

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 8th December, 2009

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

Sessional Paper No.4 of 2009 on the Nairobi Urban Toll Road Concession Contracts.

(By the Minister for Roads)

NOTICE OF MOTION

ADOPTION OF SESSIONAL PAPER NO.4 OF 2009 ON
NAIROBI URBAN TOLL ROAD
CONCESSION CONTRACTS

The Minister for Roads (Mr. Bett): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, pursuant to Section 4 of the Public Roads Toll Act, Cap.407 of the Laws of Kenya, this House approves Sessional Paper No.4 of 2009 on the Nairobi Urban Toll Road concession contracts laid on the table of the House Tuesday, 8th December, 2009.

QUESTIONS BY PRIVATE NOTICE

DEMOLITION OF HOUSES
IN UMOJA III ESTATE

Mr. Waititu: Mr. Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Local Government, the following Question by Private Notice.

- (a) Who authorized the demolition of houses in Umoja III Estate, next to Mathare
- (b) Youth Association Headquarters along Kangundo road on 24th November, 2009 and what were the reasons for the demolition?
- (c) Why were the demolitions done without following the due process of the law?
- (d) Will the victims be compensated and, if so, when?

Mr. Speaker: Is anyone here from the Office of the Deputy Prime Minister and Minister for Local Government? We will return to the Question a little later.

ILLEGAL DEPLOYMENT OF AP OFFICERS
BY KIRINYAGA SOUTH DC

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

(a) Could the Minister explain the circumstances under which the Kirinyaga South District Commissioner (DC) is providing Administration Police (AP) security to hired goons to harvest farmers' rice?

(b) What disciplinary measures are contemplated against the DC for the illegal act?

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

(a) It is not true that the DC, Kirinyaga South provides Administration Police (AP) security to hired goons to harvest other farmer's rice. The truth of the matter is that both the regular and the APs have always been hired by farmers' co-operatives to escort their staff to recover debts owed to them by rice farmers with the full knowledge of the District Security Intelligence Committee (DSIC). The support given by the security personnel to the co-operative societies is necessary as failure would lead to their collapse, leading to unemployment and increased poverty. These farmers' co-operatives include Mwea Rice Farmers SACCO Society Ltd which is owed Kshs55 million by rice farmers and Mwea Rice Growers Multipurpose Society Ltd which is owed Kshs118 million by rice farmers.

(b) There is no disciplinary action being contemplated against the DC as the actions she is undertaking are not illegal as stated.

Mr. Gitau: Mr. Speaker, Sir, it is not true that farmers' rice is not being harvested. As we speak now, people have called and told me that over 20 AP officers are in the paddy fields protecting goons who have been hired to harvest rice without the knowledge of the owners. I think it is criminal for anybody to take somebody's property with a gun. It is very saddening when the Assistant Minister says that he is not aware that the DC is conducting that activity under the guise of trying to protect people whom he claims are owed monies by the farmers.

Mr. Speaker: Mr. Gitau, it is Question Time! We have allowed you to say a few things but I thought you would lay the background for your question. Ask your question.

Mr. Gitau: Mr. Speaker, Sir, could the Assistant Minister table any documents showing what he has stated in his answer?

Mr. Lesrima: Mr. Speaker, Sir, I wish to table the bylaws of Mwea Rice Farmers SACCO Society in which they agreed that they will recover the cost of inputs through the actions being taken.

I would also like to table the minutes of the District Security Committee chaired by the DC in which members of the co-operative society attended requesting the DC and the security team to invoke the society's bylaws, which I have tabled, and take the defaulters to the Co-operative Tribunal Court.

I would also like to table a letter written by Mwea Rice Growers Multipurpose Co-operative Society to the OCPD making a request for security to be provided between 2nd December this year until the end of April next year, because this is the harvesting season, to escort the co-operative officials to recover produce for the purpose of repaying the loans.

Finally, I would also like to table a letter to the DC by the Chairman of Mwea Rice Co-operative Society asking the DC for the support.

(Mr. Lesrima laid the documents on the table)

Mr. Outa: Mr. Speaker, Sir, rice is more of a ready business. The DC will come in during harvesting period after farmers have worked hard with co-operatives, and this is not only in Mwea but also in my area. Could the Assistant Minister tell this House the role of the DC in rice farming?

Mr. Lesrima: Mr. Speaker, Sir, the DCs come in only on invitation to provide security which incidentally is hired. This is an arrangement made by the co-operative societies. The DCs do not go there without invitation. They go there to assist in implementing the bylaws to ensure that the co-operatives do not collapse because some of these co-operatives, particularly in the area that I have talked about, had financial difficulties which almost made them go under.

Mr. Olago: Mr. Speaker, Sir, the Administration Police (AP) unit is set up under an Act of Parliament. If any dispute arises between a member of a society and the society, it is resolved by the Co-operative Societies Tribunal. Under what circumstances can the APs get involved in a purely contractual relationship between the members and their society without going against the Act?

Mr. Lesrima: Mr. Speaker, Sir, I did not understand the question. Is he asking me under what circumstances do MPs interfere with co-operative societies?

Hon. Members: APs!

Mr. Lesrima: Mr. Speaker, Sir, they do not. They are hired to protect the premises and escort officers from the co-operative societies who are recovering the loans. They offer protection and security.

Mr. Olago: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Assistant to tell the House that APs can be hired to ensure that debts are paid without a court order?

Mr. Lesrima: Mr. Speaker, Sir, anybody can hire APs, if he or she feels insecure, for escort.

Mr. Speaker: Last question, Member for Mwea!

Mr. Gitau: Mr. Speaker, Sir, it is very strange to hear that there are meetings that have been going on without my knowledge! Those meetings are about the recovery of debts. There has never been any meeting that I know of, that has involved members and the Savings and Credit Co-operative Societies (SACCOs). In addition, all the rice farmers are not members of the SACCOs. In fact, it is very saddening to see farmers who have toiled for too long---

Mr. Speaker: Order, Member for Mwea! The documents which have been tabled really speak for themselves.

Mr. Gitau: Mr. Speaker, Sir, my understanding is that some of those documents have been doctored to suit---

Mr. Speaker: Order, Member for Mwea! You cannot say that without evidence. You are claiming that these documents have been doctored. Can you prove that position, because the Standing Orders say that you are responsible for the accuracy of every utterance that you make? You have said that these documents have been doctored and yet, as I see, they are properly signed and dated. So, according to me, these documents are genuine.

Mr. Gitau: Mr. Speaker, Sir, I need to peruse those documents before I qualify what I am saying. That is because I have never heard of a meeting between the farmers and the SACCO. I have been requesting the District Commissioner (DC) to have---

Mr. Speaker: Member for Mwea, I am not sure whether the position will change even after you look at these documents, but I will indulge you by giving you these documents and we will revert to this Question for you to ask the last question, after you have substantiated your claim that these documents are doctored. So, they will be passed on to you now. You may resume your seat. I will revert to that Question later.

Member for Kisumu Town West!

ORAL ANSWERS TO QUESTIONS

Question No.029

LIST OF FATALITIES FROM *SABA SABA* RIOTS /POST ELECTION VIOLENCE IN KISUMU

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

(a) whether he could table a complete list of persons injured and/or fatally shot by police in Kisumu Town during the *saba-saba* riots and the whole duration of post-election violence in 2007/2008; and,

(b) what steps he is taking to ensure the victims and/or their families are, as a step towards reconciliation, paid *ex-gratia* compensations and to settle suits now pending before various courts in Kisumu resulting from the above events.

Mr. Speaker: Minister of State for Provincial Administration and Internal Security! Hon. Lesrima, this Question is directed to your Ministry.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, I do not have an answer. I request that the Ministry brings an answer on Wednesday next week. That is because it will take quite a bit of time to collect the information that the hon. Member wants.

Mr. Olago: On a point of order, Mr. Speaker, Sir. This is the third time that this Question is coming up. The first time it did, hon. Ojode was here. The second time hon. Prof. Saitoti was here and this is now the third time.

Mr. Speaker: Mr. Assistant Minister, do you have any reaction to the claim by the hon. Member?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, it is true that this is the third time it is coming. I think during the first time, the Question was not very clear. The second time, the statistics were not ready. The hon. Member is aware that the police station was burnt down. So, compiling records may take quite a bit of time. So, that is one difficulty we have in getting the list that he is requesting.

Mr. Speaker: Hon. Olago, are you comfortable that this Question be answered on Tuesday next week?

Mr. Olago: Mr. Speaker, Sir, I will go by your direction. But I would insist that I get a written answer before then. That is because I expect to look at the statistics in good time.

Mr. Speaker: Hon. Assistant Minister, you will have to comply. Make sure that the hon. Member has a written answer before you answer the Question.

(Question deferred)

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to inform us that the police station was burnt down when, in fact, it was burnt down before the clashes of 2002?

Mr. Speaker: Order, Member for Kisumu Town East! This Question is already deferred to Tuesday next week. So, your question has been overtaken by events. At any rate, it is not a point of order!

Member for Mt. Elgon!

