

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 15th September, 2009

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM THE PARLIAMENT OF NAMIBIA IN THE SPEAKER'S ROW

Mr. Speaker: Hon. Members, I have the following Communication to make.

I wish to introduce to you and welcome this afternoon a delegation from the Parliament of Namibia who are seated at the Speaker's Row.

They are as follows:-

1. Hon. Elia G. Kayamo, MP – Leader of Delegation.
2. Hon. Asha Mbai, MP.
3. Hon. Everlyne Nawases Tayele, MP.
4. Hon. Anna K. Bayer, MP.
5. Hon. Kaveri Kavari, MP.

(Applause)

Sorry! Order hon. Members! That Communication on the Namibian delegation is not yet complete. I think we have done Members of Parliament but we are as yet to do the following: The hon. Members of Parliament from Namibia are accompanied by Mr. Chipa Kicheri, Committee Clerk.

Hon. Members, they are Members of the Committee on Human Resources, Social and Community Development and have been in the country since Monday, 14th September 2009 on a study visit on how our Parliament works, particularly the Committee system with special focus on the Departmental Committees on Health and Equal Opportunity. During their stay they are scheduled to meet with officials from the National Aids Control Council (NACC) and visit selected children's homes. The delegation leaves the country on Saturday, 19th September, 2009.

On behalf of the House and my own behalf, I wish the delegation a fruitful and happy stay in Kenya.

Thank you.

(Applause)

Next Order!

PAPERS LAID

The following Papers were laid on the Table:-

Report of the Government's Task Force on the Conservation of the Mau Forest Complex Annex I and II, Annex III, Annex IV and V, Annex VI and Annex VII and VIII.

*(By the Assistant Minister, Office of the Prime Minister
(Mr. Khang'ati) on behalf of the Prime Minister)*

Mr. Speaker: Hon. Members, those annexes which have now been laid on the Table under Order No.4 are Papers that go along with the Report of the Mau Task Force that was Tabled in the House on 12th August this year. Hon. Members will obtain copies of those annexes on their way out.

The Assistant Minister for Energy (Mr. Keter): On a point of order, Mr. Speaker, Sir. You remember on Thursday before Parliament adjourned, these are some of the issues I raised as being very fundamental. Now that the annexes have been Tabled, do you think we are going to make our contributions on an informed position? We are supposed to read from Annex I to Annex VII, yet we are expected to debate this Report in the next half an hour. I am seeking your clarification.

Mr. Speaker: Hon. Members, we shall cross that bridge when we get to it. Those of you who are able to acquaint themselves with information as is contained in the annexes may proceed to do so. When we get to that point when that Order is being transacted, we may then deal with that matter in the event that many Members lack the capacity to contribute. However, I know Members of this House are intelligent, generally above average.

(Applause)

PAPERS LAID

Annual Report and Accounts of the Kenya Post Office Savings Bank for the year ending 30th June 2007 and the Certificate thereon by the Controller and Auditor-General.

*(The Assistant Minister for Information and Communications
(Mr. Khaniri) on behalf of the Deputy Prime
Minister and Minister for Finance)*

Annual Report and Financial Statements of the Kenya Marine and Fisheries Research Institute for the year ending 30th June 2008 and the Certificate thereon by the Controller and Auditor General.

*(By the Assistant Minister for Information and Communications
(Mr. Khaniri) on behalf of the Minister for
Fisheries Development)*

Mr. Speaker: Next Order!

NOTICE OF MOTION

AMENDMENT OF STANDING ORDERS TO PROVIDE FOR OFFICIAL OPPOSITION CAUCUS

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

THAT, noting the unique circumstances that this Parliament finds itself in; arising out of the formation of the Grand Coalition Government where all hon. Members are technically in the Government except for the Member for Lugari of the KADDU Party; mindful of the need to have an Official Opposition Caucus that will hold the Government to account, this House resolves, pursuant to the provisions of Standing Order No.200, that The Procedure and House Rules Committee consider the following proposal for amendment of the Standing Orders and submit a report to the House within two weeks:-

THAT, the Standing Orders be amended in paragraph (c) of the Standing Order No.2 by deleting the words (and each of whom has the written consent of the Leader in Parliament of his/her party) appearing immediately after the words “not being Ministers”.

QUESTIONS BY PRIVATE NOTICE

GOVERNMENT EXPENDITURE ON AGOA CONFERENCE

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

- (a) How much did the Government spend in preparing, organizing and catering for delegates in the just concluded AGOA Conference?
- (b) Were the above expenses catered for in the Budget and if not, how was it financed?
- (c) What concrete benefits accrued to the country from the Conference?

The Assistant Minister for Trade (Mr. Omingo): Mr. Speaker, Sir, I beg to reply. Noting that this Question was comprehensively answered on part “b” and part “c”, I pledged to give an answer on part “a” which I hereby do.

I had made an undertaking to provide a comprehensive answer to part “a” of the Question today on 10th September, 2009 - we were not ready then – and I hereby wish to proceed.

The AGOA expenses were as follows:-

Hire of the Kenyatta International Conference Centre (KICC) rooms, facilities, equipment and catering services	Kshs 58,998,082
Event organization, (we contracted a private company)	Kshs 2,088,000
Exhibition expenses by EPC	Kshs 2,500,000
Printing, advertising, information supplies and services	Kshs 5,894,829
Hospitality supplies and services	Kshs 7,018,499

Oils and lubricants	Kshs 2,400,000
Other operating expenses	Kshs 1,106,000
Communication supplies and services	Kshs 650,500
TOTAL	Kshs80,655,910

Mr. Mungatana: Mr. Speaker, Sir, I am very sad that this Government can come and table expenses of this nature at a time when we are suffering as a country. They have spent Kshs80,655,910 to host the AGOA Conference here in Kenya. The hire of the KICC facilities and equipment alone is Kshs58 million. Is this not a Government facility? Why do we create expenses of this nature? Could the Assistant Minister further explain---?

Mr. Speaker: Mr. Mungatana, during Question Time, you are allowed one Supplementary question at a time. As I have followed, you have already asked that Supplementary question. Would you allow the Assistant Minister to respond?

Mr. Omingo: Mr. Speaker, Sir, let me also state from the outset that the budget for this forum was in excess of Kshs90 million and we have spent Kshs80 million. Perhaps to throw some light, corporations of the Government are not supposed to work for charity. Most of the CEOs of parastatals have signed a performance contract.

(Applause)

If the Government never used those facilities, they would be, at least, out there. If hon. Members would indulge and understand, we are not doing this thing for charity. Of course, AGOA was agreed last year even before we knew there was going to be calamities that we have today. We cannot stop functions like this for the sake of change of events which were unforeseen at the time of planning the AGOA Forum.

Dr. Khalwale: Mr. Speaker, Sir, there are three items here, namely, hospitality, Kshs7 million; oil and lubricants, Kshs2.4 million and other expenses, Kshs1.1 million. Could the Assistant Minister specify what the oils and lubricants were for? Could he specify what the other expenses were and what activities of hospitality were involved that accrued over Kshs11 million?

Mr. Omingo: Mr. Speaker, Sir, this is fairly the area I am very comfortable with, unlike law where I am not. On the issue of hospitality, we hosted our delegates for lunches, two teas, one in the morning and one in the afternoon. On the day that the forum was officially opened when the US Secretary of State was here, we hosted a safari dinner at the Carnivore where most hon. Members participated, including the Vice-President of this Republic.

(Applause)

On the issue of oils and lubricants, in the efficiency of running the Government, we knew that we never had money to go and hire private vehicles. We used most vehicles from Government departments and all we did was to fuel and most of these fuel costs went to the police who were in charge of providing security to our dignitaries.

Hon. Members: Other costs?

Mr. Speaker: Order, hon. Members! Mr. Imanyara!

Mr. Imanyara: Mr. Speaker, Sir, given that that Conference was held on behalf of the Government of the USA and there were so many senior Government officials from the USA; and given that the American Government gave a lot of money to the Government to host this Conference, could the Assistant Minister agree with me that, in fact, the entire cost of the AGOA Conference was borne by the American Government and the figures that he is giving here are nothing but an attempt to divert public funds to sources that were not meant for?

(Applause)

Mr. Omingo: Mr. Speaker, Sir, first, those are speculations. Secondly, the American Government did not want to run this function: It was a budget from the Kenyan Government. If you want to call them American funds, I will allow you to do it but it can come from Kenyan taxpayers. Fundamentally, the American Government spent most of their funds on their dignitaries but, of course, we had a cost to run as a Government and as hosts. We need this country to grow beyond depending, for everything, upon the big brothers. That is why we suffer the syndrome of signing on the dotted lines once we do not have that ability to even stand on our two feet.

Mr. Mungatana: Mr. Speaker, Sir, the Assistant Minister should tell us the concrete benefits vis-à-vis our investment of Kshs80 million, some of which is unexplained under other expenses. What benefits have we gained by investing tax-payers money in this conference in these difficult times?

Mr. Omingo: Mr. Speaker, Sir, on the other expenses that worries the Member for Garsen, even in accounting there is what we call “materiality of this figure” vis-à-vis the grand figure. However, some of those expenses were photocopying, translation expenses and small expenditures that cannot be itemized one after one. However, the bulk of the money went to stationery and photocopying services.

Mr. Speaker, Sir, as to the benefit of the African Growth Opportunity Act (AGOA), in my earlier answer, I outlined the benefits that the Kenyan Government and Africa received from this function. I would like to outline one or two benefits. The country’s exporters to the United States of America (USA) market were made aware of the conditions and standards they should meet in order to access the USA market. The publicity of the Conference in Nairobi brought to Kenyans the need to diversify the range of products to be exported to the USA market.

Secondly, we endeavoured to increase the list of items to be exported from less than 20 to over 100. There are many more benefits, including marketing our country.

DISAPPEARANCE OF MS. ASSUNTA
WANJIKU GICHUKI

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

What is the Government doing about the disappearance of Ms. Assunta Wanjiku Gichuki of Kibingo in Kerugoya Kutus Constituency who was taken away from her house by vigilantes on 11th June, 2009?

Mr. Speaker: Order! Hon. Members, the Minister of State for Provincial Administration and Internal Security, who is seized with this Question has gone out of Nairobi on short notice to attend to an incident of violence in Samburu, where so far 28 Kenyans have been killed this morning. Under those circumstances, we will defer this Question to Thursday. The Minister has indicated that he will be available on Thursday to answer it.

(Question deferred)

Let us move on to the next Question by the Member for Juja!

DEMARCATON OF KIANG'OMBE
SETTLEMENT SCHEME

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

- (a) Does Kiang'ombe Settlement Scheme exist in the map of Kenya under the Physical Planning Act, Cap 286 of the Laws of Kenya and if so, who is responsible for demarcating and allocating settlers in the scheme?
- (b) Is the Minister aware that the scheme has never been fully surveyed since 1989 and the allottees assigned their rightful positions, despite having been issued with allotment letters in 2003?
- (c) What steps is the Minister taking to ensure that the demarcation is completed and residents issued with valid title deeds to enable them develop their plots and ward off potential illegal encroachment?

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I beg to reply.

- (a) Kiang'ombe Settlement Scheme does exist in the map of Kenya under the Physical Planning Act, Cap 286 of the Laws of Kenya. The Scheme is defined by an approved Physical Planning Map No.TKA/4/03/2 of 21st November, 2003. Demarcation of the Scheme and allocation of residential plots was undertaken by the Government in December, 2003. A nominal premium of Kshs72 per year per plot is being charged, in recognition of the fact that the residents of the area are of low income status.
- (b) I am aware that the Scheme has never been surveyed. A decision was made by the Government in 2002 that surveying of land be undertaken by private surveyors while the Ministry concentrates on policy formulation and regulation. The Government only undertakes survey of land under special programmes where funds have been allocated.
- (c) The Ministry is processing leases to individuals who have paid for conveyance, registration and stamp duty fees as well as those who have initiated surveying of their plots by paying the requisite fees to private surveyors. Titles have been issued to allottees who have met these requirements.

The Assistant Minister for Information and Communications (Mr. Khaniri): on a point of order, Mr. Speaker, Sir. I seek your guidance pursuant to the ruling you made during the time we had a controversy over the Leader of Government Business. In

your ruling, you appointed the two Joint Whips to be joint Leaders of Government Business.

Mr. Speaker, Sir, I would like to get your ruling on this matter because the Question that has just been answered by Mr. Orengo was asked by one of the Joint Leaders of Government Business. Is it in order for a Leader of Government Business to ask the same Government that he leads a Question?

Mr. Speaker: Order, Mr. Khaniri! The Joint Whips were directed to stand in for the Leader of Government Business. They were not designated Leaders of Government Business. The Joint Whips still represent their respective constituencies. As a matter of fact, it has been drawn to the attention of the Chair that this matter may be much more involved than, perhaps, the hon. Member for Hamisi may want me to do by dealing with it summarily. The Joint Whips have, in fact, made serious presentations to the Office of the Speaker that they have not been fully embraced by the Executive.

So, under those circumstances, the hon. Member for Juja has a right to raise Questions which do not push the Executive to a wall. I think this Question is innocent in the sense that it relates to a matter to do with the interest of the people of Juja on allocation of land. I think this Question can be exempted from the role that the Joint Whips may play as they stand in for the Leader of Government Business.

You may proceed Mr. Thuo!

Mr. Thuo: Thank you, Mr. Speaker, Sir, for that clarification. Indeed, I look forward to that embrace. I must say that I am not averse to being appointed substantively.

Mr. Speaker, Sir, I would like to thank the Minister for that answer and draw his attention to the fact that under part “a” of the Question, he has mentioned the fact that the Government recognises that the residents of the area are of low income status.

Under part “b” of the Question, he goes on to say that the work of surveying land be undertaken by private surveyors. Could the Minister consider undertaking the survey of this land under a special programme and, therefore, fund it to the extent that he has acknowledged the low income status of the residents of this area?

Mr. Orengo: Mr. Speaker, Sir, while I appreciate the point that has been made by the hon. Member for Juja, if I do what he has requested, then that should apply countrywide. Every Kenyan who is in a similar status would feel that he is entitled to similar exemption. I would like him to follow the footsteps of some of the hon. Members of Parliament who have committed some of their Constituencies Development Fund (CDF) money for purposes of carrying out an exercise like this. In constituencies like Malindi and Kisauni, we have already done a lot of work expeditiously because of the intervention by the local Members of Parliament who have provided funds where the Government has been unable to do so. However, the hon. Member has a point.

Mr. Lekuton: Mr. Speaker, Sir, I would like to ask the Minister when they will send district surveyors to the new districts so that they can facilitate the issuance of title deeds.

Mr. Orengo: Mr. Speaker, Sir, I think that question is not related to this Question. However, the surveyors we have are already deployed. So, there cannot be a question of deploying surveyors who do not exist. However, if the Government and Ministry generate additional funds during this financial year albeit in the Budget allocations, I will be too happy. This is because the complaints about deficit of manpower, for instance, surveyors and physical planners is a matter which is not related

to any one constituency, but in nearly every part of the country. There is a deficit either of a surveyor, physical planner or lands officer in many districts all over the country. In the case of the hon. Member, if he sees me, we can discuss over a cup of tea and see whether we can make an accommodation, in view of the special circumstances of his constituency.

Mr. Mwiru: Mr. Speaker, Sir, the Minister says letters of allotment were issued before the survey was done although they had done physical planning in that area. I am wondering how he released those letters without surveying being done and how these people settled without knowing their proper plots. It is a pity that even now the surveying has not done.

