

REPUBLIC OF KENYA
UASIN GISHU COUNTY ASSEMBLY
THE HANSARD

Wednesday, 25th April, 2019

The House Met the Assembly Chambers at 10:35 am

[The Deputy Speaker (Hon. Hosea Korir) in the Chair]

PRAYER

COMMUNICATION FROM THE CHAIR

FINANCIAL STATEMENTS OF ELDOWAS FOR THE YEAR 2017/2018

The Deputy Speaker (Hon. Hosea Korir): Hon. Members, I would wish to bring to your attention that we are in receipt of the Auditor-General's report on the financial statements of the Eldoret Water and Sanitation Company Limited for the Financial Year which ended on 30th June 2018. It says, Hon. Members:

‘I transmit the report of the Auditor-General on the examination of the financial statement of Eldoret Water and Sanitation Company Limited for the year ended 30th June 2018. This report is submitted in accordance with the provisions of Article 229 (7) of the Constitution of Kenya as required also in Part 8.’

This is deemed committed to the Committee on Public Accounts Committee for consideration.

LETTER TO THE HEALTH DEPARTMENT CONCERNING PETITION AGAINST CEC IN CHARGE

Hon. Members, we are also in receipt of a message, in form of a petition, and it reads:

‘Our grievances and prayers to the Health sector of Uasin Gishu government on unwarranted accusation of the Health Minister.’

This is an open letter to whom it may concern. It has so many issues raised and for the purpose of the person who wrote this, it will be presented to the Health Committee for any other consideration on the same.

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I wish you a nice deliberation, Hon. Members. What is out of order, Hon. Lowoi?

QUORUM

Hon. Lowoi: Mr. Speaker Sir, this is a very important report that we are supposed to discuss but the House does not meet the quorum.

The Deputy Speaker (Hon. Hosea Korir): Clerk, confirm the quorum.

(Six Members present in the House)

Hon. Josephat Lowoi (Karuna/Meibeki), Hon. Edwin Korir (Kapseret), Hon. Zipporah Maiyo (Nominated), Hon. Eileen Kendagor (Nominated), Hon. Samora Machel (Nominated), Hon. Gilbert Bett (Kuinet/Kapsuswa).

The Deputy Speaker (Hon. Hosea Korir): We have not met the quorum, Hon. Members. I therefore direct that the quorum bell be rung and also Hon. Eileen Kendagor, on behalf of the Whip, to whip other Members.

(Quorum bell was rung)

(20 Members Present in the Chambers)

Hon. Josephat Lowoi (Karuna/Meibeki), Hon. Edwin Korir (Kapseret), Hon. Samora Machel (Nominated), Hon. Zipporah Maiyo (Nominated), Hon. Gilbert Bett (Kuinet/Kapsuswa), Hon. Edwin Miso (Nominated), Hon. David Tarus (Kapkures), Hon. Helen Jeptoo (Nominated), Hon. Leah Sambai (Nominated), Hon. Ramadhan Ali (Kiplombe), Hon. Amos Kiptanui (Racecourse), Hon. Joseph Korir (Ziwa), Hon. Hillary Rono (Kipkenyo), Hon. Jonathan Ngetich (Kaptagat), Hon. Maria Kesumo (Nominated), Hon. Stephen Leting (Ngeria), Hon. Isaac Kemboi (Kapsuya), Hon. Julius Sang (Megun), Hon. Patrick Bundotich (Tarakwa) and Hon. Nicholas Tallam (Soy).

The Deputy Speaker (Hon. Hosea Korir): We have met the quorum, Hon. Members, and we can proceed with the day's Business. Hon. Edwin Korir.

MOTION

FIRST REPORT OF JOINT COMMITTEE ON COOPERATIVE AND ENTERPRISE DEVELOPMENT AND DELEGATED LEGISLATION

Hon. Korir, E. K: Mr. Speaker Sir, I wish to move the following Motion:

That this County Assembly do adopt the joint committee on Cooperative and Enterprise Development and Delegated Legislation First Report on the proposed rules and regulations governing operations of the cooperatives...

(Point of Order)

The Deputy Speaker (Hon. Hosea Korir): Point of Order! What is out of order, Hon. Ngetich?