Question No.482

*EX-GRATIA PAYMENT TO FORMER
MEMBERS OF PARLIAMENT*

Mr. Kapondi asked the Deputy Prime Minister and Minister for Finance whether he could provide the names of former Members of Parliament who have received *ex-gratia* payment as recommended by the Justice Cockar Tribunal, the total amount involved as well as the status of tax deducted from each of the recipients.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, I beg to reply.

The total number of former Members of Parliament who have received *ex-gratia* payments as recommended by the Justice Cockar Tribunal is 274. The total amount involved is, therefore, Kshs274 million. That is at Kshs1 million each.

I hereby table the list.

(Dr. Oburu laid the document on the Table)

Regarding the status of tax deducted from each of the recipients, the Kenya Revenue Authority (KRA) had by 20th November, 2009 received 82 income tax returns from some of the Members. Twenty eight of these had been approved and the refunds

have since been made, while 39 are being processed for payment. Three did not have complete details and another 12 had no Personal Identification Numbers (PIN) and were, therefore, returned to the Clerk of the National Assembly.

I wish to table the KRA document on the status of the refunds.

(Dr. Oburu laid the document on the Table)

Mr. Kapondi: Mr. Speaker, Sir, while I appreciate the answer from the Assistant Minister, could he tell us why the *ex-gratia* payment to those former Members of Parliament was taxed and yet—

Mr. Speaker: Order, Member for Mt. Elgon! Ask one supplementary question!

Mr. Kapondi: I am sorry, Mr. Speaker, Sir. Could he answer that?

Dr. Oburu: Mr. Speaker, Sir, the reason why it was taxed is because the Minister for Finance had not given it an exemption under the Income Tax Act. This was subsequently done by the Minister in March. That is why by the time they were being deducted, this exemption had not come. But, subsequently, the Minister in his consideration, gave exemption. That is why they are being refunded and some have not been refunded.

Mr. Speaker: Last question, Member for Mt. Elgon!

Mr. Kapondi: Mr. Speaker, Sir, I want the Assistant Minister to tell the House why the First up to the Forth Parliament were considered ; the Fifth up to the Seventh Parliaments were not considered, but the Eighth Parliament was considered for *ex-gratia* payment? Why was there discrimination against the Fifth up to the Seventh Parliaments?

Dr. Oburu: Mr. Speaker, Sir, that was in the recommendation of the Cocker Commission, that those who were in Parliament between 1963 and 1983 be paid some *ex-gratia* payment, between Kshs500,000 to Kshs1 million, but it was not binding on the Government. It was left for Parliament and the Government to consider. Now, the Cabinet sat and decided that they be paid. However, there were Members of Parliament who, between 1963 and 1983 were not re-elected. But when they were subsequently re-elected, they recouped or bought their period of service. Therefore, they are now on pension.

Mr. Speaker: Next Question by the hon. Member for Emgwen?

Question No.388

SUPPLY OF WATER TO NANDI CENTRAL/WESTERN
PROVINCE THROUGH CHEPSONOI WATER PROJECT

Mr. Speaker: The hon. Member for Emgwen is not here? The Question is dropped!

(Question Dropped)

Question No.455

DEVELOPMENT PROJECTS INITIATED BY WATER

MINISTRY IN KURESOI CONSTITUENCY 2008/2009

Mr. Cheruiyot: Mr. Speaker, Sir, before I ask my Question, I would like to bring to the attention of the Chair that I have not received a written answer.

Mr. Cheruiyot asked the Minister for Water and Irrigation:—

(a) if there are any water resources and development projects initiated by the Ministry in Kuresoi Constituency in the year 2008/2009 and what the cost of each project was; and,

(b) what plans the Ministry has for the construction of urban water supply and sewerage system for Keringet Town and the new district headquarters.

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Speaker, Sir, first, I would like to apologise that the hon. Member has not been given a written answer. Maybe, after I have answered, I will give him a copy. Otherwise, I apologise once again.

Mr. Speaker, Sir, I beg to reply.

(a) In the last financial year 2008/2009, the Ministry carried out the following:—

(i) We rehabilitated Olonguruone Water Supply at a cost of Kshs2 million. We drilled, equipped and did a replacement of a borehole in Keringet Town at a cost of Kshs2 million.

(ii) We rehabilitated Keringet Dam with a storage capacity of 27, 000 cubic metres, under *Kazi Kwa Vijana* programme at a cost of Kshs1, 815,016, and we constructed Ngenda Tank with a storage capacity of 10,000 cubic metres, under the *Kazi Kwa Vijana* programme at a cost of another Kshs1,887,006.

(b) Rift Valley Water Services Board will this financial year commission a consultant to design and prepare a cost estimate for an urban water supply and sewerage system for Keringet Town, and for the headquarters for the newly created Kuresoi District and thereafter, implement the project. However, as a short-term measure, the Ministry has allocated Kshs4 million this financial year to Kuresoi District. Out of this allocation, Kshs3.6 million will be spent on the implementation of Keringet Water Supply with stores from Kopkorest Dam, while the balance will be utilized on operation and maintenance costs in the district.

Thank you, Mr. Speaker, Sir.

Mr. Cheruiyot: Mr. Speaker, Sir, the Minister has given a fairly good answer and I would like to invite her to the constituency to see for herself why we need these water services.

Mr. Speaker: Madam Minister, do you accept the invitation?

Mrs. Ngilu: Mr. Speaker, Sir, I accept the invitation, but on condition that the hon. Member protects the water catchment areas.

Hon. Members: Mau!

(Applause)

Mr. James Maina Kamau: Mr. Speaker, Sir, I would like to commend the Minister for Water and Irrigation for giving such an answer. But then, can she also tell us why some areas were left out like Kandara Constituency which does not have any source of water at all? The Ministry of water and Irrigation is doing nothing towards that.

Mrs. Ngilu: Mr. Speaker, Sir, I will have to go back and check what we have in the budget for Kandara Constituency. But I can always give him an answer to that question.

Mr. Speaker: Last question, hon. Member for Kuresoi Constituency?
Next Question, by the hon. Member for Garsen Constituency!

(Mr. Cheruiyot stood up in his place)

Order! Hon. Member for Kuresoi, we have called the next Question. You took too long to get on your feet!

Mr. Cheruiyot: Mr. Speaker, Sir, I think the lady mesmerized me!

Mr. Speaker: Order, Member for Kuresoi! Your Question is overtaken by events. Member for Garsen Constituency's Question!

Mr. Mungatana: Thank you, Mr. Speaker, Sir; I beg to answer Question No.338. Sorry, I beg to ask Question No.338.

Hon. Members: Hangovers!

(Loud Consultations)

Question No.338

RAISING OF CAR PARKING CHARGES
WITHIN NAIROBI

Mr. Mungatana asked the Minister for Nairobi Metropolitan Development:-

(a) if he could confirm that he intends to raise car parking charges within Nairobi to Kshs500 per day;

(b) under what law he is empowered to take such punitive measure against city motorists; and,

(c) what plans he has to involve residents in future decisions to raise utility charges.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Speaker, Sir. I beg to answer.

(a) No. The Ministry has no intention of raising car parking charges within Nairobi to Kshs 500 per day.

(b) In view of the answer to part "a", this does not apply as the Ministry's programmes are implemented through existing local authorities.

(c) Since its inception, the Ministry of Nairobi Metropolitan Development has had thorough consultations with all the stakeholders in the region on all issues affecting its mandate. For example, the Nairobi Metro 2030 Strategy document was launched by His Excellency the President in the presence of the Prime Minister and involved seven months of consultations within Nairobi residents to determine their priorities in the Metropolitan Region.

Mr. Speaker, Sir, traffic decongestion in the City is the number one priority of the Ministry and to address the issue, a taskforce was formed in 2008, whose

recommendations were launched in August, 2009. This taskforce was composed of the Government of Kenya Ministries and Local Authorities, Public Service Vehicles Operators, Residents Associations, Commuters and Manufacturers.

The Ministry has also established advisory councils as follows: The Ministers' Advisory council, the Mayors' council and we have the special technical working groups.

Mr. Speaker, Sir, my Ministry also has plans to increase parking slots in the Central Business District (CBD) and also in the outskirts of Nairobi on all the major highways entering the city. The construction of these parking silos will reduce the traffic congestion in the CBD, as private cars will be parked in the storied car parks. The Law Courts parking, the Sunken Car Park, Hakati Bus Park and the Central Bus Station have been identified as suitable sites for these storied parking.

Lastly, citizens will also be encouraged and facilitated to park private cars in the designated park and ride facilities, which will be located conveniently along the key approach roads to the CBD. These park and ride facilities will be situated along Thika Road, Mombasa Road, Ngong' Road and Lang'ata Road as well as Waiyaki Way.

Thank you, Mr. Speaker, Sir.

Mr. Mungatana: Mr. Speaker, Sir, the Question has arisen out of genuine fear when the Minister took over the Ministry. In one of his tours of some of the projects, there was a genuine fear and uproar when it was reported that one of the decongestion traffic measures will be to increase parking charges for the city residents to Kshs500 per day. How does the Minister involve residents of Nairobi when it comes to raising utility charges because we live in this city and it is expensive? How are we assured that the residents of this city will be involved when it comes to raising utility charges instead of decrees being given out there by the Ministers or other officials?