Mr. Orenge: Mr. Speaker, Sir, it is sometimes common practice to give allotment letters to unsurveyed plots. I am proud that the hon. Member is one of the people who have emerged from that system. He is now a Member of Parliament. He knows very well that, in the past, many letters of allotment were given on the basis of unsurveyed plots. One of the reasons sometimes we have to give letters of allotment is that if we do not give them to 100 people, for example, in time and wait for another month or one year; we will have an additional 200 people who will see an opportunity. So, in order to check and balance the numbers of people who are making demands justified or unjustified, sometimes it is necessary to give these letters of allotment on unsurveyed plots.

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

ILLEGAL ACQUISITION OF PUBLIC PLOT ALONG MOMBASA ROAD

Dr. Khalwale: Mr. Speaker, Sir, I beg to ask the Minister for Lands the following Question by Private Notice.

(a) Under what circumstances was L.R. No. Nairobi Block 93/1418, a designated public utility plot between Plainsview Estate and Mombasa Road, allocated to a private developer?

b) Is the Minister aware that the said private developer has now acquired the plot and plans to construct a petrol station thereon?

(c) Could he rescind the allocation and ensure the developer promptly vacates the site in line with the stated Government policy to stop illegal acquisition of public land?

The Minister for Lands (Mr. Orenge): Mr. Speaker, Sir, I beg to reply.

(a) Investigations have been initiated to ascertain the circumstances under which a designated public utility between Plainsview Estate and Mombasa Road was allocated to a private developer.

(b) I am aware that the private developer was allocated the plot. However, investigations launched would inform the Ministry as to whether proper procedures were followed in allocating the plot.

(c) If the process is found to be suspect and fraudulent, appropriate action will be taken to have the title deed cancelled and reverted to its original purpose.

In the meantime, the Ministry has placed a restriction on the title deed to forestall any transaction on the land until the matter is fully investigated and determined.

Mr. Speaker, Sir, if I may just add, I want, from the Floor of this House, to tell the country that if anybody is sitting on any land which was reserved for a particular purpose,

with or without a title deed, that he is holding that title deed at his own risk. Yesterday when the Prime Minister visited the new courts that have been built in Upper Hill, he was told nearly all the surrounding areas have been irregularly given out and those people have title deeds. I assured the courts that if they could co-operate with us to ensure that the doctrine of the sanctity of titles is not promulgated to protect thieves, we will work together to make sure such practice is brought to an end.

Dr. Khalwale: Mr. Speaker, Sir, I would like to thank the Minister for that very good answer that he has given. However, I would also like him to tell us what action he will take against this private developer. These three acres of land was a buffer zone between Mombasa Highway and Plainsview Estate. It is a buffer against carbon discharges from the vehicles and the noise. The residents had planted beautiful flowers and huge trees which they had maintained. This man has come and maliciously destroyed them. What will he do to bring this developer to account?

Mr. Orengo: Mr. Speaker, Sir, I cannot just deal with this one developer in isolation because this bad practice is found countrywide. The Eldoret High Court, for example, was given to an individual or a company and given title deed. The Law Society of Kenya went to court. The court held that Eldoret High Court was squatting on that land. In those circumstances, unless we come up with a new legislation that will empower us to deal with this impunity, it will be very difficult for us to do so. I can assure Dr. Khalwale that if he gives me notice of any such land that has been irregularly acquired, my first action always will be to stop any transaction and, probably, follow it with the revocation of the title deed.

Mr. Njuguna: Mr. Speaker, Sir, I would like the Minister to clarify what new measures he is taking to make sure schools are given title deeds in orders to contain grabbing of these properties and make sure that communities do not rise against their neighbours?

Mr. Orengo: Mr. Speaker, Sir, the schools that apply and undertake the process of getting title deeds are given title deeds. I know many schools which have title deeds. I think the point which the hon. Member is trying to make is that we should have a mechanism in which schools automatically get title deeds even if is without payment. I am afraid; we do not have such funds to give every school or institution title deeds. Schools should organize themselves to obtain title deeds.

Mr. K. Kilonzo: Mr. Speaker, Sir, it is not enough for the Minister to say that a private developer has grabbed this land. There are people in Nairobi who are specialised in land grabbing. Most of these people are very influential. They are politically-connected. Could he tell us who this private developer is?

Mr. Orengo: Mr. Speaker, Sir, in fact, what hon. K. Kilonzo say is not right. A lot of time, we find these developers or the influential people he is talking about hide behind a limited liability company whose directorship is sometimes questionable. Sometimes, they have people fronting for them. In such circumstances, it is very difficult to reach to the person who is actually behind the fraud. Again, in view of that, in the last two or so years, we have been insisting that in any land transaction, the directors of such company or the person who holds the title deed, before he can transact any business, we have their photographs and details as part of the records that we keep.

Mr. Olago: On a point of order, Mr. Speaker, Sir. Ordinarily, even where fronts are used, the Minister can name those fronts, so that Kenyans know who they are. Who is fronting in this case?

Mr. Orengo: Mr. Speaker, Sir, I have the name. I think it is called Home Development Company. However, I am prepared to make a full disclosure. Let me table the details of that company here tomorrow because I know it is a limited liability company.

Mr. Imanyara: Mr. Speaker, Sir, given that these developers always act in collusion with Government officials, particularly officials from the Ministry of Lands and others under circumstances that amount to criminal offence, would the Minister assure this House that criminal charges will be brought against people responsible for these allocations to private developers?

Mr. Orengo: Mr. Speaker, Sir, yes, I can give that assurance that, once I have the name and the circumstances which clearly establishes the fact that an offence has been committed, I will take the appropriate action. But, of course, I will do that with the assistance of the Commissioner of Police and the Attorney-General. I do not arrest or prosecute.

Dr. Khalwale: Mr. Speaker, Sir, it is quite possible in Government offices for documents to go missing. Could the Minister accept to receive from me a copy of a document indicating that his predecessor, the former Minister in his Ministry, chaired a meeting which established that the Commissioner of Lands issued this title deed to one Mr. Nelson C. Koech, who hurriedly sold it to Mr. Lawrence Muriuki. Maybe, from there, Mr. Muriuki will tell him how he moved on to form that limited liability company? I table the document so that he can make use of it.

(Dr. Khalwale laid the document on the Table)

Mr. Orengo: Mr. Speaker, Sir, I am happy with that, but I would like to tell Dr. Khalwale that, probably, he is in the wrong job. He should join the Attorney-General or become the Commissioner of Police to get our work done quickly.

Mr. Speaker: Fair enough! That matter is disposed of except that Mr. Minister, will you, please, prepare so that tomorrow, you can comply with Order No.4 and lay, as a Paper, the information pertaining to the ownership of the land? You can table that as a Paper and, before you do so, you need 20 copies to be in Room No.8.

ORAL ANSWERS TO QUESTIONS

Question No.114

PROVISION OF HEALTH FACILITIES IN TURKANA REGION

Mr. Ethuro asked the Minister for Medical Services:-

- (a) whether he could table the number, location and distance of district, sub-district hospitals, health centres and dispensaries in Turkana Central, Turkana North and Turkana South districts; and,

(b) what urgent measures he is undertaking to ensure adequate health facilities are provided in the Turkana region in compliance with the Millennium Development Goals (MDGs 2-5).

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

(a) In the Turkana region, there are 90 health facilities located as follows:-

In Turkana Central, there is one hospital called Lodwar District Hospital. There are two health centres by the names of AIC Kolokol and Lorugum. There are 29 dispensaries as listed in the list that I will hereby table before the House and the hon. Member. I am sure the hon. Member has already seen the list.

*(Prof. Anyang'-Nyong'o laid the document
on the Table)*

In Turkana North, there are two hospitals. They are Lopiding and Lokitaung sub-district hospitals. There is one health centre called AIC Lokichoggio. There are 32 dispensaries as listed in the list that I have laid on the Table.

In Turkana South, there are three health centres. They are PCEA Lokichar, AIC Lokori and AIC Nakwamoru. There are 20 dispensaries as listed in the list that I have just laid on the Table. There is no hospital in Turkana South District.

(b) The policy of the Ministry is to have, at least, a sub-district hospital in every constituency. As per this guidance, the Ministry needs to put up a hospital in Turkana South. To address that need, the Ministry, during the budget preparation process for the year 2009/2010, proposed to the Treasury to allocate funds to construct 42 new hospitals, one of which was to be in Turkana South. Unfortunately, the Treasury was unable to allocate the required funds.

However, the Ministry will continue to engage the Treasury and our development partners to support the construction of a hospital in Turkana South and other deserving constituencies. In addition, in the current 2009/2010 Financial Year, the Government has implemented a focus shift whereby funds for construction of health centres have been availed to constituencies. In that arrangement, every constituency will get Kshs20 million for the construction of one health centre. Similarly, funds have been made available for the recruitment of 20 nurses for deployment in each constituency. If those funds are well utilized in the three Turkana districts, capacity for the attainment of the MDGs will be enhanced.

As regards dispensaries, the Constituencies Development Fund (CDF) and the community have constructed a total of 20 facilities in the three districts, for which I congratulate the hon. Member, my friend hon. David Ekwee Ethuro, Esq. The Ministry's plan is to make all of them fully operational within the current 2009/2010 Financial Year. That will further address the realization of the MDGs in Turkana.

Mr. Ethuro: Mr. Speaker, Sir, I also wish to thank my good friend, the Minister for Medical Services, for a good answer. It is much better than what he brought last time. I was asking for that detailed information so that I could be sure that the Minister knows about the situation. But, more importantly, the Government made a commitment, as early as 1999, through the Sessional Paper on Poverty Reduction, to ensure that there is a

health facility within a distance of five kilometers. That commitment was repeated by the Minister when he was presenting his Budget Speech this year.

Mr. Speaker, Sir, from Lodwar District Hospital to each of the two sub-districts in Lokichoggio and Lokitaung, there is a distance of 250 kilometres. Between Lokori and Kapendo dispensaries, there is a distance of 150 kilometres squared. When will the Minister ensure that the Government's own commitment to ensure that there is a health facility in a radius of five kilometers is realized in Turkana region? That also includes dispensaries.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, what the hon. Member has said is very true. That commitment follows the World Health Organization (WHO) standards. We, as a Government, must adhere to it as much as possible. You will notice that I have physically been going around to see for myself the distances involved and whether the referral system that we are trying to devise can work. We have one major challenge - population concentration. In areas where the population is widely dispersed and is not concentrated in certain places, and where it might become both difficult and uneconomical to put up dispensaries which are the primary health facilities near the people, we may have to combine mobile clinics with dispensaries, so that the people can have access to those facilities reasonably. Secondly, we need to ensure that we locate our ambulances rationally, so that the people could have access to both primary health facilities and referral facilities. That is something that we are doing at the moment. As I said previously, we have just completed a base line survey to determine exactly what we have, and how we can go about filling the gaps. So, I would plead with the hon. Member that, as we get funds to implement that, we shall definitely rise up to the occasion.

In the meantime, I must congratulate Members of Parliament who have built many dispensaries in the nation. They have reduced the problem that we have with distances. We should continue doing so and challenge the Government to equip those dispensaries as well as provide them with the necessary human resources.

Mr. Mwangi: Mr. Speaker, Sir, in his answer, the Minister has indicated that each constituency has been allocated Kshs20 million. In the past, the Ministry has indicated that we do not have enough staff. Now that the Government has provided Kshs20 million, could the Minister confirm that there would be enough nurses to be deployed all over the country?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I said that in this year's Budget, the Deputy Prime Minister and Minister for Finance has allocated Kshs20 million per constituency for the construction of health centres. That is in the Budget. The other thing I said is that we are hiring nurses and we shall be deploying 20 nurses per constituency. We hope that those 20 nurses will be rationally distributed within the constituency to provide services in the dispensaries, health centers and sub-district hospitals. I know for certain that even when we provide 20 nurses per constituency during this financial year, that will not be enough. But we have a plan to recruit at least 1,600 nurses every financial year between now and when we are voted out of office in 2012.

Thank you, Mr. Speaker, Sir.

Mr. Ethuro: Mr. Speaker, Sir, I wish to thank the Minister for the answer, and I am praying that his prayer to be voted out of office will not take place because he is doing a good job.

Mr. Speaker, Sir, when are they going to deploy the 20 nurses to the constituencies? What assurance will he give this House and the country that the moment that the 20 nurses are deployed; they will make sure that also KEMSA will now include those dispensaries that we have built through the CDF in their list of drugs distribution? When? It is already September!

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the interviews are currently going on and our hope is that we hire these nurses as soon as the interviews are over.

Regarding KEMSA, this is a problem that we all have as hon. Members, including myself; that although we may have constructed these dispensaries, not all of them have been properly gazetted. As soon as they are gazetted, then KEMSA can distribute drugs to them because there are certain cases where the health officials in the grassroots may not have inspected all these dispensaries. This is the reality. I am just being very transparent so that you do not blame me if medicine does not reach there. But the rule is that, they must be inspected and health officials must certify them---

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House that he finds himself helpless in so far as gazetting of the new health centres is concerned when we know that he is the one who is supposed to gazette those particular institutions?

(Applause)

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, there is a difference between being “helpless” and being “transparent”, as hon. Dr. Khalwale knows. I am not helpless; I am being transparent. I am saying that the process of gazetting dispensaries involves local health officials going to those facilities and certifying them as being properly constructed and adequate for functioning as dispensaries. There are certain people who put up a shack in the name of a dispensary and expect the Ministry to supply medicine and take nurses there. Now, if a dispensary does not qualify, both according to the standards of the Ministry of Public Works as well as the Ministry of Health, definitely, KEMSA will not take pharmaceuticals there. So, the process of certifying them, gazetting them and giving that information to KEMSA that, “You should now supply drugs there” may not necessarily coincide with the time when a dispensary is completed to be used by the Ministry of Public Health or the Ministry of Medical Services.

So, Mr. Speaker, Sir, all I am saying is that in each situation, I would plead with the Members of Parliament to work very closely with the public health officials to make sure that a dispensary, once constructed, is properly certified so that it can be gazetted by the Director of Medical Services.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Next Question, the hon. Member for Ndaragwa!

(Mr. Bahari stood up in his place)

Order, Mr. Bahari! That matter must rest there. We have already spent 12 minutes on that Question.

Question No.196

DISMISSAL OF MR. JOHN WACHIRA KIHIA

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

(a) whether he could state the circumstances under which Mr. John Wachira Kihia was dismissed from service by the then Ministry of Environment and Natural Resources; and

(b) whether he could explain why this officer was dismissed, considering that the then Nyandarua District Forest Officer conveyed to the Ministry, through a letter dated 21st March, 2003, indicating that he had been unwell.

An hon. Member: *Hayuko!*

Mr. Speaker: Order, hon. Members! It would appear like the Minister for Forestry and Wildlife is not in the House at the moment. We will defer this Question to tomorrow morning and it is expected that the Minister will then turn up with an explanation, first, as to why he was not here to answer this Question, and then we will proceed!

(Question deferred)

Next Question, hon. Member for Kitui West!

Question No.285

IRREGULAR PROCUREMENT OF ENTERPRISE
RESOURCE PLANNING SYSTEM

Mr. Nyamai asked the Minister for Medical Services:-

(a) whether he could explain why the procurement of the Enterprise Resource Planning System at a cost of Kshs.135 million by the Kenya Medical supplies Agency (KEMSA) through Tender No. KICT/KEMSA/2008-2009 was done through the Kenya ICT Board instead of KEMSA or the Ministry's established procurement framework;

(b) whether he could provide details of the members of the Tender Evaluation Committee, including their names, employer and their relevant competence as far as this job is concerned; and,

(c) whether he could also provide a copy of the signed Evaluation Report, the Tender Opening Documents and the Tender Award Notification.

