure and will help avoid all the problems we have with examinations at the moment.

Mr. Temporary Deputy Speaker, Sir, I would request that all those who are holding degrees like Mr. John Mututho here, get checked again to determine whether they are genuine degrees of just pieces of papers. My admission number, declaring interest is 1517/80 of the University of Nairobi. This is for clarity so that everybody can be encouraged to check their own degrees they hold and also check against their own portfolios.

Mr. Lagat: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to also contribute to this Universities Bill. I want to support it because it meets what our great thinkers and educationists mentioned. Aristotle said that: "Education is preparation for quality life". Nelson Mandela said: "Education is the only equalizer, whether you are black or white, whether you come from humble background or well-off background". This Bill supports what those people mentioned.

When I listened to the Minister, I realized that all the areas have been captured. That shows that the Committee and all the contributors who were involved in drafting this Bill did a wonderful job and I congratulate them. This Bill will bring quality education and that will change this country. Our graduates will be able to meet global competition. This is very important.

Secondly, this Bill will also change the economy of this country. We are sure that those who specialize in agriculture can change this country. Those who specialize in business can also change this country. I think that Bill is very important when it comes to that.

We are also aware about Vision 2030. I think such changes can make us achieve Vision 2030 which we have always mentioned. My request is also on school fees. We want this country to do something about school fees, so that it can be affordable to many. We should compare ourselves with countries like Finland and Philippines which offer free university education. If that is done in this country, it will uplift the education standards in this country.

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

The Minister for Livestock Development (Dr. Kuti): Thank you, Mr. Temporary Deputy Speaker, Sir. I would also like to join my colleagues by saying that this is a very important time to have such an important Bill. I just want to add three points. One, before A-Levels were abolished, we had pre-university/National Youth in-take, but it was not well structured. Although the competencies of the people who trained those students were not well thought out, the idea of having a pre-university/National Youth Service in-take was an excellent one. We all come from various counties and various cultural and ethnic backgrounds. It was at that time that those interactions and patriotism was inculcated.

You will realize that most graduates do not know our national days. They do not know the meaning of Kenyatta Day or the Heroes Day. They do not know the meaning of Jamhuri Day. They also do not know the history of our country. It is very important that we inculcate patriotism, good virtues and good values in our young people.

The good values can be inculcated to fight even corruption. I would like to propose a pre-university/National Youth Service intake. The young people should also be posted to work in various parts of the country where they do not come from. For example, people from Nyeri should go and work in Kisumu while those from Kisumu should go and work in Wajir. People from Wajir should go and work in Meru, so that at that early stage, the young people can know the various geographic compositions of our country, ethnicity and productivity, so that it does not appear strange when somebody is posted to Wajir. This will make them appreciate one another. This will minimize ethnic practices and cultures that bedevil us; the elite and the political class.

I would also like to congratulate the Minister for the special universities.

Mr. Temporary Deputy Speaker, Sir, we are at a discovery point. Our country is endowed with a lot of minerals and those specialized universities will be able to bring out experts, who will then be able to deal with those special blessings that God has given us such as oil, minerals and the rest.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! Since there is no more interest, I will call upon the Mover to reply.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Speaker, Sir, first of all I want to take this opportunity to really thank all the Members for their very encouraging and radical recommendations on this Bill.

Mr. Temporary Deputy Speaker, Sir, I also want to thank the Committee of hon. Koech for the support they have given us all through. I also want to thank the taskforce for doing a wonderful job; we had several forums with them and they came up with very transformative issues that will actually change our education sector for quite some time to come.

Mr. Temporary Deputy Speaker, Sir, I want to thank our support staff, technical officers from the Legal Department, technical departments, all of them for a job well done. We are going to respond to all the issues; we will make sure that all the issues are addressed.

Since we have to use the time of the House optimally, I just want to use just two minutes, then I can handover to my next colleague.