Mr. Githae: Mr. Speaker, Sir, the new thinking is that the residents must be involved where the Ministry's decisions will affect them. Therefore, we have involved them and we will continue to involve them and not only the residents but even other stakeholders in the activities of Ministry of Nairobi Metropolitan Development. The most important is the service delivery to the residents because we want to give service to the residents of Nairobi City.

Mr. Speaker, Sir, I also launched the decongestion measures which incorporate turning some of the major roads into one way streets. Again, this is under preparation and all the stakeholders like the Ministries and local authorities have been involved. As soon as we are ready, we are going to involve all the residents, all the motorists and everybody else who comes to visit this city.

So, I would like to assure the hon. Member that the residents will be involved as much as possible.

Dr. Khalwale: Mr. Speaker, Sir, the practice in this city has been that, as soon as a motorist parks a vehicle, he pays and gets a receipt in return. However, when the motorist comes back to pick the car, he or she finds that it has been vandalized. Could the Minister explain whether the service we pay for includes the protection of motor vehicles?

Mr. Githae: Mr. Speaker, Sir, it is unfortunate that the fees we pay for parking do not include security services. Security is provided by the Kenya Police. We have requested the local authorities that they should talk to their *askaris* and inform them that it is not good enough to collect parking fee. The motorists must also be given security.

They must also feel that the car is safe. Although it is not their responsibility, we have also asked them if they could also take care of security. However, that is not their responsibility. It is the responsibility of the Kenya Police.

Mr. Shakeel: Thank you, Mr. Speaker, Sir. Is that the mandate of the Ministry because I am the Chairman of the Committee on Local Authorities and we have already asked the Minister to come to us and give us the details of his mandate? I do not think that part of his mandate is implementation.

Mr. Githae: Mr. Speaker, Sir, it is part of our mandate.

Mr. Mbugua: Thank you, Mr. Speaker, Sir. This is a very able Minister. I am sorry to say that there has been conflict of interest between the two Ministries. Could he confirm whether there has been infighting between the Office of the Deputy Prime Minister and Ministry of Local Government and his Ministry?

Mr. Githae: Mr. Speaker, Sir, there has never been and will never be any infighting between the Ministry of Nairobi Metropolitan Development and the Office of the Deputy Prime Minister and Ministry of Local Government. We know our mandates. We were all appointed by the same appointing authority and our mandates are very well specified in Presidential Circular No.1. The only problem that has been there has to do with the attitude of the Nairobi City Council when we started the decongestion plans. Traffic has been there for the last 40 years and we said that we are going to intervene because Kenya is losing more than Kshs24 billion. However, that has now been sorted out by the Prime Minister and we have been given the mandate to decongest the city. As I said, this is basically a question of attitude. If you look at the previous Town Clerk, John Gakuo, his attitude was that anybody who came to help the City was assisting him. He used to welcome any assistance; whether someone wanted to set up flower beds, benches or drinking fountains. The City Council is now of the same view, that whoever comes to assist will be doing it for their own interest.

Mr. Mungatana: Mr. Speaker, Sir, the Ministry of Nairobi Metropolitan Development has not been felt so much on the ground. I would want to ask a question from the bottom of my heart. Could the Minister consider appointing borough administrators so that when we have issues within the metropolis, we can have people who can deal with them? We are not only talking about parking, but issues affecting our livelihoods in various residences. As you know, we already have residents organizations. However, they do not have a place where they can go and raise issues. Many of us do not want to deal with the City Council. Would the Minister consider organizing his Ministry in that direction?

Mr. Githae: Mr. Speaker, Sir, I will admit that until we get the Nairobi Metropolitan Bill into an Act of Parliament, this Ministry will still depend on the goodwill of other Ministries. I will give three examples. We have come up with a system of "park and ride" and there is one that is currently running at Bellevue. However, for that system to work, we need to have a dedicated bus lane. The road from Athi River to Westlands belongs to the Ministry of Roads. We have asked them to give us a dedicated bus lane for that process to be effective. However, we are still waiting. Again, we have asked the Ministry of Transport to increase the high capacity carrying vehicles. However, until we get a Metropolitan Bill, we will have to rely on the goodwill of the Minister for Transport in specifying the kind of vehicle that should ply within the Nairobi Metropolitan. However, within those circumstances, we are working closely with the

residents associations. In the Advisory Council meeting, I said that all the residents' associations are involved. In fact, we had one meeting this month. We agreed that we would be meeting them quarterly so that they can be telling us their problems and we sort them out.

We cannot wish away the local authorities. They are still here. However, we are here to assist the local authorities and not to act as a stumbling block.

Question No.526

NON-PAYMENT OF LEVIES BY KPLC
TO LOCAL AUTHORITIES

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

(a) whether he was aware that local authorities across the country no longer collect levy charges for way leaves and electric poles owing by Kenya Power and Lighting Company (KPLC);

(b) how the Ministry intends to cater for the revenues that used to accrue from KPLC to councils; and,

(c) when Maragua Town Council will be paid the monies due to it as unpaid levies by KPLC amounting to more than Kshs3 million.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, before I reply, I beg to apologize that I was not here when the first Question was asked. I hope that I will have the opportunity to respond to it during this second round.

However, I beg to reply.

(a) I am aware that local authorities across the country no longer collect levy charges for way leaves and electric poles from the KPLC.

(b) The Ministry proposed to the Treasury to factor in the 2009/2010 Budget Kshs638,174.058 as compensation to local authorities in respect of levy on poles or way leaves. However, due to financial constraints, this was not factored in the Budget and we have proposed the same to be provided for in the Supplementary Budget for 2009/2010.

(c) Once this is considered and provided for in the Supplementary Budget, the amount owing to the Town Council of Maragua will be made available.

Mr. Mbau: Thank you, Mr. Speaker, Sir. I would like to thank the Deputy Prime Minister and Minister for Local Authority for concurring with my concern. I believe that it is not just the Town Council of Maragua that is suffering that fate. Could the Deputy Prime Minister confirm to this House what special measures he will take to ensure that, that amount of money is factored in the Supplementary Budget, given the fact that he had proposed the same figure in the main Budget and the same was left out? Given that he is the Deputy Prime Minister, what special steps will he take to ensure that we are not left out in the coming Supplementary Budget?

Mr. Gunda: Mr. Speaker, Sir, could the Deputy Prime Minister tell us how the funds will be shared among the various county councils once they have been factored in the Supplementary Estimates ? Will the sharing be done according to the number of electricity polls?

Mr. Mudavadi: Mr. Speaker, Sir, every local authority which had wayleaves had established an account and track of what was owed to them by the Kenya Power and Lighting Company (KPLC). Definitely, we shall use the arrears that were outstanding in the respective local authorities.

Mr. Shakeel: Mr. Speaker, Sir, could the Deputy Prime Minister inform us why the Office of the Deputy Prime Minister and Ministry of Local Government would like to pay the charges that should be paid by a public limited company like the KPLC which charges customers?

Mr. Mudavadi: Mr. Speaker, Sir, there has been a dilemma here because when services such as the distribution of electricity are being undertaken in different parts of the country, the debate that has been between the Office of the Deputy Prime Minister and Ministry of Finance and the Office of the Deputy Prime Minister and Ministry of Local Government, is that the power company is, indeed, providing a service to the people. If the local authorities become obstacles---

(Mr. Mututho consulted loudly)

Mr. Speaker: Order, the hon. Member for Naivasha! This is not a market place!

Mr. Mudavadi: Mr. Speaker, Sir, if the local authorities become obstacles by demanding too much in wayleaves it could to a certain extent deter the provision of electricity to citizens in different parts of the country. It is on that basis that we entered into dialogue with the Office of the Deputy Prime Minister and Ministry of Finance to find a solution that does not impede the power company from doing its job and at the same time avoid having these costs being passed on to the consumers.

Mr. Mbau: Mr. Speaker, Sir, since this appears to be the solution for the 2009/2010 Financial Year, could the Deputy Prime Minister assure this House that we will not need to ask this Question again next year? Could he assure this House that he will ensure that this Budget Item in his Ministry is factored every year? Could he also assure this House that Maragwa Town Council will be prioritized as he considers others?

Mr. Mudavadi: Mr. Speaker, Sir, first, we want to deal with arrears that the various councils had charged because the Ministry granted the local authorities the opportunity to levy charges in 2001 through the by-laws mechanism. However, a policy issue that arises now is whether in the provision of certain essential services such as electricity, water or the oil pipeline that traverses through a certain urban centre, we should subject the people in that local authority to those charges yet they are providing a very essential service. So, this is a policy issue that we need to deal with. Whereas the first thing is to deal with the arrears, as a country, we will have to review this policy because services of this nature are essential throughout the country, and one has to question whether there is merit in making them more expensive to the users.

Question No.091

CONSTRUCTION OF CULTURAL CENTRE
IN MARAKWET DISTRICT

Mr. Kaino asked the Minister of State for National Heritage and Culture when the Ministry will construct a cultural centre in Marakwet District to restore and sustain the rapidly disappearing culture of the Marakwet people.

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Mr. Speaker, Sir, I beg to reply.