Hon. Ngetich: Is it in order, Hon. Speaker, to move a Motion before giving a Notice of Motion?

The Deputy Speaker (Hon. Hosea Korir): It is in order, Hon. Member. He did it last week. Proceed.

Hon. Korir, E. K: Mr. Speaker Sir, I beg to move the following Motion:

That this County Assembly do adopt the joint committee on Cooperative and Enterprise Development and Delegated Legislation First Report on the proposed rules and regulations governing operations of the Cooperative and Enterprise Development Fund dated 21st March 2019 and tabled on Tuesday April 2019 with or without amendments.

Mr. Speaker Sir, before us is the report and before I go through it; all Members have been supplied with two items: we have one which is the amended version of the rules and regulations and we also have a report of the joint committees. I will go through the joint committee report.

The front page reads; the joint committee on Cooperative and Enterprise Development and Delegated Legislation committee first report on the proposed rules and regulations governing operations of the Cooperative Enterprise Development Fund.

Mr. Speaker Sir, on the first page we have the table of contents and on the second page that is 1.0 we have the preface.

1.0 Preface

On behalf of the Members of the Joint Committee on Co-operatives and Enterprise Development and Delegated Legislation and, pursuant to the provisions of Standing Order No 191, it is my pleasure and duty to present to the House, the Committee's Report on the proposed Rules and Regulations Governing Operations of the Co-operative Enterprises Development Fund which is established under Section 3 (1) of the Uasin Gishu County Cooperative Enterprise Development Act of 2016.

2.0 Committee Membership

The Joint Committee on Co-operatives and Enterprise Development and Delegated Legislation as Constituted by the House Comprises of the following Members: -

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| 1. Hon. Edwin Korir | Chairperson |
| 2. Hon. Samuel Choge | Vice Chairperson |
| 3. Hon. David Keitany | Member |
| 4. Hon. Amos Kiptanui | Member |
| 5. Hon. Hosea Korir | Member |
| 6. Hon. David Tarus | Member |
| 7. Hon. Joan Bittok | Member |
| 8. Hon. Hillary Rono | Member |
| 9. Hon. Zipporah Maiyo | Member |
| 10. Hon. Dr. Catherine Barmao | Member |
| 11. Hon. Stephen Letting | Member |
| 12. Hon. Noah Kemboi | Member |
| 13. Hon. Hosea Some | Member |

Delegated Legislation Committee comprises of the following.

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|--------------------------|-------------------|
| 1. Hon patrick Bundotich | Chairperson |
| 2. Hon Gilbert Bett | Vice chair Person |
| 3. Hon Edwin Misoi | Member |
| 4. Hon Eileen Kendagor | Member |
| 5. Hon Hosea Lamai | Member |
| 6. Hon Nicholas Talam | Member |
| 7. Hon Leah Malot | Member |
| 8. Hon Nancy Sang | Member |
| 9. Hon Peter Chomba | Member |
| 10. Hon Salina Kosgei | Member |

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| 11. Hon Sarah Malel | Member |
| 12. Hon Julious Songok | Member |
| 13. Hon Hellen Jeptoo | Member |

3.0 Committee mandate

The Committee is responsible in terms of Provision of Standing Order No. 191 to-

- a) Investigate, inquire into, and report on all matters relating to the administration, operations and estimates of the assigned departments;
- b) Study the programme and policy objectives of departments and the effectiveness of the implementation;
- c) Study, assess and analyse the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- d) Investigate and inquire into all matters relating to the assigned departments as they deem necessary, and as may be referred to them by the County Assembly; and
- e) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

Mandate of the Committee on Delegated County Legislation

Whenever a statutory instrument is submitted to the County Assembly pursuant to the Constitution, any Law or these Standing Orders, the Statutory Instrument shall, unless a contrary intention appears in the relevant Legislation, be laid before the County Assembly by the Chair of the relevant Committee, or any other member and shall thereafter stand referred to the Committee on Delegated County Legislation.