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

(a) The tender that the hon. Member is talking about was done through the Kenya ICT Board because KEMSA received instructions from the Public Procurement Oversight Authority to transfer the responsibility to the ICT Board. The instructions were conveyed vide letter reference No.PPOA 6/6 (5) of 1st September, 2008. The Kenya ICT Board cited Section 27 (6) of the Public Procurement and Disposal Act of 2005 as the basis for their decision.

(b) Details of the members of the Tender Evaluation Committee are as follows:-

	NAME	EMPLOYER	DESIGNATION	RELEVANT COMPETENCE
1.	G. Otieno	Kenya ICT Board	Technical Manager	IT Specialist
2.	A. Mbugua	KEMSA	Acting IT Manager	IT Specialist
3.	Z. Ndirangu	Kenya ICT Board	Financial Specialist	Financial Management
4.	K. Shiroya	Kenya ICT Board	Program Assistant	Project Management
5.	J. Mukiri	Kenya ICT Board	Procurement Specialist	Procurement
6.	S. Korir	Kenya ICT Board	Procurement Manager	Procurement

(c) The signed Evaluation Report, the Tender Opening Documents and the Tender Award Notification are hereby tabled as received from the Kenya ICT Board.

(Prof. Anyang'-Nyong'o laid the documents on the Table)

Mr. Speaker: That is fair enough.

Proceed, hon. Member for Kitui West!

Mr. Nyamai: Mr. Speaker, Sir, I would like to thank the Minister for that answer. I have not had time to look at the documents that the Minister has presented but, nevertheless, I will look at them later. But what I would like the Minister to clarify is why, as the person in charge of the Ministry, he allowed the KEMSA to receive instructions and procure the Enterprise Resource Planning System using another entity whereas we know the main function of KEMSA is procurement? KEMSA handles procurement of about several billions.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, that is why I am referring the hon. Member to the instructions conveyed to us via that letter which was based on the Public Procurement and Disposal Act of 2005 which, among other things, allows the Kenya ICT Board to act the way it did. Unless the hon. Member is prepared to give us an option outside the law cited by the Kenya ICT Board, I would be quite willing to go back to the Treasury and say a new law has been brought to bear under which I can challenge the decision of the Kenya ICT Board.

Mr. Speaker: Proceed, Dr. Eseli!

Dr. Eseli: Thank you, Mr. Speaker, Sir. There is a very huge discrepancy on the bid price and the price that was awarded. That is because the Alliance Technology Limited bid tender price was Kshs110,485,740. The letter awarding the contract to them had a price of Kshs135,388,140. Could the Minister explain to the satisfaction of the Chair and the House that huge discrepancy? Where did the additional Kshs20,000,000 come from?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I have a table here with me. Surely, I would like to advise the hon. Member really that, since it was done under the

procurement law, which was under the Ministry of Finance, I think the right Ministry to answer question would be the Ministry of Finance and not the Ministry of Medical services.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. According to this document, the point raised by Dr. Eseli is very important. Alliance quoted the tender at Kshs110 million and when he was awarded, he was allowed to supply at Kshs135 million. The Minister has said that he is not capable of responding and he would rather the Ministry of Finance does that. In that case, can we defer the Question completely, so that we scrutinize this further and also give him time to liaise with the Ministry of Finance to agree on who is going to inform the House?

Mr. Speaker: Order! The Minister for Medical Services, that is a genuine concern on the face of it - *prima facie*. There is a discrepancy which you must explain. If you are unable to explain, then be categorical so that we can defer this Question so that it could be answered by the Minister for Finance.

Prof. Anyang'-Nyong'o: Exactly, Mr. Speaker, Sir. I concur with you, Dr. Khalwale and all the listeners. Let that be done.

Mr. Speaker: Order! Order, Dr. Eseli! That really must rest the matter. The Question is deferred to Thursday so that the Deputy Prime Minister and Minister for Finance could answer it.

(Dr. Eseli interjected)

Order, Dr. Eseli! You do not address the Chair unless you have been given the floor! This Question is deferred. All further supplementary questions and concerns will be raised on Thursday this week.

(Question deferred)

Next Order!

STATEMENTS

Order hon. Members, we will take one statement because we have a backlog. The Minister for Agriculture will deliver one Statement. Please, do so within five minutes. Try to summarise your points!

MINISTERIAL STATEMENT

CURRENT SUGAR SITUATION IN THE COUNTRY

The Minister for Agriculture (Mr. Samoei): Thank you, Mr. Speaker, Sir. I rise to issue a Ministerial Statement on the issues raised by the Member of Parliament for Nyakach, hon. Ochieng', on the current sugar situation in the country. The current sugar situation in the country is not artificial, as has been projected by certain sections of the media. It is a reality that has been brought about by external factors as well as internal factors.

Mr. Speaker, Sir, the World sugar production for the year ending September, 2009 crop is established at 154.5 million tonnes, compared to 166.7 million tonnes realized in the previous year. Ending stocks are forecasted to reduce by 6.3 million tonnes. A sharp decrease in surplus stocks provides a fundamental support for the rise in prices of sugar in the world and, more specifically, in our country. That reduction in world sugar production is as a result of the following:-

- (i) Reduced production in China due to major frost in the previous season.
- (ii) Reduced investments in new production units in Brazil due to a global cash crunch and improved world ethanol prices which have seen Brazil project to convert 60 percent of cane to ethanol.

The international sugar prices now range between US\$462.8 to US\$465.0 per tonne (CIF – Mombasa) compared to US\$411 in the same period, last year.

In Kenya, the total sugar production from January to June, 2009 was 326,000 metric tonnes compared to 314,000 metric tonnes in the same period last year, giving a slight production increase of 3.7 percent. Total sugar sales in January to July, 2009 were 336,000 metric tonnes compared to 307,000 metric tonnes in the same period last year.

Closing stocks of sugar were 21,000 tonnes at the beginning of this year, and maintained a decrease trend to finish in August 2009 at only 3,000 tonnes compared to 10,000 tonnes of sugar at the end of the same period last year. The sharp decrease in sugar stocks is attributed to increased sugar sales to meet growing sugar demands against low inputs of table sugar. Generally, for production, the year started high, dropping slightly in February and March, and picking up in mid-March before dropping gradually from April to July.

Mumias Sugar Company which supplies, at least, 60 percent of local sugar undertook its factory maintenance between 6th July and 3rd August. That deprived the country of its average production of 23,000 metric tonnes of sugar per month.

Chemelil Sugar Company and Kibos, which produce an average of 3,700 metric tonnes and 3,800 metric tonnes, respectively, were also undertaking maintenance in the month of August. Sugar production is projected at 40,000 metric tonnes in September, 2009. This is lower than the usual high of 54,000 metric tonnes owing to the expected closure of Muhoroni, West Kenya and Nzoia Company for maintenance.

It is, therefore, expected that the production in the month of October will be more than usual - 54,000 metric tonnes - given that factories improve their efficiency after maintenance. No importation of non-COMESA sugar into the country duty free has taken place. Any sugar imported from non-COMESA region has attracted duty as the law demands.

The Government has, however, requested the East African Community (EAC) to be allowed to import 60,000 metric tonnes of non-COMESA sugar over a period of six months, if the current high price of sugar persists. The COMESA region should be understood. It is a net sugar deficit area with a combined demand of 5.8 million tonnes and supply of 5.3 million metric tonnes.

The Government has taken measures to revitalize the sugar industry in the country. In the last five years, the sugar industry has seen reforms that have facilitated the millers and farmers to continue in business, despite the harsh realities of regional and international competition. That includes corporate governance reforms where we have changed

managements, performance-based management contracts to ensure efficiency and effective operations.

We have undertaken debt restructuring, suspension of interest and penalties on previous loans owed by farmers and millers to the Sugar Development Fund (SDF) amounting to Kshs4.7 billion to avoid sugar companies continuing to incur huge losses. We have disbursed Kshs1.7 billion to farmers, being payment for outstanding farmers arrears owed by respective factories.

We have reduced the SDF lending rates from 10 per cent to 5 per cent. The Kenya Sugar Board, in partnership with the Agricultural Finance Corporation (AFC) of Kenya, has disbursed directly to farmers, a total of Kshs500 million as loans for cane development.

Mr. Speaker, Sir, with effect from 1st July, 2009, the sugar companies adopted a cane payment formula which pegs the price of cane to that of sugar and incorporates a quality variable. As a result, farmers have been able to enjoy high producer prices. In fact, this year saw a record Kshs3,250 per tonne being paid to farmers. That is a record in the history of the sugar industry in our country.

We have also increased funding to research by twice the amount it was last year. The Kenya Sugar Research Foundation is currently undertaking expansion and modernization of its facilities.

On sugar import regulations, the Government has developed the sugar import regulations to protect millers and farmers from unfair competition from importation. The Government streamlined its surveillance capability to ensure effective monitoring of sugar importation by putting in place mechanisms that enable it to closely monitor and regulate sugar imports in accordance with regulation provisions in the Common Market for Eastern and Southern Africa (COMESA) agreements.

In 2003, the Government effected the import/export regulations that provided for registration of sugar importers and exporters hence effectively monitoring the movement of sugar. In 2008, the Government amended the regulations to make them more effective as they were being grossly abused by unscrupulous traders. The Sugar Regulations, 2008, therefore, provide for issuance of permits on “per consignment” basis instead of the blanket annual licences previously used.

Mr. Speaker: Could you seek a clarification, Mr. Ochieng’?

Mr. Ochieng’: Mr. Speaker, Sir, it is common knowledge that every year, these sugar factories normally ground for maintenance. That is why the Ministry agreed that some tonnage of sugar should be imported before the factories ground for maintenance. What happened to the 86,000 metric tonnes of sugar that ought to have been imported in the first quarter of this year?

Secondly, 20 companies were shortlisted by the Kenya Sugar Board (KSB) to import sugar by 14th September, 2009. Could I be told whether that sugar has arrived in the country or not? If it has come in, is it from the COMESA countries?

Mr. Koech: Mr. Speaker, Sir, whenever there is shortage of sugar, the price of the commodity goes up. Immediately we get more sugar, we do not see the same price of sugar coming down. Why do most sugar factories close at the same time for maintenance thus creating a very big shortage?

Secondly, why do they not give warnings---

Mr. Speaker: Order, Mr. Koech! You are allowed to seek only one clarification. The sponsor of the request is allowed to seek two clarifications.

Mr. Chepkitony: Mr. Speaker, Sir, the Minister has said that the world market price of sugar early this year was US\$411 per metric tonne and it is now about US\$462 per metric tonne. This is about Kshs40 per kilogramme, and yet the current selling price for sugar is about Kshs110 per kilogramme which is very high. Could the Minister explain why the price of sugar is still very high and yet the world market price is about Kshs40 per kilogramme?

The Minister for Agriculture (Mr. Samoei): Mr. Speaker, Sir, an issue has been raised about our sugar companies closing around the same time for maintenance. This is a tradition that has existed for a while and we are addressing ourselves to it. We have tried to persuade some of the companies to extend their time so that they do not go into maintenance at the same time, but they told us that the machinery has a life span each year which they must meet. Therefore, it has become a very controversial issue. I admit that we need to do something about the closure of our sugar mills for maintenance so that we stagger the maintenance period and avoid experiencing instances of shortage of sugar. This year, the shortage was informed more by a court case which did not allow the COMESA sugar to come into the country. That court case has since been dealt with and ruled in favour of the Government.

As the hon. Member has correctly put it, 20 companies were given rights to import sugar into the country. Unfortunately, only five have paid up and already 4,500 metric tonnes of sugar has arrived in Mombasa. We expect another 40,000 metric tonnes which has been sourced. However, we are short of another, 220,000 metric tonnes. We will carry out another auction on Monday, next week to get more players who have sugar to bring into the country.

On the world market price of sugar being US\$462, I do not think the figures add up to Kshs40 per kilogramme. The figures are much higher. In fact, the figures I have given here are Cost in Freight (CIF). You need to factor in insurance fees, clearing charges, transportations and other costs. We have recorded high price of sugar in the country which is unacceptable and we are looking at various avenues of bringing in additional sugar. This is because unless we have a structured arrangement, the consumers will continue to hurt. The price per a 50 kilogramme bag today is about Kshs4,200. That translates to Kshs100 or Kshs105 per kilogramme. We believe that if millers sell at Kshs2,800 or Kshs3,000, they should not only break even, but also make money. However, if they sell this at Kshs4,200, they are actually making a kill.

So, we have two options which are either to put price controls or increase the supply of sugar in the country. As a Government, we do not believe in price controls. Therefore, the way to increase the supply of sugar, is to increase the suppliers of sugar both from the COMESA and--- I have said that if the COMESA sugar does not find its way into the country, the Government has requested the East African Community (EAC) to allow 60,000 metric tonnes of non-COMESA sugar, again, in a structured manner over the next six months. All imports of sugar, be they from the COMESA or non-COMESA are regulated by the KSB in a manner that does not hurt the local sugar production.

POINTS OF ORDER

VACATION NOTICE SERVED
TO KARIOKOR MARKET TRADERS

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. I rise to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Local Government regarding a notice issued to traders of Kariokor Market terminus on 11th September, 2009 to vacate by today, Tuesday, 15th September, 2009.

In the Ministerial Statement I would like the Deputy Prime Minister and Minister for Local Government to tell the House and the entire nation, under what by-law the Kariokor Market Terminus was established and when. I would also like him to inform the House whether legal notice was published to abolish the market and create another one so that they can pave way for the bus terminus that they want to put up.

Thirdly, I would like the Deputy Prime Minister and Minister for Local Government to tell this House what will happen to the traders who are currently operating from that facility. Will they be compensated for their structures and stock? Could he also consider letting those traders continue operating from that area since some of them have been operating from the terminus for over 30 years?

Mr. Speaker: Minister for Local Government! Is the Minister for Local Government not here?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, I will transmit the information to the Minister for Local Government, so that he can issue a Ministerial Statement. Since this is not a very difficult issue, I would say he will do it on Thursday, this week.

Mr. Speaker: Fair enough! It is so directed!
Yes, Mr. David Koech!

STATUS OF ELDORET-CHAVAKALI
ROAD PROJECT

Mr. Koech: On a point of order, Mr. Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Roads on the status of Eldoret-Chavakali Road. Considering that the Minister allocated over Kshs1 billion to rehabilitate the said road earlier this year and awarded the tender for the above works, could he confirm, in his Ministerial Statement, the following:-

(a) that in the section between Eldoret and Mulango, the shoulders of the road have not been filled and are posing a lot of dangers to motorists;

(b) that little or no work has been done between Mosoriot and Sirwayala, hence rendering the section impassable and thereby causing inconveniences to the residents; and,

(c) that the section between Mulango and Mutuot and the section between Sirwayala and Chavakali have been done to the specifications and to the satisfaction of the Ministry?

In the Ministerial Statement, could he inform the House when the sections of the above road that have not been done to the specifications of the Ministry will be done? Could he also undertake to invite the area Members of Parliament when inspecting the said road?

Thank you, Mr. Speaker, Sir.

(Dr. Machage stood up in his place)

Mr. Speaker: Order, Mr. Assistant Minister! I know that you answered a Question relating to this matter, but this passes for a Ministerial Statement because, from your responses, you gave a figure of over Kshs100 million allocated to this project, but it would appear that that money is either not being used or is being misused. It, therefore, becomes urgent. So, there is need for you to respond urgently. So, can you do so tomorrow afternoon?