The Ministry recognizes the important role of the community cultural centres in promotion of national cohesion, integration and the preservation of our positive cultural values through the inter-cultural, dialogue and community exchange programme. Consequently, the Ministry will undertake to construct cultural centres in all constituencies in the country including Marakwet West once funds are available. The Ministry is preparing a Cabinet Memorandum to ensure that the funds are made available by the Treasury.

Mr. Kaino: Mr. Speaker, Sir, while I sympathise with this Ministry which receives the least budgetary allocation, the Government does not recognise the importance of cultural values in this country. Marakwet traditions are disappearing very fast. What action will the Ministry take immediately to help us preserve whatever is remaining of the Marakwet culture?

Mr. ole Ntimama: Mr. Speaker, Sir, the Government created the Ministry of State for Heritage and Culture so that we can preserve our cultures. Probably, it was not very conspicuous in the past years but I can tell you that the Government and the people of Kenya are very anxious in preserving their traditions, heritage and culture as it were. We are now using the cultural exchanges and cultural centres for young people to come, sing, dance and do poetry to create a cohesion and the reconciliation that we need today.

Mr. Pesa: Mr. Speaker, Sir, in Migori we have Got Kwer which is the headquarters of Legio Maria which is one of the indigenous churches that we have in this country. Could the Minister consider that area as a cultural centre so that he can put it up for those people who believe in the Legio Maria sect?

Mr. ole Ntimama: Mr. Speaker, Sir, I have said very clearly that we intend to build a cultural centre in every constituency if funds are available today but we are not deviating to religion, which is separate. Legio Maria can continue and have its believers in the Migori area.

(Mr. Mbadi consulted loudly)

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, could you protect me from Mr. Mbadi who is intimidating me not to ask a question relating to Abasuba?

Mr. Speaker: You are protected! Mr. Mbadi, could you keep away from your sister?

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, could the Minister clarify whether the Ministry has developed a list or protocol detailing cultures that are extinct, nearly extinct or those that have been assimilated into other cultures including the gender dimension? I will not mention the Abasuba.

Mr. Speaker: Order! Hon. Minister, did you get the question?

Mr. ole Ntimama: No, Mr. Speaker, Sir.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I will repeat my question. Could the Minister clarify whether the Ministry had developed a system of coding cultures that are either extinct, near extinct or those ones which have been assimilated?

Mr. ole Ntimama: Mr. Speaker, Sir, I do not really think we are in a position to revive the dead or dying cultures. But, definitely, we think that by establishing cultural centres, those cultures which are half alive or disappearing will be taken care of. We could allow people, for example, to sing and dance and probably talk about their cultures. Maybe, they could start being recognised in those areas.

Mr. Speaker: Mr. Minister, maybe you should have been a little kinder to hon. Odhiambo because, apparently, she is worried about Suba culture because her brother is running after her when he should leave her for other men.

(Laughter)

Hon. Members: It is a bad culture!

Mr. ole Ntimama: Mr. Speaker, Sir, I know the Suba culture. The Maasai culture has some similarities with the Suba. Probably, the hon. Member did not know. We really sympathize with the Suba people. Right now, they have been recognized and they speak their own language. They have also been given their own district. I think they should just revamp themselves.

Mr. Speaker: Proceed, Dr. Khalwale!

Dr. Khalwale: Mr. Speaker, Sir, I am waiting for the Minister to settle.

In Marakwet, we have a community called the Sengwer. The Sengwer share the same culture with the Ogiek. The policy of this Government is that they do not respect the culture of Ogieks and Sengwers who have been living in the forest for a long time. Now that they have moved them out of the forest and this Parliament is supporting them to do so, what arrangements are you making to ensure that you create an artificial forest somewhere where they can practice their culture?

Mr. ole Ntimama: Mr. Speaker, Sir, Sengwer community is composed of indigenous people. They are recognised by the international community as indigenous and they should be protected.

Part of my constituency and that of Mr. Langat are in Mau. We have tried to help the Ogieks by allowing them to live in the forest, but they exchange it with money. That is the situation. They cannot be helped.

Mr. Kaino: Mr. Speaker, Sir, I wish to request the Minister to consider Marakwet West District when they establish cultural centres because our culture is dying very fast.

Mr. ole Ntimama: Mr. Speaker, Sir, I promise to do so when we establish cultural centres. Cultural centres will be established in Marakwet West District. However, the hon. Member and I must do something about it, we need to be given the freedom to breathe and not to be oppressed.

Question No.508

NON-COMPLETION OF ELECTRIFICATION
PROJECTS IN KONON

Dr. Kones asked the Minister for Energy:-

(a) whether he could explain the delay in completing electrification projects at Chemalal-Kapset, and Cheptabach-Kenyagoro-Chemelet power lines; and

(b) when the projects will be completed?

The Assistant Minister for Energy (Mr. Keter): Mr. Speaker, Sir, I beg to reply.

(a) There has been a delay in completing Chemalal- Kapset and Cheptabach-Chemelet power lines as a result of some challenges encountered by the contractor in procuring imported materials. However, these lines are complete, except for some defects noted during the inspection which are currently being rectified. But I want to say that as per now this has been done. On 29th October, they energised the lines and two transformers were placed.

(b) Chemalal-Kapset and Cheptabach power lines will be fully completed and energised by mid of this month. Otherwise, as I am talking now, these lines are complete. The project for last year cuts across all the constituencies, but we have a problem in procuring transformers. You will see most of the transformers being installed beginning mid of this month. We have a target by January next year, all last years projects will be completed. We have already started projects for this Financial Year, 2009/2010. However, there are some Members who have not responded to letters from Rural Electrification Authority (REA) and I wish to remind them to do so, because already these projects are ongoing.

Dr. Kones: Mr. Speaker, Sir, I want to thank the Assistant for the response. However, although the lines are actually energised, the Chemalal-Kapset lines are missing three transformers which are supposed to be there. Could he confirm when these transformers will be installed?

Mr. Keter: Mr. Speaker, Sir, it will be fully operational or energized by mid of this month. In our records, there are only two transformers which are missing unless the hon. Member is saying they are three. If they are three, so long as they are serving public utility, I want to guarantee him that they will be installed by then.

Mr. Joho: Mr. Speaker, Sir, I do not know if the Assistant Minister is aware that in Coast Province, projects under the rural electrification have been delayed. The explanation that we are getting from the Authority is that there are no poles. However, there are quite a number of KPLC poles lying idle at the Coast Province. Could he ask the KPLC to co-ordinate with the REA to provide those poles, so that people of the Coast Province can get the benefits of the rural electrification?

Mr. Keter: Mr. Speaker, Sir, the only reason we know is the delay in some small materials such as transformers. The poles are there. The only area in Coast Province where there was a delay is in swampy areas where we will use concrete polls instead of wooden polls. We already have about 16,000 concrete poles with KPLC. We have arrangements between KPLC and the REA. Yesterday, we had a meeting with the KPLC and they will send some of the poles to REA, so that they can start those projects.

Mr. Olago: Mr. Speaker, Sir, an issue that is slowing down the process of electrification in the country relates to theft of transformers. It would appear that every time transformers are fitted, the same contractors engaged by REA come back and steal

them. What steps is being taken by the Ministry to ensure that contractors do not engage in this type of practice?

Mr. Keter: Mr. Speaker, Sir, I just want to make it clear that the REA came into force last year. So, we have not had any problem with rural electrification transformers. The problem is within the KPLC where we have vandalism. It is a national issue and we have changed the designs. Right now, we are installing transformers in safe places unlike before when they were stolen because they were installed in bushy areas. We are now giving power to people who allow transformers to be installed in their plots. It is a tricky issue and I want to call upon everybody to take care of transformers. It is costing us a lot of money to replace transformers. That is why you find some projects are stalling. When we get the imported transformers, if there are some which are vandalised, we give them priority because people who have been on power must continue having it. So, it is an issue which we are trying to address. The current transformers which we are importing will not be using oil. We are also changing the design of the transformers, so that we can minimize theft as much as possible.

Mr. Murgor: Mr. Speaker, Sir, why does the Ministry allow a power line to go over a town centre that is inhabited by many people, without installing a transformer, only for them to, later on, say that the centre cannot have power because there is no transformer? Why do they not install a transformer ahead of time, knowing that the people will need it later on?

Mr. Keter: Mr. Speaker, Sir, I would like to inform the hon. Member what used to happen previously. Let us take the example of Kapset project. Our designers used to design the projects direct to point "A", leaving out all the public utilities along the line. It cuts across all the constituencies. Under the Rural Electrification Programme (REP) Master Plan, we have now picked all the public utilities over which power lines pass. We will provide those public utilities with transformers in the current financial year, so that they can have electricity.

Question No.297

REPAIR OF MAJENGO-LUANDA ROAD

Mr. Speaker: Hon. Members, I am aware that the Member of Parliament for Vihiga is away in Cairo on official business. I will, therefore, defer this Question to Tuesday, next week.

(Question deferred)

Next Question, Ms. S. Abdalla!