The Committee shall consider in respect of any Statutory instrument among others whether it;

- a) Is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law.
- b) Contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of the County Assembly.
- c) Contains the imposition of taxation.
- d) Involves expenditure from the County Revenue Fund or other Public revenue;
- e) Is defective in its drafting or for any reason the form or purport of the statutory instrument call for any elucidation;

- f) Imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;

4.0 Committee Sittings

Mr. Speaker Sir, the County Assembly received the draft rules and regulations governing operations of the Cooperative Enterprise Development Fund from the CECM Department of Cooperatives and Enterprise Development, REF; UG/C/CS/CA/ADM/2/31/2018/VOL.III/ (25) on 2nd November, 2018.

The Document was committed to the Committee on Cooperatives and Enterprise Development on 5th November, 2018.

Mr. Speaker Sir, the Committee on Cooperatives and Enterprise Development deliberated on the draft rules and regulations Governing Operations of the Co-operative Enterprise Development Fund on 12th and 13th January, 2019 at Keellu Resort. Pursuant to Standing Orders No. 183 and 190 the Committee while at Keellu on the said dates, resolved to incorporate the Committee on Delegated County Legislation since the matter touches a statutory instrument, a request which you approved.

Mr. Speaker Sir, the Joint Committee held a sitting at Keellu Resort, Elgeyo/Marakwet County on 14th 15th and 16th March, 2019 to deliberate and compile a report on the draft rules and regulations Governing Operations of the Co-operative and Enterprise Development Fund.

6.0 Committee's Acknowledgement

The Joint Committee on Co-operatives and Enterprise Development and Delegated County Legislation wishes to thank its members for the tireless efforts that ensured the successful preparation of this report.

The Committee is also indebted to the office of the Clerk, Office of the Speaker and the Committee Secretariat who ensured that the report was produced on time.

Executive Summary

Mr. Speaker Sir, these proposed draft rules and regulations governing Operations of the Co-operative Enterprise Development Fund, seek to address the following:-

1. Application rules, that is, eligibility and the purpose of the loan;
2. Interest Rates charged;
3. Lending mechanism, that is, loan requirement to cooperative institution(s), loan security, loan application forms, loan processing criteria and loan approval;
4. Loan repayments such as mode of repayment, duration of payment procedure for re-scheduling repayment period and procedure for recovering defaulted and delinquent loans;

5. Accounts of the Funds, that is, book keeping;
6. Preparation of loanee records; and
7. Equitable distribution of resources.

7.0 Committee Observations

Mr. Speaker Sir, the Joint Committee deliberated on the draft rules and regulations and proposed the following amendments:

- 1) On 2.2.2 Development Loan, you go to the other document, that is, amended version of the other document in 2.2.2, that is, development loan and you will find the place that reads:

“This type of loan be available to cooperatives for long term investment including land, machinery, buildings, heavy commercials among other heavy capital investments as may be justified by the applicant before the Committee”, by inserting the word “to” to read “This type of loan to be available to cooperatives for long term investment including land, machinery, buildings, heavy commercials vehicles among other heavy capital investments as may be justified by the applicant before the Committee”.

- 2) On rule 4.1 Loan Requirements to Cooperative Institutions to delete the bulletins below
 - “Ensure a full disclosure of any other financial commitments.
 - For asset financing the asset must be fully covered by a reputable insurance company and for lending the society must provide prove of insurance cover for loans.”
- 3) On rule 4.2 titled Security to replace the word ‘credit size’ with ‘amount’ to read: “Loans will vary according to the ‘amount’, loan security, purpose and credit history of the applicant and to replace the word ‘shall’ with ‘may’ that reads “The Committee shall demand for securities from any society for any amount as and when it deems necessary” to read; “The Committee may demand for securities from any society for any amount as and when it deems necessary,” and to add the word ‘all’ and replace ‘shall’ with ‘may’ in the following statement “capital loans for between 0-5M shall be unsecured” to read “All capital loans for between 0-5M may be unsecured”.
- 4) On rule 5.1 Mode of payment, to change this title by inserting the word ‘re’ to read: “Mode of repayment”
- 5) On rule 5.2 Duration of Payment that reads: “There shall be grace period of six (6)

months which shall be determined by the fund Committee before a cooperative institution can commence loan repayment” by including the word ‘maximum’ to read; “There shall be grace period of maximum six (6) months which shall be determined by the fund Committee before a cooperative institution can commence loan repayment.”