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, in the hon. Member's request, he suggests a visit to the area. I need, at least, two weeks to respond adequately.

Mr. Speaker: Do you need to visit the project before you respond?

The Assistant Minister for Roads (Dr. Machage): Yes, Mr. Speaker, Sir.

Mr. Speaker: When are you prepared to visit it? Thursday?

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, I will look at my diary and communicate to the hon. Member.

Mr. Speaker: Can you, please, inform the House tomorrow when you will visit?

The Assistant Minister for Roads (Dr. Machage): No, Mr. Speaker, Sir. I will do so, maybe, next week.

(Laughter)

Mr. Speaker: Fair enough! It is ordered that this matter comes up on Tuesday, next week.

(Mrs. Ngilu stood up in his place)

Mr. Speaker: What is it, Minister!

The Minister for Water and Irrigation (Mrs. Ngilu): On a point of order, Mr. Speaker, Sir. I would like to be allowed to issue a Personal Statement.

Mr. Speaker: You may proceed.

PERSONAL STATEMENT

APOLOGY SOUGHT OVER KACC LIST LAID ON THE TABLE

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Speaker, Sir, I rise under Standing Order No.76 to issue a Personal Statement.

On 9th September, while I was away on official duty, the Minister for Justice, National Cohesion and Constitutional Affairs, while contributing to debate on the Floor of the House, tabled a list of Ministers, Members of Parliament, Permanent Secretaries and other senior Government officers whom he claimed were under investigation by the Kenya Anti-Corruption Commission (KACC). On the list, appears my name although he

provided no documents that could pass the test of admissibility of documents in the House. I feel that I must clear my name, because this information is already in the public domain.

Mr. Speaker, Sir, on the account that the Minister purports to have had KACC investigate me on Kenya Medical Supplies Agency (KEMSA) irregular tendering and National Hospital Insurance Fund (NHIF) impropriety, I would like to state here that I have no knowledge of such investigations; not now, not in the past. Usually, investigations take a formal process. In the case of a public officer, like me, they have to be public. I would like the Minister to tell us how come there are investigations going on, according to the list that he tabled, in respect of which I am in the dark? When did the KACC summon me to record a single statement ever since I became a Minister?

I have been out of the Ministry of Health for the last two years, and nobody ever came to talk to me about any matter of that sort. Is this how the KACC is conducting, and wants to continue conducting its investigations? Does KACC want to conduct its investigations through third parties and, indeed, on the Floor of the House? Does KACC want to do this using people who are trying to cover up their past criminal activities? If indeed, this is the approach, the KACC has ceased to carry out its mandate, and I would like to ask if Hon. Justice Ringera is the right person for this job.

(Applause)

Mr. Speaker, Sir, if Justice Ringera and KACC have truly done their job, how come we have not seen a single case relating to the Anglo Leasing, Triton and Goldenberg scandals, as well as the disputed sale of former Grand Regency Hotel carried out conclusively? These are cases we all know of. There are many more major scandals that we know of that have not been investigated! How come that those who are implicated are not being mentioned as having been put under investigations? How come that the Hon. Justice Ringera has not refuted that he asked the former Permanent Secretary for Ethics and Governance, Mr. John Githong'o, to go slow on Anglo Leasing?

(Applause)

Is this really a person that we can trust to fight corruption in this country? Should he not be investigated too? If investigations are the yardstick that we are using, should the Minister for Justice, National Cohesion and Constitutional Affairs himself not be investigated by KACC for being mentioned adversely in Public Investments Committee Reports of this House?

Mr. Speaker, Sir, the Minister for Justice, National Cohesion and Constitutional Affairs should not pass the buck. He and the Attorney-General failed to properly advise the President on this matter. There is a laid down procedure of appointing the head of the KACC and other officers, which, in this case, was not followed. That is the issue at hand.

I further wish to thank you, Mr. Speaker, Sir, for protecting the dignity of this House without fear or favour, and for ensuring that this House is not used for settling personal scores. I am on record for having been vehemently opposed to Justice Ringera's appointment in 2004. I was then a Minister, and I opposed it. Are these actions by Justice

Ringera, on behalf of KACC, a revenge mission? This is not about fighting corruption. For me, I think it is witch-hunting.

Mr. Speaker, Sir, the Minister should, therefore, not use KACC to try and scare off those who are opposed to these appointments. I will not be intimidated by these tactics. Let me state categorically that I am ready to face KACC anywhere, on any matter of corruption, but it has to be done in a procedural manner and within the law.

I, therefore, stand here to seek an apology from the Minister for Justice, National Cohesion and Constitutional Affairs for imputing improper motive on my person without moving a substantive Motion as required by Standing Order No.79(4).

Mr. Speaker, Sir, I further demand an unconditional apology from the Minister, not just to me, but also to those Members of Parliament and others who feel aggrieved by his actions.

I am on record for opposing Justice Ringera's appointment in 2004 and I oppose it now again. The reappointment of Justice Ringera and his two deputies is unprocedural, unlawful and undermines the fight against corruption in this country which we must all put hands together to fight.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Next Order!

BILL

First Reading

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

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

Mr. Speaker: Next Order!

MOTION

ADOPTION OF REPORT ON CONSERVATION OF MAU FOREST COMPLEX

THAT, this House adopts the Report of the Government's Task Force on the Conservation of the Mau Forests Complex laid on the Table of the House on Wednesday, 12th August, 2009.

(The Minister for Forestry and Wildlife on 10.9.2009)

(Resumption of Debate interrupted on 10.9.2009)

Mr. Speaker: Hon. Members, we will proceed with Order No.9 where we left last Thursday. Who was on the Floor?

The Assistant Minister for Energy (Mr. Keter): Thank you, Mr. Speaker, Sir. As I said the last time I was contributing to this Motion, this Parliament must make laws or adopt Motions which are in conformity with the law.

I ended by raising some issues on page 18 on some of the annexes which I said were not attached. To me, this report is not valid because the problem is on methodology. That is where the Committee divided itself into four sub-committees. Their reports are contained in annexes I to VIII.

This afternoon, those annexes I to VIII have just been tabled. I wonder whether, even if a genius can go through all the annexes, he can make an informed decision because the issue of Mau deals with human beings.

Mr. Speaker, Sir, the issue of Mau is so sensitive. I want to urge this Parliament that we make contributions that will help us sort out this issue, once and for all. I raised those fundamental issues because I felt that we, as a House, should debate, deliberate and adopt things in a manner which is in conformity with the law.

In 2005, we sat here until past midnight debating the issue of constitutional making. You saw what happened. Finally, we did not have a Constitution because of rushing things.

Mr. Speaker, Sir, the Tenth Parliament has been critical and sensitive on various issues. I want to commend this Parliament. At the same time, these annexes which are here are fundamental to me because they show everything that the Task Force did. I have not had a chance to go through all the eight annexes. I, therefore, oppose this report on that basis.

I do not want to be part of a Parliament which adopts something which later on turns out not to be the real report. We need to be fair. The Mau issue has been talked about in various forums. It should not be used as a scapegoat for whatever is happening in this country. There is climate change. I am not a scientist, the scientists can tell us. There is global warming. There are so many factors which we need to be honest about to one another. Therefore, when we say we have to adopt this Report today because Mau is burning, I do not think we are serious. Let us adopt a report which will sort out the issues which are there.

Mr. Speaker, Sir, when the Minister for Forestry and Wildlife was moving this Motion, he said in 2005, there was the creation of the Kenya Forestry Service (KFS) which was domesticated in 2007. I was in this Parliament. He said KFS has not been efficient because of lack of funds. This is contained in the HANSARD.

We have had the Government establishing authorities or arms of the Government which are entrusted to carry out certain tasks. Therefore, we should not be told that if we adopt this Report today, the issues of Mau will be sorted out.

Mr. Speaker, Sir, I want to go to page 45 of the Report where the Task Force recommended that all the title deeds that were issued irregularly or not issued in line with the stated purposes for the settlement scheme or issued in critical water catchment areas should be revoked. All title deeds that amount to allocation of more than one parcel to the same beneficiary should be revoked. All title deeds that amount to allocation of more than two hectares, that is five acres, should be revoked without compensation.

It is a court of law which has authority to do this. We cannot use this Report to revoke title deeds. We want to be very honest. If this Report can be used to revoke title deeds, then this is not a country where we want investors to invest. We want investors to

invest here using the said title deeds, go to the bank, take loans and secure themselves. All of us who are here, buy houses on the basis of title deeds. Parliament pays each Member of Parliament who is here on that basis.

If we challenge those same title deeds and say that they be revoked through the said task force, then that is where we are wrong. It is even in the ruling of a case between Kaliasoi and Narok County Council which Justice Oluoch clearly said that the sanctity of title deeds must be respected.

Mr. Speaker, Sir, it has been said that Sondu Miriu is drying up because of Mau. I want us to be very sincere. I have statistics of all the hydros in Kenya which generate power. The intended purpose of Sondu Miriu was to generate 60 megawatts. It is a runoff thing. There is no dam in Sondu Miriu. The dam was to come under the second phase, that is Magwagwa Project. You block the water and generate.

Currently, we are generating 20 megawatts. Turkwel is currently generating 106 megawatts. Kindaruma and Kiambere dams were supposed to be generating over 545 megawatts. As I talk now, they are generating below 40 megawatts. Is Mau there? Let us be honest. Is Mau there? Mt. Kenya is there. We have Aberdares Forest.

All the water towers must be protected. The process should not be selective. Why is it that there is no water now in Mt. Kenya Forest area, if people were evicted ten years ago? Let us be serious with one another. Let us get the scientific knowledge about it.

We do not want forceful evictions. We do not want brutality of people. We want people to be moved in a humane way. We do not want to see what happened in 2005. Those people are Kenyans. If they are squatters, there are laws to be applied which are not covered in this Report. That is why I am opposing it. How can we deal with a squatter who has nothing? Do we go and chase that squatter? If this was done in Mt. Kenya, was it legal? To me, it was not legal. Those people stayed out for ten years. This Parliament appropriated some money where Solio Ranch was bought and those people were settled there. Up to now, they do not have schools. Those are Kenyans. We do not want to have IDPs in this country.

Finally, looking at the list of the 22 blocks which have been mentioned, I want to ask a question which was asked sometime back; the issue of forest cover is a historical problem. Where I come from, there are tea estates owned by multi-national companies like James Finlay, Unilever and George Williamsons. These places were forests which were degazetted. The Kenyatta regime came and did the same. Moi came and did the same. Kibaki came and did the same. If it was wrong, it was wrong throughout. If we have to correct this, let us be honest and do it all the way to the colonial time.

Mr. Speaker, Sir, where the headquarters of the United Nations Environment Programme (UNEP) is, was part of Karura Forest. Let us be honest to one another and say where the boundaries are. If we say that if it was done by the former President it makes it wrong, that is where we go wrong. We want to say a wrong is wrong. We want to support it and correct it. We should start from the colonial time. We need to start from Kericho and move the *Wazungus* who bought land there.

I want to end by saying that according to me, this Report is not in conformity with the laws of Kenya. Therefore, as Parliament, we should not own a Report which will be challenged later on. We will then be asked: "Where were you? "You should have pointed out that this was wrong!" That is why I am saying that without those annexures, no Member can make an informed decision unless we are going to say that whatever is

illegal and not in conformity with the law should be null and void. Therefore, all this section which talks about revocation of title deeds and movement of people should be done in accordance with the law.

With those many remarks, I beg to oppose.

The Minister of State for National Heritage (Mr. ole Ntimama): Thank you very much, Mr. Speaker, Sir.

I want to start by saying that the destruction of the Mau Forest Complex has got devastating effects on the whole country. This weekend one of the main things which some hon. Members were saying was that if things go wrong in Lake Naivasha or elsewhere, it has nothing to do with the Mau. I can tell you that the climatic effect that the destruction of Mau Forest Complex has caused has completely affected the whole country and across the borders. If saying that the destruction of the Mau Forest has caused severe problems all over is ignorance, too bad! If it is arrogance, too bad!

Mr. Speaker, Sir, we must keep reminding the people of Kenya, because they are the people who talk through the FM radio stations, to show clearly that the effect of the destruction of Mau Forest is global. Look at the climate change; it is affecting everything. The gases that are being emitted into the atmosphere are a result of lack of trees. I want to challenge what some hon. Members were saying, that it is not Mau and say here now, that it is Mau! It is affecting everybody and the climatic changes are so severe!

Mr. Speaker, Sir, I know most hon. Members know what is happening. Look at Nakuru, for example, all the four rivers going into Lake Nakuru are already dry or are drying. They are either dead or dying. The lake has no water. Nakuru Town is a stinking town because there is no fresh water going to the town and to the lake. The flamingos have run away. They have gone to Lake Natron and elsewhere. I want to say very clearly that if those effects are not enough to tell Parliament to evict everybody and anybody from the Mau Forest who is causing these problems to the populace of Nakuru and all the regions around, then I do not know what we are doing.

Sondu Miriu Hydroelectric Power Project has just been mentioned here. It is a fact that has been established by scientists themselves that Sondu Miriu is operating at 30 per cent. This is because there is no water to turn the turbines. Now we are being told that it is not as a result of the Mau. Sondu Miriu is not able to perform because there is no water to turn the turbines. Even a school child will know that, that is the truth.

Mr. Speaker, Sir, look at the flooding in Kano plains and Budalang'i. With all due respect to my friend from Budalang'i, I would have thought he would be at the forefront saying that the people living in Mau must be evicted because for the last 15 years Budalang'i has been devastated. They have lost lives. They have lost goats. They have lost donkeys. They have lost everything. They have lost their *shambas*. It has been continuous and devastating. This is because rain comes on the Mau Forest and there is no vegetation. The water then runs with a lot of force and creates such devastating effects. In fact, I would have thought that the hon. Member - a friend of mine - would have come and said, "Move the people out of Mau because my people are suffering and have been devastated".

(Applause)

Maybe, he is going to do so in the next few minutes.

Mr. Speaker, Sir, I want to---

Mr. Namwamba: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to mislead the House that the flooding in Budalang'i is because of the destruction of the Mau Forest when he knows very well that no river from the Mau Forest flows into Budalang'i? Budalang'i is affected by the River Nzoia which flows from the Cherenganyi Hills.

Most important, is the hon. Member in order to impute that I do not support this process when he is not privy to what goes on in my mind? We know that it is known that even the devil knows not what goes on in a man's mind.

The Minister of State for National Heritage (Mr. ole Ntimama): Mr. Speaker, Sir, it cannot be denied that it is the water flowing down from the slopes of the Mau Forest Complex that does the devastation in Budalang'i. That cannot be denied. I have said that even a primary school child knows that, that is what is happening. I have not really pinned the hon. Member for Budalang'i to anything. I would have very much liked, if this debate is going to continue a little bit more, to see him defending the eviction of those destroying the Mau Forest Complex.

Mr. Speaker, Sir, it is a fact and I want to thank the media and everybody because they have brought out most of the devastating effects of the destruction of the Mau Forest Complex. Many people now know what the effects of the destruction are. I mean, we have 12 rivers with sources at the Mau Forest Complex. There are other eight tributaries connecting these 12 rivers. So, we have 20 rivers that depend on the Mau Forest Complex. I tell you most of them are either dead or dying. They go all the way to Lake Turkana and all the way to western Kenya in the Yala area, all the way to Lake Natron in Tanzania. These are really devastating effects.