Question No.312

IMPLEMENTATION OF UN CONVENTION RIGHTS OF
PERSONS WITH DISABILITIES

Mr. Yakub, on behalf of **Ms. S. Abdalla**, asked the Minister for Gender, Children and Social Development what policy and legislative steps the Government has taken to implement the United Nations Declaration on Human Rights to support and protect the rights of persons with disabilities.

The Minister for Gender, Children and Social Development (Ms. Mathenge):
Mr. Speaker, Sir, I beg to reply.

The UN Convention on the Rights of Persons with Disabilities that was adopted on 13th December, 2006 sets out, and clarifies, the rights that all persons with disabilities must enjoy internationally. The first step that Kenya took in implementing the convention was to ratify it on 19th May, 2008. The Ministry has also developed a National Disability Policy, which provides guidelines on implementation of legislation, which addresses the rights and provision of services to persons with disabilities. The policy is currently in a draft form at a status of a Cabinet Memo, and will eventually come to this House.

In addition, the Ministry has developed a Draft Persons with Disability (Amendment) Bill, which will bring the Persons with Disabilities Act, 2003, in line with the UN convention. The Bill was presented to Parliament but was not tabled. It is hoped that we will be able to present it to the House before the end of this financial year.

Mr. Speaker, Sir, the Government has also, recently, operationalised the National Development for Persons with Disabilities Fund by providing a seed sum of Kshs200 million in the 2009/2010 Budget. This Fund will be managed by a Board of Trustees, as provided for in the Act. It will also assist Kenya in meeting its obligation of ensuring access by persons with disabilities to social protection, poverty reduction programmes, and to ensure access to devices and other assistance for disability-related needs, as laid down in Article 28 of the UN convention.

The Government has also included disability mainstreaming as indicated in the 2009/2010 performance contract. This means that every Government institution, including Ministries, State corporations and Councils, is now required to set up a disability committee and formulate a disability mainstreaming strategy, which should include plans to:-

(i) make all buildings and services accessible to persons with disabilities, including, but not limited to, information, health services, education, poverty eradication programmes, food aid, devolved funds and cash transfers,

(ii) remove all barriers to employment and promotion of persons with disabilities;
and,

(iii) include persons with disabilities in planning in all new buildings and infrastructure.

Mr. Speaker, Sir, in addition, all Government institutions are required to provide a biannual report to the National Council for Persons with Disabilities, outlining their progress towards implementing their disability mainstreaming strategy. We have also operationalised the Africa Rehabilitation Institute (ARI) Regional Office at Kabete, making Kenya one of the five countries in Africa that host this African Union institution. The ARI is a Pan-African network programme in the field of rehabilitation and disability prevention. It is also an arm of the African Union (AU).

We have also gazetted the commencement of various sections of the Persons with Disabilities Act, 2003, as well as the relevant regulations, to facilitate access by persons with disabilities to facilities and services, as I have said, in respect of buildings, public transport, free legal aid, court services, tax exemption, media and employment. The Board of Trustees has, besides the National Council of Persons with Disabilities, which was established in the year 2003, also been put into operation.

Mr. Speaker, Sir, in collaboration with the Ministry of State for Planning, National Development and Vision 2030, we embarked on collection of data on persons with disabilities during the just concluded National Census, 2009. This information will be disaggregated by type of disability to facilitate mainstreaming, accurate planning and budgeting by the Government.

Other measures we are undertaking include development of guidelines for mainstreaming disability in all Government programmes and projects, and the continuous sensitization and awareness creation by the National Council, in collaboration with partners on the plight and rights of persons with disabilities.

Thank you, Mr. Speaker, Sir.

Mr. Yakub: Mr. Speaker, Sir, I wish to commend the Minister for her detailed answer. I would like to seek clarification on the Kshs200 million that she said is included in the Budget for 2009/2010. Has she arranged for the creation of provincial and district offices to implement the operationalization of this Fund?

Ms. Mathenge: Mr. Speaker, Sir, I am sorry; I did not get his question. Could he repeat it?

Mr. Yakub: Mr. Speaker, Sir, in her answer, the Minister has indicated that there is an allocation of Kshs200 million in the Budget of the current financial year, for the Fund of persons with disabilities. Has she arranged for creation of provincial and district offices for implementation of this Fund?

Ms. Mathenge: Mr. Speaker, Sir, unfortunately, we just have a Board of Trustees that will start disbursing these funds. The Board of Trustees will work in conjunction with my Social and Gender Officers in the districts, for the time being.

Mr. Olago: Mr. Speaker, Sir, persons living with disabilities in Kenya constitute a very big number of our population. The fact that the UN Charter was ratified in 2008, and the Act passed in 2003 are good steps, but why has it taken the Ministry so long to operationalize the Act, so that persons with disabilities can access television programmes, buses, buildings and have special facilities?

Ms. Mathenge: Unfortunately, Mr. Speaker, Sir, when I took over the Ministry during the Grand Coalition, I had only a small section of the persons with disabilities and it took us more than nine months to fight to get it back to my Ministry. Within that month, that is what we have managed to do. I can assure the hon. Member that he and all the persons of Kenya living with disabilities are going to see a lot of work.

Mr. Yakub: Mr. Speaker, Sir, my question to the Minister is on the issue of transport and the facilities for the disabled persons. I would like to know what time limit she is giving the transporters so that they can implement the facilities for the disabled in public transport.

Ms. Mathenge: Mr. Speaker, Sir, the Act had provided for five years, but we have requested the Attorney-General to reduce the period to two years. So, we hope that

within two years, public transport will be modified to accommodate persons with disabilities.

Question No.514

SETTLEMENT OF KILIMAMBOGO SQUATTERS
SCHEME RESIDENTS

Mr. Speaker: Hon. Members, Question No.514 is deferred to Thursday this week. The hon. Member for Juja has to attend to an emergency

(Question deferred)

We will go back to Question No. 1 by Private Notice.
Proceed, Mr. Deputy Prime Minister and Minister for Local Government!

QUESTIONS BY PRIVATE NOTICE

DEMOLITION OF HOUSES
IN UMOJA III ESTATE

Mr. Waititu: Mr. Speaker, Sir, I beg for the second time to ask the Deputy Prime Minister and Minister for Local Government, the following Question by Private Notice.

- (a) Who authorized the demolition of houses in Umoja III Estate, next to Mathare Youths Association Headquarters along Kangundo road on 24th November, 2009 and what were the reasons for the demolition?
- (b) Why were the demolitions done without following the due process of the law?
- (c) Will the victims be compensated and, if so, when?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi) Mr. Speaker, Sir, I beg to reply.

(a) The demolition of houses in Umoja III Estate, next to Mathare Youths Association Headquarters along Kangundo road was authorized by City Council of Nairobi. During routine surveillance of constructions in the city, the Council identified several unauthorized developments without Council's approval along Kangundo Road next to the Kenya Power and Lighting Company Wayleave in Komarock Area. This was found to be in violation of the Physical Planning Act Cap. 286 and also the Local Government Act Building bylaws.

Mr. Speaker, Sir, due process of the law was followed and two enforcement notices were issued to the affected parties; one is serialized as 7148 and the other is 7149 dated 4th November, 2009. The owners of the illegal developments were given 14 days with effect from 4th of November to either remove the illegal developments to correct the problem or to petition on the notices, to which they did not respond. After the expiry of the 14 days of the enforcement notices on 18th November, 2009, enforcement action of demolition was carried out by the Council on 24th November, 2009.

(b) The above information demonstrates that the due process of the law was followed and the enforcement of the action of demolition in the referred area.

(c)The enforcement action of demolition was carried out against illegal developments which contravened the provisions of the law hence the owners of the illegal developments are not entitled to any compensation. In actual fact, the Council will surcharge the owners of the illegal developments in accordance with the law to defray the costs of undertaking the demolitions.

Mr. Speaker, Sir, it is important for the hon. Member to inform his constituents of the need to subject their developments to Council scrutiny and approval to ensure orderly development as stipulated in the various statutes that govern construction.

Mr. Speaker, Sir, I would also like to urge the hon. Member to discourage people who may be engaging in illegal occupation of private properties and constructions without the necessary statutory approvals.

Mr. Waititu: Mr. Speaker, Sir, the answer given by the Minister is misleading and it is not true because the truth of the matter is that those houses were demolished because of a land dispute. Somebody colluded with the City Council so that he could get the houses demolished and take over the land.

Mr. Speaker, Sir, over 50 per cent of Embakasi have---

Mr. Speaker: Hon. Member for Embakasi, it is Question Time!

Mr. Waititu: Okay, Mr. Speaker, Sir. If the demolitions were lawful, why were they carried out in the middle of the night?

Mr. Mudavadi: Mr. Speaker, Sir, I am not aware that the demolitions were carried out at night, but I am aware that the enforcement notices were issued. Also, for the benefit of this House, I would like to avail the enforcement notices to the hon. Member and, indeed, I table them so that they can see that the necessary process or steps were taken before the demolition took place.

(Mr. Mudavadi laid the documents on the Table)

Mr. Imanyara: Mr. Speaker, Sir, the structures that were demolished must have taken several months, if not years, to construct. Where were the City Council officers when this construction was taking place to the extent that people settled before they moved in to demolish them?