6) On rule 5.4 Recoveries of Defaulted and Delinquent loans

The Director of the Fund shall present an up to date list of defaulted loans showing:

- Name of Borrower
- Account Number
- Date of Loan
- Outstanding Loan Balance
- Period the Loan has been in default
- Security of loan

The Cooperative Enterprise Development Fund Unit shall then consider all legal means to recover the loan. This shall be preceded by the following steps:

1. Any loan overdue for one month shall be classified as defaulted and the Cooperative Institution shall be called by the Unit as a reminder on repayment.
2. Any loan overdue from three (3) months shall be classified as defaulted and a letter will be written to the cooperative institution demanding total repayment of the loan outstanding plus interest.
3. Any loan overdue for more than (3) months shall be classified as defaulted and the due legal process shall be followed in cases that call for recovery of loan balances and interest from deposited securities.

Proposed amendment; to number the above steps and include number 4 that reads; “any loan outstanding shall be recoverable as per the loan agreement”.

8.0 Committee Recommendations

Mr. Speaker Sir, the Joint Committee therefore recommends the adoption of this report that contains various amendments as stated above.

9.0 Conclusion

I urge this Hon. House to adopt this first report on Joint sitting on Cooperatives and Enterprise Development and Delegated County Legislation without amendments. Signed by chair, that is, I chair, Cooperatives and Enterprise Development and also signed by chair delegated County legislation, that is, Hon. Patrick Bundotich.

And lastly we also have an annexe of Members appending their signatures.

Mr. Speaker Sir, these rules and regulations are long overdue. I remember this was committed to my committee late last year, that is, November. We deliberated on it as a committee of Co-Operative and Enterprise and we also saw the need to incorporate the Delegated Legislation Committee which also took their time together with the committee of co-operatives to go through and, in the conclusion of this document, we had also invited all the members of this honourable House to also have a look at these rules and regulations. So all these honourable members got the chance actually to go through this document earlier before I tabled the same in this honourable House and as I said it is long overdue. I know the members...

The Deputy Speaker (Hon. Hosea Korir): Order, honourable Chair! What is out of order honourable Muya?

Hon. Muya: Thank you very much, Mr. Speaker. I have been a very good listener and follower of this honourable House. The report before us has just been tabled and it is just that I am seeing it but when the member said that we had the chance I think the chair has done a very good job but he is not well advised that we are all not good readers, that we can go that fast. However, it is in our hands but we did not have a look at it earlier than today. So he is out of order to say that everybody has seen the chance to go through it, but he is a good report.

Thank you, Mr. Speaker.

The Deputy Speaker (Hon. Hosea Korir): I think the Honourable Member for Langas, you are out of order because this House was facilitated over the same document to the said hotel-all members unless you had some apologies. Proceed,

Honourable Member for Kapseret.

Hon. Korir, E. K.: Thank you, Mr. Speaker, for that information. I said so, Mr. Speaker, because I know during the final development of this document all members had been facilitated to go and look at this document unless Hon. Muya had other commitment maybe on official duties because on that day maybe other members had different commitments.

I wanted to actually say the Honourable Members of this House who were present in the First Assembly you are aware that in 2014 you passed a co-operative Bill in this House and in that Bill there is a clause that was instructing the CEC for the department to constitute and develop rules and regulations and the CEC for Co-operatives actually did that last year. It was presented in this House and we are now about to adopt this report with rules and regulations.

On that note I want to call upon honourable Zipporah Chepkoech Maiyo to second this report.

The Deputy Speaker (Hon. Hosea Korir): Honourable Zipporah!

Hon. Maiyo: Thank you, Mr. Speaker Sir, for giving me this opportunity to second this report. First and foremost, I would like to appreciate our able chair for Co-operative for chairing

the meeting when we were deliberating on this report and also for tabling this report today. I would like also to take this opportunity to appreciate our clerks and Serjeant-at-Arms for cooperating especially the clerk for writing this report. I would also like to appreciate the office of the Speaker and the clerk for facilitating us in writing this report.

This report actually is long overdue and we thank God today it has been tabled and we know it is going to help our people outside. The proposed draft rules and regulations governing the operation of these cooperatives will avoid the default which is the enemy of the loans.