Mr. Temporary Deputy Speaker, Sir, the issue of accreditation will no longer take three or six months. We really have to mean business and we must conform to the requirements of the new Commission. We will take into consideration having a university in every county; a country like--- I was privileged to go to Cuba with our Speaker. A country like Cuba, which is the size of Turkana County, has more than 200 universities. I think we need a university in every county.

Recognition of universities will be addressed. The issue of scholarships, we know that poverty in this country is very high. Most families live in abject penury. So, we need to assist the children to get the best of education.

Mr. Temporary Deputy Speaker, Sir, the issue of appointment of chancellors, we will make sure that this is highly competitive. Also, the issue of appointment of the chancellors that one of the Members mentioned, I want to confirm to you that everything that is done in our Ministry is done in accordance with the law. We have to be within the beacons. We do not flout the law. The letter of interim authority is given after thorough scrutiny of the facilities that are available in a university. So, we really conform to the best of requirements.

Mr. Temporary Deputy Speaker, Sir, lastly, we will still address the other outstanding issues with our Committee. There is the issue of pre-university national youth service. That is a priority; you all know that this is what inculcates patriotism, matters of charity, and matters of children feeling that they really belong to this country. So, we really support that and we will find a way of meeting the kind of request made

With those many remarks, I beg to move. Thank you

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

(Question put and agreed to)

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

Second Reading

THE AGRICULTURE, LIVESTOCK, FISHERIES
AND FOOD AUTHORITY BILL

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Agriculture, Livestock, Fisheries and Food Authority Bill, Bill No.61 of 2012 be now read a Second Time.

Mr. Temporary Deputy Speaker, Sir, we have arrived at this juncture after these Bills have been considered for nine years. In the last two years, we have intensified the consultations. In these consultations were the Ministries of Agriculture, the Attorney-General, Kenya Law Commission and the Constitutional Implementation Commission. It therefore, makes absolutely no sense to have some of the circulars that are going around the House alleging unconstitutionality. We took care of that.

Let me say at the outset that we have listened and the Ministry of Livestock Development is not happy. There are also people who have intervened. We have met them at the Committee Stage and the Chairman of the Committee can confirm this. We have, therefore, withdrawn any reference to livestock in our Bill. We should, therefore, be allowed to streamline the Ministry of Agriculture in keeping with the Constitution that requires that we do this now. We have, therefore, without any fear of contradiction, done this to make sure that Kenyans are well served.

However, the Bill which is before the House, as usual and in keeping with parliamentary practice---

Mr. Koech: On a point of order, Mr. Temporary Deputy Speaker, Sir. I seek your guidance on this. Listening to the Minister, she is talking of having a Bill which is aligning issues with the new Constitution. Our Constitution contemplates 22 Ministries. Looking at the three Ministries, Ministry of Agriculture, Ministry of Livestock Development and Ministry of Fisheries Development, all these will be lumped together. I seek your guidance on this that this Bill seeks to remove the Ministry of Livestock Development as a Ministry.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Koech! The Chair has not understood you.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, maybe I should put it this way: The Minister seems to be contradicting herself in the sense that she is talking of aligning the Ministries to the new Constitution and the new Constitution contemplates that these Ministries as put here are supposed to be one Ministry. So, by removing livestock is she really aligning the Ministry to the new Constitution? We need that clarification.

The Temporary Deputy Speaker (Mr. Ethuro): I think it is clearer now. I am sure even the Minister has understood you. Initially, it was a bit muddled up.

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Speaker, Sir, I understood him from the beginning. There has been vehement opposition to aligning and the accusations that perhaps people are seeking wider, larger areas to administer. I am happy to exit from the Cabinet when we go to elections and be a Backbencher, if I am lucky to be elected. This was simply to streamline, but since the Ministry responsible for livestock has objected and they have a right to do so, we will not be held back in streamlining the area of fauna and that is what we seek to do.