Mr. Mudavadi: Mr. Speaker, Sir, the information I have is that these houses were actually under construction. They had not been completed and, therefore, to the best of my knowledge, the City Council moved in and acted before they had completed the construction.

Mr. Mbugua: Mr. Speaker, Sir, under the principle of adverse possession, if you stay in a certain piece of land for 12 years, that is your land. Is the Minister aware that most of the plots in Nairobi have two title deeds or two allotment letters? How did they identify the owner of this particular plot? Why did it take more than 12 years to go and demolish these houses in those plots?

Mr. Mudavadi: Mr. Speaker, Sir, first of all, I want to say that it is common knowledge that the issue of land in most of our urban centres, including Nairobi, has been riddled with a lot of malpractice and corruption where you find that one plot or another would ordinarily have more than one title. This is something that the City Council and, indeed, the Ministry of Land is trying to resolve so that where there are fake titles or the

ones that are illegal they can be destroyed and then we can remain with the proper and valid titles.

Mr. Speaker, Sir, I am also aware that, indeed, if one had been a squatter for 12 years, they can start trying to assert that they want a right of a particular piece of land, but in this context, what they were trying to do was to construct houses where there is Wayleave and on this basis, the City Council moved in to stop them from doing so.

Mr. James Maina Kamau: Mr. Speaker, Sir, is the Minister aware that some of these houses that have been developed have parents who have school-going children and when these demolitions occur, they are subjected to a lot of discomfort? What is the Government doing to ensure that these people are allocated land in other areas because demolitions have been going on in estates for a long time? We have got idle land towards Machakos and the Government can do something about that because these children actually go through a lot of problems.

Mr. Mudavadi: Mr. Speaker, Sir, the information I have is that these houses were incomplete. So, there was nobody occupying them; they were in the process of being constructed. So, they were brought down before they could be completed and, therefore, under the circumstances, nobody was displaced.

Mr. Mbugua: On a point of order, Mr. Speaker, Sir. Is it in order for the Deputy Prime Minister and Minister for Local Government to mislead this House that there were no buildings being constructed in that particular area? On the ground, there were buildings which had more than five storeys. This Minister is misleading this House. This enforcement notice is not addressed to a particular person and yet there are more than 100 settlements there. So, I must say that this enforcement notice is not in order.

Mr. Speaker: Order, Mr. Mbugua! It is not your prerogative to decide or determine whether or not an enforcement notice is valid. That belongs to a different province all together. So, you are out of order.

With regard to the first aspect of your challenge, the Deputy Prime Minister and Minister for Local Government contends that these buildings were incomplete. It is now your argument that they were complete. It is your word against that of the Deputy Prime Minister unless you have documentary evidence that establishes otherwise. So, again that will not valid.

(Mr. Mbugua stood up in his place)

Mr. Speaker: Order, Mr. Mbugua! I give the Floor to the Member for Embakasi.

Mr. Waititu: Mr. Speaker, Sir, the Deputy Prime Minister and Minister for Local Government has just accepted that there are some plots in Nairobi which have double documents. Therefore, the Council should exercise a lot of caution when it wants to demolish or remove any buildings on a particular plot. This is because they do not know who has the genuine document. In this particular case, those people who were occupying that piece of land had been there for a very long time. The other person was just trying to acquire the land. In fact, he used the Council fraudulently so that he could acquire the land.

The Minister is saying that the demolitions were lawful. Why were they done at night and not during the day if, indeed, they were lawful?

Mr. Mudavadi: Mr. Speaker, Sir, I contend that the demolitions were lawful. They were carried out in accordance with the law. At the same time, I maintain that I am not aware that this was done at night at all because that information was not presented to me as having been the case.

Mr. Speaker: Hon. Members, we will now revisit Question No.2 by Private Notice by the Member for Mwea.

ILLEGAL DEPLOYMENT OF AP OFFICERS
BY KIRINYAGA SOUTH DC

Mr. Gitau: Mr. Speaker, Sir, I have gone through the bundle of documents that were laid on the Table. The number of members who went to the meeting is 17. In Mwea, we have over 8,000 farmers. This means that many of them did not go for the meeting. I have one request to make to the Assistant Minister; could he consider not providing security, that is, deploying the APs until we hold a consultative meeting between us, the Ministry of State for Provincial Administration and Internal Security; the Ministry of Co-operative Development and Marketing; and, the Ministry of Lands?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, indeed, we have consulted with the Minister for Co-operative Development and Marketing and the hon. Member. We are agreeable to a quick consultative meeting in order to resolve this matter because it is deeper than what the Question is asking. In the meantime, I will consult on the question of withdrawing all the security arrangements there because this is in the best interest of all the communities in that area.

Mr. Speaker: That brings us to the end of Question Time. Next Order!

MINISTERIAL STATEMENTS

Mr. Speaker: Hon. Members, we will take a Statement from the Minister for Co-operative Development and Marketing.

TERMINATION OF NEW KCC MANAGING DIRECTOR'S CONTRACT

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Speaker, Sir, on Tuesday, 1st December, 2009, the Member of Parliament for Mathira, hon. Ephraim Maina sought a Statement from me regarding my decision not to renew the contract of Mr. Francis Mwangi as Managing Director of New KCC. I will respond as follows:

Mr. Speaker, Sir, allow me a few more minutes than normal because for a week now, there has been major misinformation in the public arena. The history of KCC is known to all honorable Members. I am determined to ensure that the giant New KCC does not slide back to those bad old days. I wish to see a giant regional dairy processor with a strong management and staff. The company has done reasonably well given where it has come from. It must do even better to achieve its goals.

In a report dated June, 2009, the Inspectorate of State corporations noted the following systematic weaknesses in the organization:

1. Organizational weakness in the operations of the internal audit unit;
2. A porous staff establishment.
3. Poorly kept personnel records.
4. Lack of policies and registers of imprest, advances and assets.
5. Irregular procurement of goods.
6. Lack of marketing policy.

Mr. Speaker, Sir, I want to make it quite clear that I have no problem with Mr. Mwangi as an individual. It has been claimed that I declined to renew the contract against the wishes of the Board in which my Permanent Secretary; the Permanent Secretary, Ministry of Finance and the Permanent Secretary, Ministry of Livestock Development are represented. However, it is my duty to clarify as follows:

As per Mr. Mwangi's contract, he should have notified us if he wanted to renew his contract by 1st June, 2009. He did not do so. On 29th August, 2009, I personally raised the issue with the Chairman. It took up to 13th October, 2009, for the Chairman to receive the request, according to the information given to the Board during its meeting on 14th October, 2009, that is, one-and-a-half months later. In between, there were both committee meetings and even full Board meetings where the subject was not raised in spite of my having raised it. This delay became a matter of concern to me because anybody interested in renewal of his contract would normally move faster to make his or her intentions clear.

During the Board meeting of 14th October, 2009, the Chairman brought up the subject under Any other Business (AoB). The Board decided that this was too important a subject to be dealt with under AoB especially without any prior notice. This clearly indicates that the Managing Director's letter of application dated 4th August, 2009 was backdated. It was then decided that the matter be handed over to the Board Committees Chairmen. On 27th October, 2009, this Committee decided on an evaluation tool to use and forwarded it to the full Board on 3rd November, 2009. What is clear is that during the deliberations, the Board was far from being satisfied with the overall performance of Mr. Mwangi.

Mr. Speaker, Sir, the Board, even though, went ahead and gave the Managing Director the benefit of doubt and accepted the results as tabled by the sub-committee. They decided to adopt a draft performance evaluation tool as presented by the Board Committees Chairpersons with amendments. This tool was supposed to be used to assess the performance of the Managing Director, but the Board felt that it had left out more important information in other aspects which would be required for the evaluation of the CEO. The Board then resolved that the performance evaluation tool be finalized in a special retreat on 13th to 16th December, 2009 with the assistance of the Public Sector Reform Office.

Mr. Speaker, Sir, the Board further expressed disappointment that the MD's application for renewal of his contract was late, and only allowed the Board less than six weeks, instead of six months, to deliberate. The contractual requirement of lead period of six months was not followed by the applicant. The applicant stated that it was an oversight on his part. After deliberations, the Board resolved to recommend the extension of the contract of the MD for a further 12 months, instead of three years, to allow the completion of the performance tool and consequent six months evaluation.

On 3rd November, 2009, the Board of New KCC, during its 19th Special Meeting at the Creameries House, deliberated among other matters, the renewal of the MD's contract, which was due to expire on 30th November, 2009. The Board's decision was conveyed to me through a letter from the Chairman, dated 4th November, 2009. I took time to reflect on the matter comprehensively, taking into consideration the following factors:-

(1) Co-operatives are being reformed and facilitated to play a key role in the achievement of Vision 2030.

(2) The New KCC is facing mounting stiff competition from the private sector.

(3) The Government has put in place a more professional Board in the last one year to address the above issues.

(4) The relationship between the MD and most of the Board Members, and several senior staff members is not good.