So, Mr. Speaker, I urge this House to support this report so that it will be implemented as soon as possible and take this opportunity to stand and second this report.

The Deputy Speaker (Hon. Hosea Korir): Thank you, honourable Zipporah. A Motion has been moved and seconded, Honourable Members, and I therefore now propose a question.

(Question proposed)

The Deputy Speaker (Hon. Hosea Korir): Ensuing Debate!

Honourable Member for Megun!

Hon. Sang, K: Thank you so much, Mr. Speaker, for giving me this opportunity to give my input to this report by the joint committee of Co-Operative Development and the Committee on Delegated Legislation. As I look at this report, Mr. Speaker, first of all I want to register my appreciation to the joint committee and say that they have done a good job; they have given us the amendments and I am satisfied that the amendments have gone a long way in enriching this law and regulations that have been set out for governing the management of the fund.

Mr. Speaker, my only concern is to, perhaps I would like to advise the department; when you look at the way the loan is being structured and the way it is going to be disbursed, I would wish to advise; that although this loan has been opened so that it is also covering issues like the land purchase, assets, acquisition or installation of farm machinery and implements, when you look at the practice of loan recovery, we want to see a situation where we are practising preventative mode of loan recovery In the sense that we do not just give out loans and in the end go out and go after the management and the cooperatives that are not able to repay their loans.

Mr. Speaker, when we give out a loan for land purchase, I am looking at this cooperative that does not have the land; this is a cooperative that is new; this is a cooperative that maybe even the members are new. They have not done activities that they have said they are going to do because in the first place they do not have land to do these activities.

So, I would wish that we advise the department accordingly so that they are very careful when assessing these cooperatives to benefit from these loan so that we do not end up chasing after these people for years trying to recover loans which perhaps they have used to purchase the land, used it in other ways and they are not able to repay the loan. My caution was on that area;

we must be very careful; the department must be very careful in assessing the potential beneficiaries so that we get the right people, we get the people who are very serious; who are ready to do their work and carry out the activities, improve their livelihoods, repay the loan and we make this fund a revolving so that it is able to help so many people.

Mr. Speaker, I support this Motion and I thank the committee, and I say *heko*; let us support our farmers; this is indeed the right time to support our farmers because we are seeing that our farmers are at the crossroads; their maize has not been purchased on time, the national government has not given them the correct amount that is supposed to be given for purchase of their commodities. So, I hope that this fund will go a long way in supporting our farmers so that they are able to stand on their feet; they are able to do their business profitably so that they are able to stand on their own.

I support this Motion and I say thank you to the committee, thank you Mr. Speaker.

The Deputy Speaker (Hon. Hosea Korir): Honourable Eileen! I have seen you, Honourable Malot.

Hon. Kendagor: Mr. Speaker, I stand to support this Motion which has been moved by Honourable Edwin Korir, Member representing Simat/Kapseret Ward. This Motion is long overdue, as we know that the department of Cooperatives is the only department which has money to be borrowed by our people especially youth and women. So, it has been long overdue and we are very grateful today to the mover of the Motion. I want to urge this House to pass the Motion to allow our people to apply for the loans, especially youth and women.

Mr. Speaker, I also urge the concerned department that these funds be shared equitably to every Ward. I support the Motion that the department of Cooperative to liaise with Committee and to allow our people to apply without complicated resolutions; so that it can allow the youth and women to apply and get the money. If they apply strict measures on it, the people will not benefit and the beneficiaries especially from the Youth and Women Enterprise funds and the other departments will be the same beneficiaries of these loans.

So I stand to support the Motion.

The Deputy Speaker (Hon. Hosea Korir): Thank you, Honourable Eileen. Honourable Malot!

Hon. Malot: Thank you, Mr. Speaker Sir. I also join my colleagues in congratulating the Committee for Cooperative and Enterprise and the same time the Delegated Committee; the joint committee for doing a good job. I stand here to support the joint committee's proposal on the amendments of the fund. I believe that these loans are cheaper in terms of interests that will help the common *mwananchi* at the ground; it is around five per cent for the farmer-based and eight per cent for the cooperatives. A farmer down there on the ground is able to borrow the loan at the cheapest price and he or she is able to pay the same loan when he is very comfortable.