Mr. Speaker, Sir, we have a problem because environmentally, it is a disaster. We do not know what is going to happen but this has a dangerous effect. Even Lake Victoria itself has gone down ten metres and I think we should save this forest. It is urgent! We do not know when the rivers are going to be brought to life again to be able to bring Lake Victoria to the normal level of water. The worst thing is that we have rubbed the wrong side of our neighbours. As I have said, these effects of climate change emanating from the destruction of the Mau affect Uganda, Tanzania and the whole region because of the effects of climate change. For example, we have Sudan, Ethiopia and Egypt itself whose lifeline is the Nile. They are all complaining quietly. Although they have not shouted very much, they are not amused about how we are managing our environment and how the destruction of the Mau is going on. For the Tanzanians who are our neighbours, you have all heard what the Prime Minister was saying publicly when he came to Kenya and met the President and the Prime Minister. When he held his Press conference, he said very clearly that Serengeti is dying because of the Mau and you must stop destruction of the Mau immediately because Serengeti is dying. It is not only the Serengeti. I can tell you that very many people are dying. People are dying on the dead corridor, the Ewaso Nyiro River, which is one of the few rivers coming together. Southern Narok, southern Kajiado and the plains of northern Tanzania, our people, the pastoralists who are all on that corridor are the Maasai. I have information that the people are dying. First of all, they do not know where to get their food. There is no food around. The water has gone so low and it is so salty that if the cows drink that water, which has been on the pools for months, it cuts their stomachs and they die. We have a problem and nobody sees it. This

is why I think whoever is definitely supporting the continuous settlement on the Mau and continuous sitting of the squatters on the Mau must know that other people are dying and others are suffering. The people must not think of their own self; people must not think of their own property; people must not think only of their own people because everybody was born by somebody and somebody is bound to say these are our own people and definitely our people are suffering.

Apart from that, I want to touch on the sensitive issue called compensation. I have had my stand and democracy must allow everybody to have his own opinion. I have said that looking at Cap.284, the Land Adjudication Act; it provides that if the land has to be adjudicated and given to people, first of all, it must be those people who were ordinarily residents. I do not think anybody was born on the Mau. So, nobody can claim to be a genuine ordinary resident on the Mau. According to the Act a committee should be elected by those people. There would be a map of the area and these two things must be published in the gazette for 60 days so that the people of Kenya can see whether that adjudication is legal. They can oppose it within the 60 days. Now, it is not only those two sections of the law that were flouted, ignored and probably thrown aside, it is the whole Act. So, I cannot see--- The only people who were really responsible for the allocation of land there were the Land Officer in Narok, who is supposed to be a registrar, the surveyor who went to the forest illegally and some crafty senior people in the Ministry of Lands. The allocation cannot be said, therefore, to be legal. Even if those people have title deeds, to me, they were acquired fraudulently, illegally, irregularly and it does not matter, you cannot say that anything is right. What are we doing? Are we compensating or rewarding the grabbers? Are we rewarding people who have entered into a water catchment area illegally? Are we rewarding people who craftily and fraudulently got those pieces of paper? This Parliament will remember that in 2005, the Cabinet commissioned Messrs. Kombo, Kimunya and I, to investigate this matter. We went there and stayed to investigate everything, especially the allocation and issuance of title deeds. We brought a report to the Cabinet and made a public statement to say that those title deeds were just pieces of paper. Of course, there was a big row and it was not only Mr. Amos Kimunya but we were all there; it was our group that declared that they were only pieces of paper. So, I am asking: What are we rewarding? Are we rewarding illegality? What about our people in Mt. Kenya? If anybody is to be paid any compensation, they were also there but they were not paid a cent until just the other day. They were wallowing by the roadside; those from Mt. Kenya and the Aberdares. What is special about the squatters in Mau? What are we making it? Is it squatters of the Mau only? If, for example, it is so important that we must consider all the citizens of Kenya fairly and justly, we must absolutely support the principle of equity. There are no more special people than others!

(Loud consultations)

Mr. Speaker, Sir, I want to be given a little time because maybe I am not going to-- Where are we getting this money readily to pay the Mau squatters irrespective of when they came; irrespective of what they saved? We are told that all must be paid compensation. Where is this money coming from? We have a problem of food now! Are we going to use money for buying food for our people to just pay illegal people who

entered into the fragile water catchment area when we did not pay the Mt. Kenya people? We did not pay squatters from the Aberdares or Embobut. They were just thrown out the other day and have not been paid a cent. Where are we going? The internally displaced persons (IDPs) who have been there for years have not been settled, and yet we are now saying that there must be money to pay the Mau squatters!

(Applause)

Are they special; more special than all the other human beings? When people stand here and say that Kenyans must be treated humanely, what about Kenyans who have been pushed out of the Aberdares by force and some of them are still languishing by the roadside as we speak? I saw a little semblance, the other day, of settlement in Laikipia but not all squatters are being settled.

Even on this compensation, we have got a big question as to who will be compensated. This is because we are faced with shortage of food, IDPs and many other things to do with money. Is this money only for the squatters of Mau Forest? We cannot say that we have money to pay everybody because the squatters and their handlers are saying this. We have got more pressing issues to use our money on than pay illegal squatters in Mau Forest.

Mr. Speaker, Sir, I am not trying to implicate anybody or impute any motive against anybody, but two weeks ago and this weekend, there have been very loud drums of war; that we will not move, we will create problems, violence and shed blood. These are issues we should be careful about. The victims of this destruction are my community, the Maasai, although we have never said anything or threatened anybody. In fact, we have had our hands folded all this time, but our patience is running out. We are not cowards and I think they know that. I would like to say that the drums of war should be withdrawn because they are threatening the Government and the people. The grapevine news circulating among the squatters and their handlers is: "We will stay put and fight anybody, be it the Government or anybody else." I keep talking about equity in this country and the fact that the Government should mind its people. Since they mind about their people and because they have more votes than others, we are pushed to the periphery and put to the borders of society and are not being considered. However, we are Kenyans as much as they are Kenyans. Since the Government has to protect everybody, it also has to protect us.

Mr. Speaker, Sir, the grapevine news goes on to say---

Mr. Speaker: Order, Mr. Minister! Your time is up!

Mr. Ruteere: On a point of order, Mr. Speaker, Sir. Is it in order for the Task Force Report to be tabled without Annexes I to VIII which have been tabled this afternoon and yet hon. Members are expected to read them and make an informed opinion? These annexes run up to 200 pages. Is it in order for us to continue with this debate at this time?

Mr. Speaker: Order, Mr. Ruteere! Apparently, you came late. Is that so? Were you here at the beginning of this Sitting?

Mr. Ruteere: No, Mr. Speaker, Sir.

Mr. Speaker: Then you were overtaken by events! I did make some directions on that matter.

Mr. Olago: On a point of order, Mr. Speaker, Sir. Considering the repetitive nature of Members' contributions, could I be in order to request that the Mover be called upon to reply?

Hon. Members: No!

Mr. Speaker: Order, Mr. Olago! You can see the mood of the House. Proceed, Mr. Ethuro!

Mr. Ethuro: Mr. Speaker, Sir, I would like to contribute to this Motion by moving an amendment to it.

I beg to move that the Motion be amended as follows:-

By inserting the following immediately after the expression "12th August, 2009," "a comma and Subject to the due process of law and in particular Section 75 of the Constitution and the provisions of the Lands Acquisition Act, Cap. 295 of the Laws of Kenya and the Registered Land Act, Cap. 300, Laws of Kenya."

Mr. Speaker, Sir, I have heard the argument in this House and each side has its argument on this matter. I had an occasion, about a week ago, to overfly Mau on my way to my constituency. You could see the hippos and crocodiles in the river exposed. So, the issue of water in the Mara River is a concern to this country. Hon. Members have been passionate about this concern and I think they should be heard. Their concern should be taken into account. We want to pay tribute, as a House, to the International Day of Democracy that the Parliament of the Republic of Kenya will uphold the rule of law. It appears to me that the arguments from both sides will be resolved if we ensure that this Report abides by the Constitution of the Republic and the existing Acts of Parliament.

Mr. Speaker, Sir, with your permission I would like to quote a bit of Section 75(1)(2)(3) of the Constitution which says:-

"No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any---"

Mr. Speaker, Sir, the Registered Land Act confirms what a title deed is all about. Some of the problems we are dealing with were noted as early as 2000 by District Commissioners. I will table a letter here by a Narok DC who told the District Lands Registrar:-

"You may agree that the Government procedures have not been followed in this issue. We do not know the amount of land the council ceded to these group ranches. The surveyor who did the relevant maps did not go to the ground and the adjudication officer was not involved."

There is a lot about this issue because even Government officers had raised this matter. Therefore, we would like this debate to end in a manner that the rule of law and the rights of the people are observed.

Mr. Speaker, Sir, this Report has very good and contradictory recommendations.

This House cannot purport to stand democracy and the rule of law and say that we can nullify title deeds. I think everybody in this House swore to defend the Constitution of the Republic of Kenya.

In the last Parliament when we had the famous radical surgery in the Judiciary, the Government side with whom I have no wish to disagree, I want them to examine their heads and hearts and feel for this country, and not for the flags they fly--- When surgery came and judges were being suspended without being paid, this House stood firm. We said: Nobody is guilty until proven guilty. We said, when you remove a judge from

office, you need to set a tribunal to examine him or her. We did it. The judges were paid. They were given back their vehicles until when the tribunal determined their case. The Government has admitted that that surgery was not done properly. What guarantee do we have that this surgery will be thorough and complete?

Mr. Speaker, Sir, just the most recent case of Embobut forest, the squatters that were dispossessed was a particular number. The real ones are fewer than the ones that have been anticipated. The due process of law will determine which of these people are genuine and which ones are not. People who got title deeds irregularly have no basis claiming compensation. But if it is determined that these title deeds were issued properly, then we make a case for compensation and they must be compensated. They must come out of Mau. I want to plead with hon. Members across the House the time for ground standing is over. The time for demonstrating the prowess or ability to fight, as my good friend hon. ole Ntimama has just demonstrated, is over. Maasais are pastoralists. I am one of them. We like fighting even for no reason. But we have since established that you can fight in a very intellectual manner without hurting anybody, including the general who is a trained soldier. I am from the bush and can also fight. I have since established that we can fight through democratic process. We can fight in a manner that we do not spill any blood on the floor.

Mr. Speaker, Sir, we are talking about environmental issues. We are talking about the need to conserve the environment. There can be no contrary arguments to the need to conserve the environment. Our Government has committed itself and, rightly so, to the Millennium Development Goals (MDG) in the Summit 2000. If you remember every time I raise these issues, I raise issues that the Government has already committed this country to. MDG No.7 talks about suitability in environmental issues. It means that we have to make sure that we increase the forest coverage that is there in this country. The Government is already taking certain initiatives, including ensuring that ten per cent of agricultural land is under trees cover. That will be a contribution. We are hoping that when we resolve this issue of Mau, we are also going to look at the issue of Mt. Elgon and Loima Forest, which is virgin land and not being talked about in my constituency. We will look at the issues of Aberdares Forest and all the forests, so that our towers can sustain our water requirements. I want to believe that this amendment will be able to bring all the parties into some sort of agreement because nobody can claim that we are acting outside the rule of law. That is our only refuge and commitment.

In fact, I want to finalise this amendment and call the Secorder. I wish to read a quote from Justice Ajwang.

An hon. Member: Kajwang!

Mr. Ethuro: Ajwang not Kajwang. I wish you could be a magistrate, but you graduated from being a lawyer to Cabinet. It says:-

“So sacrosanct are property rights that no common official is permitted to dispute the validity of the title which has been granted through Government agency entrusted under the law with the grant and registration of titles. Once a property is registered, its status represents a state of legality which preface must prevail. It may be challenged only by having a judicial adjudication thereupon followed by issuance of a valid order or decree.”

Mr. Speaker, Sir, I think we must find common ground on this matter. This House has an obligation to this country to uphold the rule of law. I think once we confirm that, I

do not see why we cannot adopt this particular report and bring this raging debate to a conclusion and allow Government and Office of the Prime Minister to get to some work plus the great performing Minister for Environment and Mineral Resources who I am sure is just waiting for us to conclude this debate to swing into action and make Mara River flow just the way he had done to Nairobi River.

With those few remarks, I beg to move the amendment and call my good friend, hon. C. Kilonzo, to second my amendment to this Motion.

Mr. C. Kilonzo: Thank you, Mr. Speaker, Sir.

As I second this Motion, I am on record as having objected in the first place the issue of the task force to be there. My position has been that there is enough law. So, for task force to have gone on and made recommendations which are against the Constitution is an exercise in futility. We all took oath of allegiance. I want to remind Members how the oath of allegiance goes. It says:

“I do swear that I will be faithful and bear true allegiance to the Republic of Kenya and that I will preserve, protect and defend the Constitution of Kenya as by law established”.

So, what does the Constitution of Kenya say in terms of land? You will find this in Section 75 which if you allow me, I will quote. It says:

“No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied---

Those conditions “a” and “b” are on public interest, but “c” says as follow:

“Provision is made by a law applicable to that taking of possession or acquisition for the prompt payment of full compensation.”

Mr. Speaker, Sir, according to the law, that provision is provided for under the law of the Compulsory Land Acquisition. The law on Compulsory Land Acquisition does not even talk about titles. I want to quote the law itself. Clause 8 of the law talks about compensation to be paid.

Land Acquisition Act, Cap.295 says:

“Where land is acquired compulsorily under this part, free compensation shall be paid promptly to all persons interested in the land.”

It does not even talk about titles. It talks about persons interested in the land. It is very clear.

Mr. Speaker, Sir, two wrongs do not make a right. When this land was being dished out, senior Ministers who were in this House were sitting down in the Cabinet and never raised a finger to object.

Majority of us were in class learning. What I am saying is very simple. If the previous regimes failed to use the applicable law to protect the forests, the current regime should not make the same mistake by repossessing the forests by flouting all the laws of this land.

Mr. Speaker, Sir, the consequences of the Government flouting the law are very simple. Under the Constitution and also under the Land Acquisition Act, there are provisions for the affected parties to go to court. We do not want anybody to go to court. Under what law did the Task Force recommend selective compensation? Some of the recommendations are very clear. Some companies will not be compensated. But some of those companies sold the land to third parties, and they are still companies. So, what

happens in such cases? How we handle the issue of Mau will determine what happens in other areas where people have settled in water towers. I have always given the example of Mbooni, where my good friend and namesake, hon. M. Kilonzo, comes from. People have no business living in Mbooni Hills. It should be a water tower in the eastern region. If we fail to handle the issue of the Mau properly, we will totally confuse the people in Mbooni Hills, including where hon. Ngilu came from. Indeed, even hon. Ngilu knows that people have no business living in Mbooni Hills. We cannot come here and say that since we are the ones ruling, we are going to flout the law which we know and punish the small people.

I want to give you an example of a recommendation by the Task Force. The Task Force, in its wisdom, has decided to define who is a *bona fide* settler and who is not. Some of those people bought the land. It could have been irregularly allocated to them, but what was the Government doing when that land was being irregularly allocated? Why should you blame a peasant who is occupying that piece of land? Everybody must be moved from the Mau Complex Forests, but are we going to flout the existing laws? We cannot. We want people to be moved from the Mau Forest and other water towers like Mbooni and Kiima Kimwe in Machakos, but using the existing law. The law is there and we do not need a Task Force Report. I recommend that we do the necessary amendments to the Motion as proposed.

With those remarks, I beg to second.