(5) Reports on mismanagement that I could not ignore reached me. These include misuse:-

False mileage claims by the MD even when he was on leave; massive misuse of company vehicles; authorisation of payments for substandard contracts amounting to about Kshs30 million, in respect of Dandora Plant Fencing, which is still incomplete, construction of Plant Roof at Miritini, which was poorly done, and painting of the Head Office building, which was substandard; installation of an expensive vehicle management system, at a cost of Kshs5 million, that hardly works and which was also installed on tractors and forklifts unnecessarily; leasing out of a plot on the same title as the Headquarters Building for 12 years to a person who is now constructing a permanent double-storey building without the authority of the Board; and, engaging in impunity by refusing or delaying to implement the Board's decisions, leading to loss of money to the company.

Mr. Speaker, Sir, in order to ensure that the budgeted profits of Kshs500 million are reached, and to appear to meet the performance targets, the MD put in place measures that held the company back from growing fast enough, resulting in the company continuing to operate at well below 50 per cent of its capacity. This is not an acceptable business model. The MD is said to have paid Kshs30 million dividends to the Treasury in order to appear good in the public eye when the company had more other critical things to do, including repayment of bank loans.

Other allegations made against the MD, include failure to take action following very serious theft of milk and butter stocks, theft of Kshs16 million last May, and Kshs10 million a few months before then; even though there were claims of involvement of senior persons in these cases, no action is being taken to seal the loopholes despite my request that they employ a qualified stocks manager.

The company was penalised a sum of Kshs20 million by the Kenya Revenue Authority for late payment of tax due to carelessness.

There are uncontrolled large expenses in some departments of the company and internal performance contracts with departmental heads are not signed to date.

Mr. Speaker, Sir, at a Board and senior management team building meeting in Mombasa in August, 2009, it became apparently clear to me that the staff relations were extremely strained, and that many of the senior managers were fearful, and not in touch

with the MD. I was present at this event, with my Permanent Secretary, the Chairman, MD and all Board Members.

In view of the above considerations, I decided that the Board should widen the field for the search of a new Chief Executive in order to lead the New KCC to its next level of performance. Mr. Mwangi could also apply, if he so wishes, as I have not ruled him out. However, he had indicated to me, and to my Permanent Secretary, that he was unwilling to take a one year extension.

Mr. Speaker, Sir, it is clear that I have not overruled the Board as its Members were manifestly reluctant to make an outright recommendation for renewal of the contract. Therefore, I had to make the decision that I made, in the interest of the company. I am also convinced that we shall have to undertake further investigations as to the allegations that have been made, so that the company moves on to play the leading role that is expected of it.

I hope that this Ministerial Statement has now clarified the massive misinformation campaign that has been going on over the last one week on this subject.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Mr. Minister, you have breached your undertaking to take three minutes. You did take 14 minutes.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): I am sorry, Mr. Speaker, Sir.

Mr. Speaker: Yes, Mr. Lessonet!

Mr. Lessonet: Thank you, Mr. Speaker, Sir. The Minister has given us an impression of an extremely ineffective and useless MD, but I want to raise the following supplementary questions---

Mr. Speaker: Order, Mr. Lessonet! You seek only one clarification at a time, but because you are the first one, I will allow you two. Start with the first clarification.

Mr. Lessonet: Mr. Speaker, Sir, out there, Mr. Mwangi really performed. Could the Minister tell us how he was able to raise the price of milk from Kshs8 per litre to the current price of Kshs25 per litre that is being paid to farmers in Eldama Ravine? That is the good side of him. Could he also tell us how Mr. Mwangi was able to achieve that result?

Secondly, the Minister has indicated that the MD misused company assets, including paying Kshs30 million to Treasury. I want to believe that payment of dividends is not an MD's decision. It is really a Board's decision. The MD does not sit down and decide that he will issue a cheque to KRA. It is really a Board decision. Is the Minister, therefore, suggesting that Mr. Mwangi was acting as both the company's MD and Board?

Those are my two supplementary questions.

Mr. Imanyara: Mr. Speaker, Sir, given the list of malpractices that the Minister has cited as justification for removing this MD, would he agree with me that these malpractices could not have been taking place if the entire Board was functional? Therefore, if any disciplinary action was being taken, it should have involved the entire Board, rather than the MD, who has been very hardworking. We also know there has been a strike by workers and other stakeholders who are concerned with the management of New KCC.

Mr. Mbau: Mr. Speaker, Sir, the Minister appears to have focused on one individual – the Managing Director. He started by telling us that the company has done

reasonably well since it was revived. We have known only this particular Chief Executive Officer as the one who has taken it that far. As the Minister, he should also have known that things were going wrong, if things have, indeed, been going wrong. This company's rate of returns has been going up, which he confirms. He even said that the company was able to pay some dividends to the Government. He also affirms that the price of milk has increased from Kshs8 per litre to Kshs27 per litre today. As my colleague has said, members of the public, including myself, who represents people who deliver milk to New KCC, are the ultimate beneficiaries of the services being given by New KCC, and are very positive about the company. As the Minister, is he sure he does not have---

Mr. Speaker: Order, Mr. Mbau! Can you please come to your clarification?

Mr. Mbau: Mr. Speaker, Sir, could the Minister clarify that he does not have anything more besides what he has read? I think the Minister wants to bring the dairy sector to the ground, like it was before.

Mr. Ruteere: Mr. Speaker, Sir, I would like to seek two clarifications. Is the Minister aware that his current appointee as acting Managing Director (MD), Ms. Milka Mugo, was part and parcel of the down fall of the old KCC? Could he also confirm that she was in the company secretariat when the company assets were irregularly disposed of?

Is the Minister aware that the farmers in this country are totally against his decision and that this has a potential of destroying the already lucrative dairy industry?

Speaker: Minister, you will have to deal with the interest in this matter.

Dr. Khalwale, please, proceed!

Dr. Khalwale: Mr. Speaker, Sir, this man who has been kicked out because of his performance at the New KCC, received a Presidential award. Steadman opinion polls were done and he received commendation together with Safaricom Ltd. and Equity Bank. The Marketing Society of Kenya also rated him as number one performing business manager in the entire marketing society. Finally, this man the Minister has sacked was reported by the Financial Post as being one of the most successful business managers in East and Central Africa. So my two questions are: What special interests did the Minister have in one Ms. Milka Gathoni Mugo, whom he forced on the Board in spite of the Board having written to him a letter on the 4th November recommending the renewal of the contract of the MD? The letter has been signed by Mr. E. Matu Wamae, the chairman of the Board.

Mr. Speaker, Sir, I table the document.

(Dr. Khalwale laid the document on the Table)

Mr. Speaker, Sir, secondly, could the Minister clarify; he has painted this MD as a thief and a dishonest person. What report can he table in this House to show that the Kenya Anti-Corruption Commission (KACC) and the Efficiency Monitoring Unit (EMU) were brought on board so as to advise him professionally?

Mr. Speaker: We will take the last two, I am afraid. In the interest of gender, Ms. Chepchumba, please, proceed!

Ms. Chepchumba: Mr. Speaker, Sir, could the Minister inform this House whether the Board that has been constituted reflects the face of Kenya?

Mr. Speaker: Eng. Maina, please, proceed and ask a maximum of two clarifications only! This is how we have treated everybody else.

Eng. Maina: Mr. Speaker, Sir, I am the one who asked for this Ministerial Statement, so I think I am---

Mr. Speaker: Order, Eng. Maina! The practice of this House binds everybody equally!

Please, proceed!

Eng. Maina: Mr. Speaker, Sir, first of all, it is not right that any Member of this House should stand up here and impute criminal activities on an individual without laying evidence. The hon. Minister has painted Mr. Mwangi as if he has committed many crimes. Looking at the whole story, one wonders why disciplinary action had not been taken against the MD if it is true he has been operating in the manner that we have been told this afternoon.

Mr. Speaker, Sir, the Board, in its wisdom, looked at this matter and extended Mr. Mwangi's contract by one year. If there was need to remove Mr. Mwangi, the recruitment process should have begun at six months. This was only an option and not mandatory.

As I stand here, in most parts of Kenya, the only thing farmers get benefit from is milk. As Members of Parliament, our worry is that we are going to interfere with a system that has already been established by Mr. Mwangi. This could lead this organization back to where it was. From what the Minister has said, I believe he may be meaning well, I would urge him not to play with the demon of trying to destroy New KCC and returning our farmers to the poverty they have been in.

The Minister for Cooperative Development and Marketing (Mr. Nyagah): Mr. Speaker, Sir, the hon. Member for Eldama Ravine raised the issue of price increase. There has been misconception or half truths. When the company was created in 2003, the price ranged between Kshs7 and Kshs8 per litre of milk. The first MD raised the prices to Kshs18 per litre. When Mr. Mwangi took over, he raised the price to an average of Kshs24 per litre and under special arrangements, it went up to Kshs27 per litre. So, there has been misinformation about where he took the company from.

Secondly, there has also been misrepresentation about the performance and profit. When he took over, the company was making a profit of Kshs350 million. He brought it to Kshs500 million but it has been stuck at that level up to now. Therefore, it appears there is no potential for growth under his leadership.

Mr. Speaker, Sir, about the Kshs30 million dividend, I did not say he is a criminal. I only said that as the Chief Executive, it is your responsibility to make proposals to the Board. You do not make a proposal to pay Kshs30 million as dividend when you have no money and you have borrowed from banks. That is the point I made.