The lending mechanisms that have been put in place are very friendly and will allow their farmers to buy their inputs and do their farming in the right time and when they are very comfortable because the loan will help them so that they can get value for their money.

Mr. Speaker Sir, these loans which have been given to cooperatives, with these legal issues or the policies which have been put in place, it will give a cooperative a very good measure in order for the County Government to recover their loans in time because most of the cooperatives, without these rules and regulations, were not able to repay their loans. Most of the time, most cooperatives were not able to repay in time; now that these legal issues that have been put in place, the policies are able to guide most of the cooperatives so that the County Government can realize the value of the money that has been lent to most of the cooperatives and these cooperatives will be able to know that these rules and regulations which have been put in place are very important and they can work for it and get back the money to the County.

Mr. Speaker Sir, most of the cooperatives currently have defaulted on the same loans but with this mechanism that has been put in place and the legal issues that had been set here, these cooperatives are able to repay the same loan. Thank you.

(Point of Order)

The Deputy Speaker (Hon. Hosea Korir): What is out of order, Honourable Member for Kiplombe?

Hon. Werambo: Mr. Speaker, thank you for this chance that you have given me. This document is a very important document that needs quorum in the House for it to be passed. Mr. Speaker, we do not have a quorum for this document that we are discussing.

QUORUM

The Deputy Speaker (Hon. Hosea Korir): Once again confirm the quorum, the Clerk!

(Members present 12)

Hon. Joseph Korir (MCA Ziwa Ward), Hon. Joel Rugut (MCA Kipsomba Ward), Hon. Julius Sang (MCA Megun Ward), Hon. Ramadhan Ali (MCA Kiplombe Ward), Hon. Leah Malot (Nominated MCA), Hon. Edwin Korir (MCA Simat/Kapseret Ward), Hon. David Keitany (MCA Sergoit Ward), Hon. Edwin Misoi (Nominated MCA), Hon. Zipporah Maiyo (Nominated MCA), Hon. Hellen Jeptoo (Nominated MCA) and Hon. Francis Muya (MCA Langas Ward)

Hon. Eileen Kendagor, Nominated MCA

The Deputy Speaker (Hon. Hosea Korir): Allow me to have the Standing order and I will give direction later. I invoke Standing order No.32, and I want all of us to listen, Honourable Members kindly:

“If at any time after the Chair is taken, or when the county assembly is in a committee, and a Member objects that there is not a quorum present, the Speaker or the Chairperson shall count the county assembly or the committees as the case may be,” which we have done the first one. “If on the count, under paragraph one, a quorum does not appear to be present, the Speaker or the Chairperson shall cause a division bell to be rung as on a division and if the quorum is not present, the expiration of eight minutes..”,

We were able to achieve that Honourable Members, you realized the first one we went for---

(ii) “If the Speaker is in the Chair, the Speaker can adjourn the County Assembly until the next sitting without putting the question. If the county assembly is in committee and the Chairperson leaves the Chair, and the report, to the fact that, the Speaker who shall adjourn the County Assembly until the next meeting”.

The Deputy Speaker (Hon. Hosea Korir): The last one, Honourable Members. I would therefore allow a quorum bell be rung for the next five minutes. If we will not meet the quorum, then we will adjourn indefinitely. Honourable Eileen Kendagor, you will still be our Whip for today.

(Quorum Bell was rung for five minutes)

(13 Members present in the House)

The Deputy Speaker (Hon. Hosea Korir): Clerk, confirm the quorum.

(Nominated MCA Hon. Belinda Tirop walked into the Chambers)

ADJOURNMENT

The Deputy Speaker (Hon. Hosea Korir): I therefore, Honourable Members, invoke Standing order No.31 (ii) which says:

“The Speaker shall order the quorum bell be rung for the next ten minutes,” which we did in the first place and, ‘if the quorum is not present, at the expiration of the ten minutes, the Speaker may then direct the bell to be rung for a further five minutes,’ which I have already ordered. And ‘if the quorum is still not present, the Assembly shall adjourn forthwith to the next sitting.’

The House stands adjourned Honourable Members until Tuesday at 2:30 pm.

The House rose at 3:45 pm