(Question proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): On a point of order, Mr. Speaker, Sir. The point of order is a bit fine, to the extent that the presumption is that this Parliament does not do anything that is contrary to the law and the Constitution. That is the presumption. If any matter is unconstitutional or un-statutory, then, of course, it is void. So, it would seem that to amend a Motion to say that it must be subject to the due process of law and the Constitution, is actually to say the obvious. That is because the House cannot pass any Motion or any Act of Parliament that is unconstitutional. That is the presumption. Even if we made a mistake and passed it, the court will still declare it void to the extent of that inconsistency. In fact, the proper procedure would have been to lift out those sections of the Report that you think abuse or undermine the law or the Constitution and delete them! You can plead with us to help you to delete them, instead of saying that this Motion will be passed in accordance with the Constitution or any section of the Constitution.

Mr. Speaker, Sir, I seek your direction.

Mr. Speaker: Hon. Members, the proposed amendment which has been moved and seconded was in accordance with the Standing Orders. It was brought to the attention of the Chair and the Chair considered its constitutionality, compliance and consonance with other laws as are in place. It passed the test of being constitutional and lawful. So, in those circumstances, I am afraid we will have to allow debate to proceed on the amendment and take its full course.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I listened very carefully to my friend, hon. Ethuro, when he was moving the Motion. I

have also listened equally attentively to hon. C. Kilonzo when he was seconding the Motion. I am afraid I want to oppose the Motion for very good reasons.

First, I tend to think that hon. Kajwang' has a point. In moving the Motion, hon. Ethuro said over and over again that the Parliament of the Republic of Kenya must proceed with regard to the rule of law. The issue is the rule of law, which covers all the Acts and the Constitution of Kenya. Therefore, to single out a specific section of the Constitution and a few Acts of Parliament leaves a whole lot of other laws which are equally relevant to this particular issue. Those are the laws related to the environment, public health, water and procurement. All those laws are relevant when it comes to the issue of moving people out of the Mau and settling them somewhere. I would like to proceed and request hon. Ethuro and hon. C. Kilonzo that, in so far as any section, act or action of the Government is expected to promote and be done under the rule of law, the issue is the rule of law in general, rather than isolating a specific section of the Constitution or some specific laws as the ones which are relevant to this matter. We have said over and over again that those who are moved out of the Mau should be properly compensated. The Government should not act in an in-humane manner.

Secondly, we also know as a matter of fact that, when it comes to title deeds, the history of this country is such that title deeds have been abused by Government officials as well as private individuals. We know that title deeds have been printed in River Road and other places, along with diplomas and certificates. They nearly reflect the original and have been used for either employing people or transacting business. We also know that in the issue of land transactions, we have had problems. We have had problems with those who acquire land irregularly, and then sell it to second parties who acquire it properly, and to third parties who equally acquire it properly. This is something that applies to the Mau. What we can say in that regard is that proper investigations should be done to ensure that proper holders of title deeds are compensated for that land. But in cases where fraudulence can be proved, then the course of law and justice should be followed.

Mr. Speaker, Sir, I will give you a story. A man once went to Heaven. When he entered the gate of Heaven, he was refused entry and told to go to hell because he was a sinner. Then he told St. Peter: "In as much as you can confirm that I am a sinner, the mistake is not mine. The mistake belongs to Adam and Eve, who originally sinned and then consigned the rest of humanity to the problem of sinning. So, as somebody who has been conditioned by my past, I have the right to enter Heaven". Then, St. Peter said: "Look, when Adam and Eve sinned, God gave man his or her mind to distinguish between right and wrong and between sin and not sinning. So, your insurance against sinning is to use your mind correctly and to ascertain that what you do will earn you your way to Heaven. Unfortunately, you have not used your mind correctly. So, you must bear that responsibility".

Mr. Speaker, Sir, if we have to go back several years and say that "Since the Government in the past or since the Colonial Government had done this or that, then we cannot do what is right today", we shall be taking leave of our rightful senses and doing what is right. In actual fact, when I listen to some people presenting this issue, it results to what we call *reduction ad absurdum*, in other words, reducing things to absurdity.

Mr. Speaker, Sir, it is important that a time has come when the people of Kenya and the Government of the Republic of Kenya must correct what has gone wrong in this

country; One, playing around with title deeds and offering people properties which are not theirs. Secondly, giving title deeds the sanctity where illegalities have been done. Indeed, sanctity of property is only there when that property is acquired in accordance with the rule of law. When a property is not acquired in accordance with the rule of law, that process of acquisition abuses the Constitution and the rights of others to acquire property according to the rule of law.

So, Mr. Speaker, Sir, I think the Task Force that prepared this Report did present to the Government and to this House with a roadmap of how to correct what has gone wrong. What this House needs to do is to give the responsibility to that Secretariat together with the proper Committees of this House. The Committees of this House should be charged with the responsibility of ensuring that they act as watchdogs in the implementation of this Report. Indeed, I think that is why the Departmental Committees were established by this House; so that they can act as watchdogs and make sure that decisions made by this House are properly executed in accordance with the rule of law. We need not repeat the words “in accordance with the rule of law” in every decision we make in this House. That is taken for granted and any Kenyan citizen, who, indeed, has the mind to do the right, will ensure that what they do for the future of this country and for the just governance of men is, indeed, done in accordance to the rule of law.

I beg to oppose, Mr. Speaker, Sir.

Prof. Kamar: Thank you very much, Mr. Speaker, Sir, for allowing me to contribute and support the amendment that has been brought today.

(Applause)

Mr. Speaker, Sir, this issue of Mau has brought in a completely different dimension from the beginning. Politics took centre stage and we forgot the technical issues. I am a conservator – I am a Professor of Soil and Water Conservation.

(Applause)

Mr. Speaker, Sir, I developed the programme of watershed management in Moi University and I was very surprised to learn that the focus of Mau almost was lost in the process of politicking. Some of what we heard in *barazas* had absolutely nothing to do with Mau. We seem to have been refocusing on how to hit on one another.

(Applause)

Mr. Speaker, Sir, this country just came out of the 2007 problems. It was very sad to hear people say: “Why compensate them?” I heard some people say: “Why compensate IDPs?” Where are we going in this country such that we do have bitterness that we even destroy an issue that is real?

Mr. Speaker, Sir, the technical content of this Report is very good. I do remember meeting the Task Force in the Office of the Prime Minister alongside other hon. Members and I asked one question: Have you mapped out the critical water catchment areas? Do you know what you want to conserve? I have a lot of respect for Prof. Owino; my own professor in Moi University. He was ahead of me and I am very happy that they have raised issues as far as the technical conservation of Mau is concerned. But if we do not

manage the process of Mau properly; if we continue to inject the politics of parties and tribes in this document, we will not conserve Mau. What we need to do is to have something that can make us withdraw, be sober and actually deal with the issue. I have a lot of respect for hon. ole Ntimama, but we must do something that will enable him leave a legacy on the Mau and not destroy ourselves or our relationships out of an issue that has been politicized instead of looking at the technical issues.

Mr. Speaker, Sir, 400,000 hectares is a very large area. The Report does not tell us how and when they will actually secure those areas. It would have been a very good recommendation actually for the Ministry to discuss with the United Nations Environment Programme (UNEP), which is hosted here in Kenya. Satellite images are taken every day by different groups today, and if you want to know what happened in Mau yesterday, you just ask them to give you a spot image from the French group or a satellite image from UNEP, and they would give you that! Why are we making a very easy process very difficult because we want to hit at each other?

Mr. Speaker, Sir, we have to know that after Mau, this country must also remain one and the same. Some of the recommendations that are being given are very good. I supported the Committee for one reason – we wanted the annexes to be understood by the Committee. Even the Minister for Forestry and Wildlife at that time, who moved the Motion, was presenting a document that had 22 blocks. Some of the forest blocks have no relationship with the catchment area of Mau! And I want to give you one example, Mr. Speaker, Sir, of where the Assistant Minister for Environment and Mineral Resources comes from in Metikei. Metikei is in Keiyo. The waters of Keiyo Escarpment have no relationship with Mau at all. If you look at two other blocks, for example, Maji Mazuri, they are very important catchments on their own, but they have no relationship with Mau. Those were the issues that I thought the Committee should scan through and ask themselves realistically: “Did the Committee put these blocks by mistake or was there something else?”

Mr. Speaker, Sir, some speakers have talked about the Naivasha River. We know that the only rivers that flow there are from the Aberdares. They have nothing to do with the Mau.

(Applause)

So, Mr. Speaker, Sir, it is very important to use truthful technical information so that we do not trash reports that have been done by our experts properly because of misunderstandings that may be either in the House or with us in our *barazas*. I, therefore, wish to support the amendment of this Motion for one very specific thing; even if hon. Kajwang said we are amending for the obvious, let there be no doubt!

Lawyers always say, “for avoidance of doubt”. Therefore, let us repeat it and state clearly, so that we do not harm each other instead of building this nation. This is not the only tower we will deal with. If we deal with the Mau Complex correctly, I am sure we will deal with the others correctly. This aspect has given us an opportunity to look at issues technically and ask ourselves, “where is the environment?”

Kenya cannot fail as far as the environment is concerned because we host the UNEP and next month, this country will host the continental summit of parliamentarians on climate change. Therefore, we cannot be the country that is behind on environmental

issues. The reason Kenya was selected to host the next summit in a meeting I went with Mr. Kombo in Cameroun is because of what Africa believes Kenya has as far as environmental conservation is concerned. We, therefore, cannot reduce ourselves when this House will host Speakers from five different Parliaments and a host of Members of Parliament from all over Africa next month in the countdown to Eco-15. We know Kenya has been selected to be the negotiator. We cannot embarrass ourselves by debating the political contest instead of technical issues.

Mr. Speaker, Sir, I support that there is need to amend this Motion so that we remove politics, bitterness and suspicion out of it. We need to allow the due process of law to be followed so that justice is done in Mau. It will be an example for the others.

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Speaker, Sir, I beg to move that the amendment be amended as follows:-

By inserting the letter “s” to the word “Section” and thereafter inserting the words “seventy and” before the words “seventy five”.

Mr. Speaker, Sir, the Mover of the amendment as well as the Seconder have defended property rights robustly and I agree with them that whatever we do, we must respect the sanctity of the title. However, what is at stake is not just the sanctity of the title but the lives and liberties of the people who are supposed to move out of Mau Forest. Therefore, other than confine ourselves just to property rights, we should deal with the fundamental rights of the people who live there. This is because the whole of Chapter V of the Constitution guarantees a citizen fundamental rights to life, liberty, security, freedom of conscience and property rights. So, if we will deal with the people in Mau Forest, whom we are asking to leave, are we guaranteeing them security? The appropriate way to deal with this matter is not just to confine ourselves to Section 75 which deals with property rights.

In addition, this august House has been debating repeatedly on how to restore the general acceptance of the rule of law in all the actions that we take as public officials and leaders in everything that we do. I agree with the Mover that this amendment will help us find common ground. Those who have argued against the Report have said that it tramples on property rights. Those who have argued for the Report have said that by people continuing to occupy the Mau Forest, the lives of other citizens are at risk. Therefore, the way out is to deal with this issue, taking into account all the fundamental rights of all Kenyans.

If one was to look at the hierarchy of the fundamental rights, I would argue that the right to life supersedes the right to property. As a layman, what would be the point of having property if I have no life? What would be the point of having property if I have no liberty to enjoy that property? What is the purpose of having property if I have no security to enjoy it? Therefore, in dealing with the issues of all the water towers in this country, we must take into account those fundamental rights of every Kenyan wherever they may exist, in whatever water tower that they may be involved with. We should not be seen to treat one segment of Kenyans in one water tower differently from another segment of Kenyans at a different water tower.

Ms. Odhiambo: On a point of order, Mr. Speaker, Sir. While I support the amendment to the amendment, will I be in order to seek that we actually amend and include the whole part on human rights?

Mr. Speaker: You will be out of order!

Proceed Mr. Nderitu!

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Speaker, Sir, I was arguing, proposing and beseeching this House to accept this amendment to the amendment because this is the thing that will give us the middle ground. It will also ensure that the rights of everybody are protected. I think that is fair and just and it is what we, hon. Members, should be seeking to do.

With those many words, I beg to move and ask my colleague, Mr. Kinyanjui to second.

The Assistant Minister for Roads (Mr. Kinyanjui): Thank you, Mr. Speaker, Sir. I would like to take this opportunity to thank my colleague for proposing the amendment to the amendment. Indeed, the Mau Forest debate is one that has drawn mixed reactions from this House. The facts about the complex have far-reaching consequences on the people within that area and beyond and, indeed, the nation at large. The rights that have been articulated on the Floor have tended to focus on the rights and sanctity of the title.

The amendment to the amendment is drawing our attention to Sections 71 and 72 which speak about the right to life and liberty. It is presumed that you can only exercise your right to property when you have your life. Section 70 says:-

“Whereas every person in Kenya is entitled to the fundamental rights and freedoms of the individual-- the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.”

Mr. Speaker, Sir, therefore, the rights of others must not be trampled on as we seek to restore the sanctity of the title. The public interest must also be looked into. Rift Valley Province is the food basket of this country. The nation is grappling with serious food shortage for the second year running. It is, therefore, important that this matter is disposed of in a manner that everybody will feel satisfied so that we move forward in future.

Mr. Speaker, Sir, the sanctity of title deeds must be respected. However, even as we talk of respecting the sanctity of title deeds, we must also look into the rights of the people not only within the Mau Forest Complex but also in the rest of the country, where we have had people or persons displaced but nothing has been done to ensure that their rights have been taken care of. Section 71 of the Constitution clearly states as follows:-

“No person shall be deprived of his life intentionally save in the execution of the sentence of a court in respect of a criminal offence under the Law of Kenya under which he has been convicted.”

Many Kenyans have lost their lives in circumstances that are clearly not as envisaged by this Section of the Constitution. We are, therefore, saying that if we are to respect the sanctity of the title deed, we must also incorporate the rights of those who have lost their lives, and those who have a right to life, who were, for one reason or another, deprived of that right. This situation must be extended to other areas, including where we have had the post-election violence. We have other water towers. That is what every Kenyan expects to see.

Mr. Speaker, Sir, the issue of public interest must also be looked into. We are currently using a lot of money to import food. I think an amicable solution to the Mau Forest Complex will ensure that this matter is, indeed, sorted out.

With those few comments, I beg to support.

*(Question of the amendment to the amendment, that
the words to be inserted be inserted, proposed)*

The Assistant Minister for Livestock Development (Mr. Duale): Thank you, Mr. Speaker, Sir, for giving me the opportunity to support both amendments.

Mr. Speaker: Order! Order, Mr. Duale!

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Speaker, Sir, let me support the further amendment to the amendment moved by Mr. Muriithi.

Mr. Speaker, Sir, we must remove the Mau Forest Complex issue from ethnic and party politics. We must also remove the Mau Forest Complex issue from the various allowances in this House. All we are saying is that we must solve the Mau Forest issue through dialogue, and in accordance with the Constitution and other laws of this country. Mr. Muriithi basically cited Section 70 of the Constitution, which talks about the human rights of the people of the Mau Forest. I want to say very clearly that every hon. Member of this House must put himself in the shoes of the people living in the Mau Forest.

The people living in the Mau Forest are just like the people living in the area where I come from – Dujis. The people living in the Mau Forest are just like the people whom the President of this country, Hon. Mwai Kibaki, represents in Othaya. They are all Kenyans. The laws that protect the sanctity of property and lives of the Kenyan people must be respected. That has been the bone of contention. We must move away from the double-speak that is done by leaders in this House. We must get away from hypocrisy and dishonesty.