Therefore, at the Committee Stage we have also decided to change the title of that Bill to entirely leave out the Ministry of Livestock so that they can, therefore, align that to the Constitution which I am sure they are capable of. I beg my colleague and friend, hon. Koech, to let it proceed in that level because we do not want to go back and argue about it. I really beg for his understanding.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Minister, if the proposed Bill is to align Ministries according to the Constitution and that was part of your preamble, then how do you disentangle one Ministry from the rest? I am sure the House requires that explanation as sought by hon. Koech. It should not just be a matter of Dr. Kosgei, the Minister for Agriculture and Dr. Kuti, the Minister for Livestock Development deciding that each of them should keep their turf. I thought that there should be another mechanism of resolving it.

Dr. Kuti, you are requesting to be allowed to contribute, but you cannot contribute. You should be on a point of order, although I do not know whether you want to contradict your colleague.

Let us have the Minister for Agriculture first!

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Speaker, Sir, we have the fauna and flora. We want to align the laws governing the flora with the Constitution. It is my understanding that the Ministry of Livestock will have the opportunity to align the section that deals with livestock with the Constitution. I think they have the capability to do so. So, may I beg the House again, recognizing the fact that the Bill is the property of the House and the House can choose what to do with it--- I still feel that to make progress for us and avoid the angst that has come up constantly in the media, which we know where it is fueled from, and has made its way here--- We are very clear about the laws on agriculture as far as farming is concerned and are anxious to align this with the Constitution, so that when we get round to the counties next

year, we shall not be found wanting. I am sure that whoever will be the Chief Executive will, indeed, choose how to put those Ministries together. For us, it is the laws that we seek to change. If there is more time, we will explain to you why we are changing. We will not touch the laws that involve livestock. This is to avoid the problems that we face. We are capable of doing the ones that govern our agricultural sector, as far as that section that has to do with crops and agriculture, outside of livestock is concerned. That is all we seek to do. We have changed the title, which we have done at the Committee, to exclude livestock because the Committee and that Ministry will be responsible for the livestock sector.

Mr. Temporary Deputy Speaker, Sir, can I go on?

The Temporary Deputy Speaker (Mr. Ethuro): Proceed, hon. Minister!

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Speaker, Sir, we have our justification for this. Many of the current laws in our books are archaic. Let me give you three examples, if I have time. I will do the rest tomorrow. One is that natives, being us, cannot sell eggs after 6.00 p.m. There are many like that. We cannot say, 50 years after Independence, that we do not have this in our rules.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, we will give you many of these examples, but I wanted to use this opportunity to assure those who are very worried that maybe I want a territorial something somewhere to be a Minister next year. I am running as a Member of Parliament. We are doing the section that refers to the Ministry of Agriculture and the other Ministry has as much right as ourselves to do the section that refers to them, because they have the same Constitution. But what we are doing is aligned to the Constitution.

I wanted my friend here to second, but he is willing to second tomorrow. But I should give you one more ridiculous example, in the old laws handling of any coconut product is a criminal act. These are the things that we want to do. There is also the question of fertilizer. As it is now, the Ministry of Agriculture is operating illegally because it should be under the Ministry of Livestock. This is because in those colonial days it was only animal manure that was considered as fertilizer. So, we are moving this with good reason. From where I sit, it is very important that we become a little more modern. It is not threatening anyone. We do not seek to overhaul anything that will hurt somebody else. I could tell you more. We are operating with very many regulations and laws. If you were today to apply to grow a certain crop, you need to go and deal with 161 pieces of legislation. This is what we are avoiding. How will we run the country if we will deal with those things? So far, some of the things are happening illegally because we do not have a law. This is the aim of this Bill which I shall expound on tomorrow.

The Temporary Deputy Speaker (Mr. Ethuro): Order hon. Minister! You will proceed when this matter will be on the Order Paper

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, it is now time to interrupt the business of the House. The House, therefore, stands adjourned until tomorrow, Thursday 22nd November, 2012, at 2.30 p.m.

The House rose at 6.30 p.m.