Mr. Speaker, Sir, over the weekend, some leaders in this House were in Kilgoris, on the Maasai part of the country. They said that the people in Mau Forest must be evicted. Twelve hours later, the same leaders went to Kericho, where they said that the people of Mau Forest must not be evicted. That is double-speak by Members of Parliament sitting in this House. We must delink conservation or protection of the environment, from people's ethnic background. We must delink the lives and property of the people of Mau from individual's hatred for some communities.

I come from a region where the law has not been implemented well over time, especially during the 1960s and 1970s. I come from a region that suffered from implementation of the Emergency Law – where the then Government could go and kill its own people – but I stand in this House with the people of Mau Forest. As much as we want to protect and conserve the environment, the rights of the people of Mau, and those of other people in this country must be protected all the time.

Mr. Speaker, Sir, the history of Mau Forest is long overdue. The Government of the late President Kenyatta was involved. The Government of former President Moi was involved. The Government of President Kibaki, in 2006, issued 11,000 title deeds to the people of Mau. We must speak the facts. It is the successive Governments of this country that put people in the Mau Forest; it is not the people who took themselves there. It is, therefore, the business of this Government, using the Constitution, and not this Report, to find an amicable way of removing people from Mau Forest to protect our water towers.

Sections 70 and 75 of the Constitution, the Compulsory Land Acquisition Act, and the Registered Land Act have been brought to this House for one fundamental reason. I am happy that the Secretariat that was formed to look into the Mau Forest Complex issue is here. The contents of the Report in pages 11, 30, 43, 45 and 47 are not

compatible with the Constitution of this country. That is what we are saying. That is why we brought the amendments. For us, as the representatives of this country, for any Report to be brought to this House by the Government or a Private Member or any group, it must pass the test of constitutionality.

Mr. Speaker, Sir, I want to tell my good friend, Mr. Kajwang', that we do not take things for granted. We read documents. If we find that those documents are not in consonance with the Constitution that all of us, including the President, uphold, we are ready to pinpoint the inconsistencies. The Government must be very serious. The Ministry of Finance must enable us to walk the talk. Yes, for us to solve the issue of Mau Forest, it must give us the seed money for compensation. Nothing is coming from the Ministry of Finance. Nothing is coming from the Government.

We need to be in a position to dispose of the matter of the Mau Forest that has put the Kenyan people in a situation where we are wondering whether it is the Mau Forest Complex issue that is going to consume this country.

Mr. Speaker: Order! Order, Mr. Duale!

The Assistant Minister for Livestock Development (Mr. Duale): With those few remarks, I beg to support.

Mr. Speaker: Order, Mr. Duale! Speak to the amendment to the amendment! You ought not to go out of that. I am glad you have concluded.

Mr. Olago!

Mr. Olago: Mr. Speaker, Sir, I rise here to support the amendments for different reasons.

(Applause)

My reasons will marry very well with the views of those who have spoken before me, opposing the amendments. The amendment sought derives its legal protection and authority from Chapter 5 of the Constitution. The whole of Chapter 5 of the Constitution is about the protection of fundamental rights and freedoms of the individual.

I would wish that the House does not mutilate this Report, and that we do not water down its purpose and effect, but rather we discuss this issue according to law.

Mr. Speaker, Sir, the Report is excellent in all respects and I want to disabuse any hon. Member who may be harbouring the view that Cap. 5 of the Constitution offers blanket protection for all Acts. Cap. 5 does not offer any protection to illegally acquired property.

I want to read the proviso to Section 70 of the Constitution. It says:-

(a) The Provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in these provisions.

(b) Limitations designed to ensure that the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.”

Mr. Speaker, Sir, Prof. Kamar said that the amendment seeks to state the obvious. That is what it seeks to do. It does not in any way water down the effects of the Report and will save the House any further acrimony in debating it. This proposed amendment is purely legal in nature. I wish to say here that in supporting the amendment, the effect of

the Report will not in any way be watered down at all; no protection will be offered to illegally acquired property.

Thank you, Mr. Speaker, Sir.

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

Mr. Speaker: Hon. Members, the Motion of Amendment now reads as follows:-

That the Motion be amended by inserting immediately after the expression 12th August, 2009 a coma and the words “subject to the due process of the law and in particular Sections 70 and 75 of the Constitution and the provisions of the Land Acquisition Act, Cap.295, Laws of Kenya and the Registered Lands Act, Cap.300, Laws of Kenya.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I rise to support the amendment.

One of the things that is clear is that this country should be governed by law. The amendment seeks to bring that to bear. Hon. Members have read the Report very carefully. One of the things that is very striking in writing the Report, the Task Force and I want to salute them, did not at any time, cite those particular laws.

Mr. Speaker, Sir, I would have been happy to see a reference to the sections that we have now inserted by amendment. It would have informed that the Task Force was aware of those particular laws, particularly Sections 70, 71, 72 and 75 of the Constitution. It would have sent a message to the country and the House that the intended actions at the Mau and other blocks of land, including other water towers, are not intended as revenge or punishment. They are not intended to malign the rights of citizens as conferred by the Constitution.

Mr. Speaker, Sir, the constitutionalism that this country so badly needs at this time, is such that when a task force makes recommendations, even for those cases where a person is alleged to have acquired the land irregularly, that irregularity is justifiable under the Kenyan Constitution. It is justifiable in the sense that nobody, not even this House, can dare say that Mr. Y or X irregularly acquired land prior to investigation, examining the records available and giving that person a right to a hearing.

Even in cases where title deeds were given, nobody has said that Kenya went through a revolution and that our Constitution was at any time overthrown.

Mr. Speaker, Sir, even the disputed elections of 2007 occurred under the Kenyan Constitution. That Constitution ought to be respected. In so far as it was a transition that has been acknowledged under the Grand Coalition Government, it behoves us as law makers, to respect the Constitution first and the law.

I want to salute Mr. Ethuro. If it were up to me, I would have cited even other laws like the ones that Prof. Anyang’-Nyong’o referred to. The time to respect law and order is now. This country should not be scared of going to give compensation to a person who has been given a title deed by a legitimate administration that had secured recognition under the Kenyan Constitution.

Nobody says democracy is cheap. It is expensive, but our starting point ought to be the Constitution to recognize the rights of citizens when they hold a document. I recall a time when a friend of mine declared that title deeds held by people in that

neighbourhood and others were pieces of paper. I recollect last week the Chair saying that it cannot refuse to accept a document. Even a piece of paper, under Kenyan law, is justifiable if a person claims that they have an interest in that particular piece of paper. It behoves this House to recognize the function of our courts that they have a right to hear evidence and to receive representations by members of the public and also the law on compulsory acquisition.

It sends negative signals. I do hope that in due course, we will amend the title of that law, so that it does not create a negative sense that you are merely going to take somebody's land through compulsory acquisition. This is merely a principal of law that requires that we recognize the primary function of the State; that, it can recover land for purposes stated in the Constitution.

With those few remarks, I beg to support the amendment.

Mr. Mbadi: Mr. Speaker, Sir, given the kind of consensus that is building across the House, would I be in order to ask that the Chair put the Question?

Mr. Speaker: Hon. Members, sensing the mood of the House, I will now put the Question.

(Question, that the Question be now put, put and agreed to)

(Question of the Motion as amended proposed)

Mr. Sirma: Mr. Speaker, Sir, I stand here to support the Motion as amended. First and foremost, I would like to inform the House that famine never started yesterday with the human settlement in the Mau Forest Complex. Famine was there in 1933 in our place. It killed many people. In 1943, we even moved from our original homes to other places as a result of famine. We should accept that this is a global phenomenon but not because of a particular place. As I stand to support this Motion as amended, I wish to take great exception to 2003/2004 when Ministers of the Government declared title deeds mere papers. That was the genesis of the problem that we have in this country. That is when witch-hunting started.

The forceful eviction of people without due process of law in 2005 was a culmination of the whole process of fighting people's rights. Kenyans have a Constitution. Unless we are going to respect this Constitution, it is uncalled for, for people to rubbish property. There are many ways of dealing with the Mau issue. It cannot only be dealt with through evictions. I know that is one of the key ones but we have scientists and land use planners who can give us other methods of using our farms to achieve the same objectives.

Mr. Speaker, Sir, the rights of people cannot be legislated to confine them to certain areas. We cannot confine certain people into a box or a corner and tell them that they are the wrong people. The intention of reclaiming the Mau Forest should be done so that we can get water. We want this thing to be done correctly without any problem. We should follow the Constitution.

I beg to support.

The Minister for Environment and Mineral Resources (Mr. Michuki): Thank you, Mr. Speaker, Sir, for granting me the opportunity to air my views like any other Member of this House on this crucial and important matter; the Mau Forest Complex.

This is more than a forest, in that it is a water catchment area. This is a water catchment area in which not only we Kenyans have a very deep interest in but also people outside this country.

Therefore, Mr. Speaker, Sir, as we debate this matter, let us not deceive ourselves that it is contained on both sides of the House. It is being discussed in capitals of the world where the issue of climate change and the need to conserve our environment is more valued and, indeed, has caused tremendous concern. The issue of Mau arose in two ways. Let me hasten to point out that this is an issue I dealt with almost every other day in 2005, 2006, 2007 until just before the elections of 2007 when the matter was overtaken by elections events. We were just about to do what we are avoiding to do today. There is that other part of Mau which has been occupied by people who were authorized by the KANU Government.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

I did not deal with that at that time. Whether they are subject to eviction or whether they are being allowed to continue occupying that land is not the issue today. The issue today is the confusion that has been deliberately promoted, that it is huge populations that we are evicting from the Mau or that we want to get out of Mau. At that time, when we went into this matter, we ascertained after very long research that only 1,962 people who had acquired land in the Mau in the belief that those who had sold them the land actually owned that land--- It is because of that, that the President, who was the chairman of the committee that had been formed and which included the Minister for Lands at that time, Mr. Kimunya, it was because of that that the President directed that the 1,962 people be compensated either in kind or otherwise and that the rest were to be expelled from Mau. But because of the elections, that was not to be. So, there was an influx of people who had anger and wanted to vent it on trees and ruin the environment because they thought that it benefited a given tribe.

Mr. Deputy Speaker, Sir, the people who were allocated land in Mau Forest and whose affairs I dealt with were not poor. Poverty was used as an excuse. The people who had money bought land from those they believed owned the land. This is what I think this House should be bothered with.

The issue of Mau is very serious. I thought that rather than engage in the Ringera issue and all the frivolous issues, we should engage in national and international issues, because we must redeem this *Bunge*. We must redeem our integrity. We have gone too low in the way we value issues. If the Ringera issue is more important than that of Mau Forest, and people are trading the Ringera issue with that of Mau, I must confess that I am ashamed to be in this *Bunge*.

Ms. A. Abdalla: On a point of order, Mr. Deputy Speaker, Sir.

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Deputy Speaker, Sir, if the hon. Member could allow me to articulate what I have in mind---

Mr. Deputy Speaker: Order, hon. Minister! The hon. Member is on a point of order!

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, is it in order for the hon. Minister to anticipate debate? Could he not kindly wait for the next Motion and contribute on the issue of Ringera?

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

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Deputy Speaker, Sir, maybe, the ladies do not want men to stand!

(Laughter)

Mr. Deputy Speaker: What is your point of order, Ms. Odhiambo!

Ms. Odhiambo: Mr. Deputy Speaker, Sir, we are very favourable to men. That is why even where I am sitting, there are many men. However, if I heard the Minister correctly, he has said that there are people who are trading the Mau issue for Ringera. Could he substantiate his remarks?

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Deputy Speaker, Sir, before I was interrupted, I emphasized the importance of Mau Forest. This House should know that in December this year, we will go to Copenhagen to seal the deal, as proposed by the Secretary-General, on climate change and actions that need to be taken to reverse this process, which will ruin the whole world. I do not know how we will face that issue, which will involve the planting of many trees, when we are destroying the trees that nature had given to us.

Mr. Deputy Speaker, Sir, I plead with this House to redeem itself on this very important and sensitive issue. Indeed, those who deserve compensation should be compensated. As we move forward the way we are, I wish someone could bring a Motion before this House to the effect that the Government avails money to pay the 1,962 people, so that this issue can be solved before we go to Copenhagen.

(Applause)

Mr. Deputy Speaker: Hon. Prime Minister, I got the feeling that you wanted to stand up and say something.

Hon. Members: He has to be the last!

The Minister for Trade (Mr. Kimunya): Mr. Deputy Speaker, Sir, I rise to add my voice to the support for the conservation of, not just of the Mau, Karura, Aberdares, Mt. Kenya, Mt. Elgon and Gwasi Hills, but all the forests in this country.

Mr. Deputy Speaker, Sir, I have had experience as Minister for Lands, to tackle the problem of land grabbing in this country. I was also fortunate to talk to so many Kenyans who actually felt they were sitting on land that was meant for public purposes, but had been allocated to them. A number of those Kenyans actually returned their title deeds to the Ministry of Lands for no compensation. For example, where the current Processional Way is, that land had been zoned into 11 pieces of land and title deeds issued. Some of those had actually being lodged in banks and loans had been taken against them. However, I appealed to the people who were holding those title deeds to surrender them. I told them: "This land had been set aside for a public road. Could you, please, reverse the land in public interest to public use?" They did so and returned the title deeds. I was happy that the Government did not have to pay a cent. In fact, I warned

the banks who wanted to auction the land to recover their money not to do so. I told them they were at liberty to do so, but I was not quite sure, how many people would actually buy a public road. Right now, the Processional Way is a public road and is in use.

Mr. Deputy Speaker, Sir, in 2003, I had the opportunity to also receive not less than 19 title deeds, including some issued on Karura Forest. The people returned them in good faith because they believed that what they were holding, they would never use. It will never be available to them for the purposes for which they had been allocated or for which they had bought. I am giving that as a background because I believe we, as leaders, perhaps, our concern is how we can go out there, and start identifying what to do with those people. How do we emphasize to them that, perhaps, the important thing is not the compensation, but for them to recognise that they are sitting on a water catchment area and that they need to move at some point. But it would be desirable if they were to move as a public duty because they feel that they are actually sitting on the wrong place and then leave the rest to the Government.

Mr. Deputy Speaker, Sir, the Mau is an expansive area. Even as I am talking here, I am not sure whether we really appreciate that it begins from Naivasha, all the way to Kericho and beyond. Even as we are talking, I am not quite sure that Members really appreciate the magnitude of what we are talking about. It is an area that requires a lot of caution. We took time between 2003 and 2004 to fly over the areas, mapped out the water catchment areas and identified the critical areas that had been invaded. Part of that was Likia extension on which 100 people were removed and resettled elsewhere and the Maasai Mau.

As hon. Michuki has mentioned, we identified 1,962 title deeds that were irregularly issued. The land was not available for allotment in the first place. It was because of manipulation of land records in the Narok Land Registry.

Mr. Deputy Speaker, Sir, when we are looking at the issue of Mau, let us have some sobriety. Let us not have some passions out there and tell people that they will be moved *en mass*. They cannot be moved *en mass*. If you start talking of moving everyone from the Mau Complex, you will be talking of areas from Emburru all the way to Kericho. What will we do with all those people? This is where we need to be very careful, even as we debate here. I would have wished that Members had time to look at all those annexes, the maps and even overfly the area and see what we are talking about. Let us, first of all, agree in principle that nobody should be sitting on a water catchment area, whether in the Aberdares or elsewhere. I am glad we have now managed to fence the entire Aberdares with contributions from the private sector, the area leaders and support from the Government.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. It is quite clear that after the two amendments, the entire House seems to agree on the way forward on the Mau Forests. In view of that, and in view of the fact that, we have a lot of serious business ahead of us, I beg that you call upon the Mover to respond, so that we can make progress.

Mr. Kioni: On a point of order, Mr. Deputy Speaker, Sir. While there seems to be that thought, there are many of us who would have liked to air our views on the same issue. We have been trying to catch the Chair's eye since the cows went to the river. We cannot just be denied that opportunity. This is an important issue and we also need to get an opportunity to make our contributions.

Mr. Deputy Speaker: Order, hon. Members! The Chair is conscious of both views. There is a substantial section of the House that feels that there is conformity on this Motion and that the matter should be brought to a close. There is equally a substantial part of the House that feels that they need to say something to be heard. So, proceed, hon. Kimunya! The Chair is going to allow that.

The Minister for Trade (Mr. Kimunya): Mr. Deputy Speaker, Sir, the point I was making, and I do not want us to lose it, is that, as leaders, we represent the people across the entire country. When our people are watching us reducing this matter of conservation to a matter of compensation and the modalities, we are failing the test of leadership.

We should encourage our people to identify water catchment and sensitive areas and, on their own volition, say: “We are prepared to move out of these areas because they are critical for our country. Show us where to go.” That has happened in other places and I believe it can happen in the Mau Complex. Let us not reduce this debate to purely a matter of compensation or no compensation. When we reduce it to that, we are actually failing the test. Let us make it appear that there is a need to conserve the forests like we did it in Karura Forest. We conserved it. Never mind the billions of shillings that were tied to loans taken by people who had title deeds to that land. With regard to some of them, we know that there was never an intention of the land being given out. It was merely being siphoned out from the National Social Security Fund (NSSF) and others through some of the banks under the guise of titles in Karura Forest.

We supported the conservation in 2004/2005 and I have no regrets for having attempted to clean up the Mau. Had we sustained that effort, we would not be discussing this matter today. I brought to this Parliament the same issue about the sub-division of land and even gazetted that no land should be sub-divided below two and a half acres. It was fought here politically and, as a result, land is being sub-divided left, right and centre. We have no food for this country now and even into the future.

Let us not politicize this thing. Let us look into the bigger picture and see how we can save our country and our children’s future. I believe that when we do that, you will realize what I meant when I said that a title that is issued on land that is not available for issuing is a piece of paper. I said that then and I will say that now because even the courts have ruled. I think Justice Khaminwa ruled in Mombasa at some point and if you care to read the Ndungu Report, you will find many citations and many examples of where land that was not available for allotment, once it is allotted, is null and void *ab initio*. It is a piece of paper! That is what I said and I will still insist on that.

Mr. Deputy Speaker, Sir, let us now start looking at the fundamentals and start saying: “What is it that we want?” We want to conserve that public land and the Report has identified the modalities. Nobody has said that people are just going to be flushed out. The Report is very clear that there will be modalities of how the people will be relocated just like they will be relocated from Kibera, just like kiosks are being relocated from the roadsides. There is a relocation plan. So, let us not worry about that and let us use this time to sensitize our people on the need to conserve our environment, our water catchment areas and public land that is being zoned for public use for the future of our generations.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Ruto: Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity. This afternoon, Parliament has actually done its right job; we have stood up for the rule of law and today, we will conclude the matter of Mau and separate the issues of the environment from the issues of impunity.

Mr. Deputy Speaker, Sir, it is important that we ensure that our environment is protected and maintained in a sustainable manner. We are all in agreement that the areas around Mau are important for the sustainability of our environment. Indeed, it is a major water tower like all the other five, but we have only been worried about the way the Government was handling that procedure. In fact, we have seen the residue of that in the faces of hon. Kimunya and hon. Michuki. They still believe that, given an opportunity, they would use force. We are telling them; Parliament has said: "Use the rule of law and stick to the rights! You have got no right to declare a title deed a piece of paper other than through the due process of the law.

The Minister for Trade (Mr. Kimunya): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to insinuate that I am advocating for the use of force and for illegal matters while I have just supported a Motion that has been amended to incorporate the rule of law?

Mr. Ruto: Mr. Deputy Speaker, Sir, I think his memory is rather short. We just sacked him a year ago and we could still sack him if he continues---

The Deputy Speaker: Order! Order! Order, hon. Ruto! Confine yourself to the substance of the amended Motion and address the Chair! Do not address hon. Kimunya!

Mr. Ruto: Thank you very much, Mr. Deputy Speaker, Sir. Today, I was not in a fighting mood because we have agreed on the right things. Therefore, I will not ruffle any more feathers of my friend here.

I want to indicate that it is the avoidance of doubt that we insist that this Report is adopted, taking cognizance of all the laws that govern human rights. That is why we have referred to the Constitution. I also invite them to look at Section 74 of the Constitution which says that nobody should be subjected to inhuman treatment.

Mr. Deputy Speaker, Sir, I support conservation of our forests. I urge the implementing officers to take note of the sentiments that have been raised here in Parliament. We do not expect them to move on with impunity. We also do not expect them to do that which ought to be done by the Judiciary. We also do not expect anybody to operate outside the written law. If, indeed, the Government operated within the law, we would have no problem. In fact, our biggest problem is when it acts outside the law. They become anti-themselves and refuse to listen.

With regard to settlement in the Mau Forest, Mr. Michuki continues to tell us that there are only 1,960 title holders in the Maasai Mau Forest. These are original land grabbers.

The Minister for Environment and Mineral Resources (Mr. Michuki): On a point of order Mr. Deputy Speaker, Sir. Is Mr. Ruto in order to ignore what I have said, that in addition to this, later, people invaded the place? I am aware that there are people in that forest, but they are there illegally.

Mr. Ruto: Mr. Speaker, Sir, I just want to put it on record that the 1,962 people being referred to here were allocated up to 1,000 acres and 2,000 acres which they sold to about 40,000 people. I am not concerned about the 1,962 title holders but about the ordinary bare-footed Kenyans who have been conned to buy land in those areas. When

you tell us that you want to compensate the original allottees who hived off land in the Maasai Mau Forest and sold it to citizens, what will you do with the ordinary citizens? That is why we are saying that we must go through the due process of law. We must identify all those who have an interest in land and not necessarily those who have titles. We have people who purchased that land.

Mr. Deputy Speaker, Sir, because the mood of the House is that we conclude this matter, I beg to support, subject to the civil servants operating within the law.

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. With due respect to my colleagues, the issue of Mau Forest has been in the front pages every other day and we must do away with it today. The mood of the House is that we are in agreement. Could the Mover be called upon to reply?

Mr. Deputy Speaker: Fair enough. Yes, the Rt. Hon. Prime Minister! The Government has the option of having a Minister to move the Motion and another one replying. The Prime Minister will reply on behalf of the Government.

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, I am very delighted to see that today, there is a consensus in this House on this issue.

(Applause)

I am also very happy with the amendments that have been moved. Every action of this Government must be guided by the Constitution. Any law that contradicts the Constitution is void to the extent of that contradiction.

So, one would have said that it is superfluous to have said, “subject to Section this-and-this of the Constitution”, because no Government is going to act outside the Constitution. If we are being particular, we could also have mentioned Chapter 9 of the Constitution, which deals with trustlands. That Chapter has been completely omitted, but because it is in the Constitution anyway, the provisions of this Chapter are also going to be fully observed.

Mr. Speaker, Sir, today, the world is talking about climate change; it is a major issue that is dominating debate all over the world. It is appreciated and acknowledged that there are several factors that have contributed to climate change. One of these is the emission of carbon into the atmosphere. African countries, like other parts of the world, are suffering the effects of climate change. It is also known that Africa is a recipient, but not a major offender in as far as carbon emission is concerned.

Many African countries today live between the twin-disasters of floods and drought. The ice on top of Mount Kenya has melted away. The same has happened to that of Mount Kilimanjaro. As the atmospheric temperatures have increased, we have inherited highland Malaria, which is killing very many of our people. Climate change has also been brought by the wanton destruction of the water towers. Therefore, nobody should say that he is sorry because of carbon emissions. It is also as a result of wanton destruction of our water towers.

Mr. Speaker, Sir, this country has five water towers, namely, Mount Kenya, the Aberdares, Cherengany Hills, Mount Elgon and the Mau Forest. The Mau Forest is the biggest of all those water towers. So, when you talk about carbon sink, the Mau Forest is our biggest carbon sink in this country. The Mau Forest is the source of nearly 20 rivers. One of them is the Njoro River, which feeds Lake Nakuru. Njoro River has now become

seasonal. As a result of it, Lake Nakuru is dwindling. Molo River supplies water to Lake Baringo. Lake Baringo itself is dwindling. It is also the source of Ewaso Nyiro River that heads to Tanzania. River Nzoia feeds Lake Natron in Tanzania.

This week, the Prime Minister of Tanzania visited this country and shared with us their experiences and concerns about what is happening in Mau Forest Complex. He told us that Lake Natron, the home to lesser flamingos, is drying up, and there is nothing they can do about it, because it is fed by the Ewaso Nyiro River, which originates from the Kenyan side. The same thing is true of the Mara River, which is the lifeline of the animals in Serengeti National Park, before it goes into Lake Victoria.

Mr. Speaker, Sir, therefore, as the animals suffer on our side of the border, they are also suffering on the other side of the border. So, in the Mara River, the crocodiles and hippos are suffering seriously. The hippos can no longer dive into the river, because the level of the water is too shallow. Their backs are cracking. We have the Sondu Miriu Hydro-Electric Power Plant on that river, which is actually designed to generate 60 megawatts of electricity. At the moment, it is only generating 15 megawatts because of lack of water. The water levels are very low.

So, the issue of conserving the Mau Forest Complex is a matter of live and death for the people of this country. We have agreed with all the hon. Members of this House. I have also consulted extensively with hon. Members in the region, and there is agreement among us that there is need to conserve the Mau Forest.

Secondly, we have also agreed that conservation will require that human settlements be moved out of the Mau. Thirdly, we have agreed that removal of human settlements from the Mau be done in a humane manner. Again, there is no disagreement on that.

Mr. Deputy Speaker, Sir, I have continued to ask myself where did we disagree? Why do we have chest-thumping over this issue when we are speaking the same language? We have agreed and said as a Government that this matter will be done in an orderly fashion. The people who deserve to be compensated will be compensated in accordance with the law.

If we say that anybody who lives in the Mau must leave, then we will open up a Pandora's box. As I speak, many more people will jump in and not necessarily from the vicinity. Some people will migrate from Turkana, Migori, Lamu and other places and move in. Once they are inside, they will say that we said anybody who is inside there must be compensated. There must be a way of vetting who deserves to be compensated because this Government does not have infinite funds. The resources of the Government are limited.

Mr. Deputy Speaker, Sir, the Tanzanian Prime Minister shared with us their own experience how they dealt with a similar situation in Tanzania, where people had invaded a water tower. They were destroying the environment. He said that in their case, he just told the people: "*Tokeni*". They asked him: "*Tutoke twende wapi?*" He told them: "*Tokeni kwanza, ndio tutawaonyesha.*"

We want to do the vetting and this matter will be done in a very orderly fashion. That is why we have had a secretariat consisting of experts from various Ministries working on this matter. I am confident that within a very short period of time, we will come up with a solution that will ensure sustainability of the Mau Forest cover.

As we talk about Mau, we will also focus our attention to Mt. Kenya, Aberdares, Cherengany and Mt. Elgon. This is a matter of national concern. We are not only focusing on Mau. Mau is just the beginning. We will ensure that people move out of our forests. We also want to start a very aggressive programme of afforestation on all our mountains and hills in this country, so that we can increase our forest cover and take it back to where we found it.

It was 12 per cent by 1963. It is possible with the determination and co-operation of all Kenyans that we can restore this country back to where we found it and where it should be.

Mr. Deputy Speaker, Sir, I want to conclude by thanking hon. Members for a very constructive debate and contributions on this particular issue which is of national concern.

With those remarks, I beg to move.

*(Question of the Motion as amended
put and agreed to)*

Resolved accordingly:-

THAT, this House adopts the Report of the Government's Task Force on the Conservation of the Mau Forest Complex laid on the Table of the House on the 12th August 2009, subject to the due process of law and in particular Sections 70 and 75 of the Constitution and the provisions of the Land Acquisition Act, (Cap.295 Laws of Kenya) and the Registered Land Act, (Cap.300 Laws of Kenya).

MOTION

ADOPTION OF REPORT ON REAPPOINTMENT OF KACC DIRECTOR/ASSISTANTS

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, I beg to move:-

That, this House adopts the Report of the joint sittings of the Departmental Committee on Justice and Legal Affairs and the Committee on Delegated Legislation on the Re-appointment of the Director and two Assistant Directors of the Kenya Anti-Corruption Commission .

(Applause)

Mr. Deputy Speaker, Sir, the Committee on Justice and Legal Affairs derives its mandate from Standing Order No.198. Schedule (2) of the Standing Orders mandates the Committee to consider the following issues:-

- (i) Constitutional Affairs
- (ii) The administration of law and order, including the Judiciary, Police and Prisons department and community service orders
- (iii) Public prosecutions
- (iv) Elections

- (v) Integrity
- (vi) Anti-Corruption and human rights.

Mr. Deputy Speaker: Order, Ms. Abdalla! You should move the Motion by reading it as it is on the Order Paper! The Motion does not indicate “Re-appointment”, it indicates “Appointment” unless somebody is going to move an amendment later.

You should also complete the whole sentence right to the word “2009”. That is the procedure.

Move the Motion by reading it as it is!

Mr. A. Abdalla: Mr. Deputy Speaker, Sir, I beg to move:-

THAT, this House adopts the Report of the joint sittings of the Departmental Committee on Justice and Legal Affairs and the Committee on Delegated Legislation on the appointment of the Director and two Assistant Directors of the Kenya Anti-Corruption Commission laid on the Table of the House on Tuesday, 8th September 2009.

Mr. Deputy Speaker, Sir, as I was saying, the Departmental Committee on Justice and Legal Affairs derives its mandate from Standing Order No.198 with the Second Schedule mandating the Committee to consider the subjects listed in my Report which include; Constitutional affairs, administration of law and justice; judiciary, police and prisons departments, public prosecutions, elections, ethics integrity and anti-corruption and human rights.

The Committee oversees the following Ministries; the Ministry of Justice, National Cohesion and Constitutional Affairs, the State Law Office, the Judiciary, the Kenya Anti-Corruption Commission (KACC), the Interim Independent Electoral Commission, and the Interim Boundaries Commission.

Mr. Deputy Speaker, Sir, the Committee on Delegated Legislation, which I have the privilege of chairing is established under Standing Order No.197 to among other functions, ensure that statutory instruments are laid before the House as may be provided by any written law and scrutinize, such that these instruments are consistent with the parent Statute.

The Committee is also mandated to ensure that the statutory instruments are Tabled before the House after publication in the Kenya Gazette and the Committee has the right to recommend that the House resolves any particular legislation be annulled.

Mr. Deputy Speaker, Sir, pursuant to Standing Order No.185, the Committee on Delegated Legislation---

Mr. Deputy Speaker: Order, Ms. A. Abdalla! You will have 55 minutes more to move your Motion when the House resumes!

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time for the interruption business. The House is, therefore, adjourned until, tomorrow Wednesday, 16th September, 2009 at 9.00 a.m.

The House rose at 6.30 p.m.