Mr. Linturi: On a point of order, Mr. Speaker, Sir. I think the Minister is misleading the House. Under company laws, before the payment of dividends is done and after the examination of the books of accounts by the auditors, the report is taken to the Board, they look at it and they agree and the shareholders are called to ratify the payment of dividends. If the Minister says that the MD did a mis-presentation to the Board, in my view, he is misleading the House.

The Minister for Cooperative Development and Marketing (Mr. J. Nyagah): Mr. Speaker, Sir, the hon. Member did not let me finish. I said any responsible Chief Executive initiates these things. Once he initiates them, he takes them through the process

that is being described. I fully agree with the hon. Member, but the Board, at one point, was very weak. So, I have changed the membership of the Board progressively; it now has professionals. It has chartered accountants, lawyers, and marketing executives which it did not have at that point. The quality of the Board has changed dramatically in the last 12 to 13 months.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): My friend, Imenti Central MP, asked why I did not remove the whole board. In fact, it is as a result of my putting in place the new board, progressively, that these things and others have come into light. The board has even an engineer, who is an expert in the dairy industry. He is a man called Mr. Awori. I have a qualified accountant, Mr. Bore, and others. I have a crops expert, Mrs. Kamwithi, who was a Provincial Crops Officer in Eastern Province. So I have a team of professionals, unlike before when we had primary school teachers. Primary school teachers are very important and they are my friends.

The next question was why consent of the MD? I talked about the company and the chief executive is basically the driver of the company, at least from the experience I had in this position before; but I am not saying that it is him only--- I have taken action by changing the board progressively in the last--- The only remaining person in the board is the chairman, who is not my appointee, and one other director. All the others have improved the quality, as I have just described.

The rate of returns itself as assessed by Mr. Mwangi--- I table the document that has been circulated in this town. It is a self-assessment of himself. The average return in this industry is not 15 percent, but is 30 percent and I table the document of the self-assessment that has been used.

(Mr. Nyagah laid the document on the Table)

Do I not have good feelings for the industry? I am committed to the programme of improving this industry, particularly in Mount Kenya, Kisii, and western areas, where the shambas are becoming smaller and smaller. The cow is the programme. That is why I have initiated a project of one youth, one cow. The land is very small and we need to grow, but the Minister must have men and women of vision who can implement his vision. Getting stuck at half a billion shillings over a three-year period is not acceptable to this Minister. I want an MD who can take this company to a billion shillings. This company has the potential.

Mr. Ruteere says that Ms. Mugo was involved. I said, "Please hand over and appoint somebody." What I said in my letter was that she was the longest serving senior manager. I think the board is busy as we are talking, trying to identify and appoint an MD who can undertake that responsibility. I was not aware. She was there before but, as explained by you, I did not have the details that you have given but I was aware that she was the longest serving senior officer.

There has been propaganda about unhappiness of the farmers. I have just come from a meeting where a group of a 150 farmers from Mount Kenya have expressed confidence in what I have done, after going through this. But because over the last one week vernacular stations have been hammering this anti-Nyagah programme, they have only confused the farmers. I have just asked the leadership of the farmers--- A hundred and fifty farmers came, but the only ones who could sit in my room were about 50, and

we went through this issue. They have even issued a statement congratulating me for a job well done.

It is true he was awarded all those things and we put them there. I have no problem and I said there is nothing personal. All that I said was that to take this company forward from where it is, it requires different management. We are stuck at half a billion shillings over a three-year period. That is what I am saying. So, I agree that he has got all those things; in fact, he was given by the Ministry. I appreciate that.

In terms of integrity, I have concluded my statement by saying; now that a lot of things have become available to me after putting a more professional boss in place, I will be taking action on those matters that require--- In fact, I have a team moving in to follow up on those things and others that are coming up every day. As you know, when you move out of that seat, many things come up that were not obvious before. Issues of integrity are a problem; when a CEO sits on mileage claims, when he backdates a letter by which he applied for a job--- Those might appear small, but issues of integrity, where I am concerned are very important.

Does the board have the face of Kenya? I have now put the face of Kenya to the board, and there will be a face of Kenya in management. That is important, because if we do not do that, we will have a problem. The milk in KCC is supplied from two regions: Fifty five percent comes west of the Rift while 45 percent comes from east of the Rift. So, we have to balance many interests, so that there is no chaos in the process. That is the reason I have to take this into account. So, I hope as the board recruits, it will take these things into account.

Finally, is there criminal evidence? I have proposed to produce evidence where money has been misused. For example, under the auspices of Athletics Kenya, Mr. Wanjiru arrived from a marathon event and did Kenya proud. The cost of receiving him at the airport was Kshs800,000. This is being repeated every day as marketing and an excuse of good image in order to cheat Kenyans and farmers. I will not allow farmers to be cheated. I have evidence and I am going to table it.

(Mr. Nyagah laid the document on the Table)

Mr. Speaker, Sir, I am also tabling mileage claims to prove one went to their Murang'a home and said he was on a business trip elsewhere. The driver filled the form, the work ticket and he claimed for different mileage. I table that.

(Mr. Nyagah laid the document on the Table)

I could go on; even the letter that was back-dated, I also table it.

(Mr. Nyagah laid the document on the table)

I can table so many things. I am so frustrated by people trying to kill KCC, then going to vernacular radio stations, to mislead Mount Kenya people in particular. I am working day and night to help farmers of coffee, tea and milk in this country. I am a very angry man. My interest is to serve the small farmer.

(Applause)

I will always fight for the small man. When a big man comes and I have to decide which way to go, it will always be the small man; the poor farmer. That is what I was trying to do. That is why I am not elected; that is why I am nominated MP. I cannot lose like my colleagues can lose; so, they feel threatened by the electorate.

With those remarks, I think I have convinced you that the dairy industry is very important and we must continue supporting it.

Thank you.

Mr. Waititu: On a point of order, Mr. Speaker, Sir. The said Dandora processing plant is in Embakasi, and actually, the image the Minister is trying to paint of the MD is completely the opposite.

Mr. Speaker: Order Mr. Waititu! You have stood on a point of order; so, you must point out what it is that is out of order from the Minister's statement.

Mr. Waititu: Is the Minister in order Mr. Speaker, Sir, to disregard the advice of the board, considering that the board's work is to advise the Minister and they are the same people who are on full time job at KCC and not the Minister? Why did he not follow the advice of the board?

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Speaker, Sir, you must protect the interests of the farmer. I have just proved beyond any reasonable doubt as to why I put in place this professional board. I was dissatisfied. In fact, last week they praised me, they supported me after finding out the truth, because of the way the MD was treating the board. The board did not have access to a lot of information. Very few people in the board, one or two, knew what was going on. So, the board is very angry. In fact, let him apply; the board is very knowledgeable and it is getting more and more information.

In the case of Dandora, I did not say that all is bad, but if you go to the documents, contracts are awarded to relatives or female employees in Dandora, and Miritini. Those are the issues I have a problem with, particularly when the job is shoddy.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Mr. Mwangi is not in this House and the Minister has not stated whether he is facing any criminal charges and yet he has proceeded to use serious words like cheating, lying and stealing which portray criminal activity. The Minister has also made accusations against a person who cannot defend himself in this House while he is enjoying the privilege. Is it in order for the Minister to make such serious claims against a Kenyan citizen who cannot defend himself in this House without disclosing whether or not he has referred this matter to the Criminal Investigations Department (CID)? Is it in order to abuse the privilege of a Ministerial Statement to portray a Kenyan citizen who is not facing any criminal charges as somebody who has committed criminal offences?

Mr. Speaker: Order, hon. Members! That clarification can only come from the Minister and not the Speaker.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Speaker, Sir, the truth hurts! I am not a lawyer. I am paid to tell the truth and I have said nothing but the truth. If you want me to take this matter further, I will take it further and produce more documents to support what I am saying.

Mr. James Maina Kamau: On a point of order, Mr. Speaker, Sir. The Minister has told us a very negative story about the gentleman called “Mwangi” whom I do not know. He has portrayed him as a thief and yet we all know that you are surcharged in Government parastatals, if you make a mistake. The same case applies to Parliament. Why has he not surcharged that gentleman? At the same time the Minister has misled this House by saying that making a profit of Kshs200 million is nothing and yet we know that, that is a lot of money by any standards.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Speaker, Sir, I think there is a problem. I want the KCC not to produce half a billion but a billion shillings in profits because it is capable. That is possible, it can be done and will be done. So, the hon. Member wants me to be stuck at half a billion shillings which sounds a lot but it is not a lot? I am sorry, this is not good. Am I, as a Minister, expected to approve and support mediocrity when I know what the results should be? That is my problem. I have spoken the way I have spoken, which I do not do often, because for one week, every vernacular station in Mt. Kenya has been used, at least, an hour a day to misrepresent me as fighting small farmers of coffee, tea and milk when I am totally committed to helping them and all of them know that. Given the massive misinformation, I had to stoop that low against my wishes.

Mr. Mbau: Mr. Speaker, Sir, is the Minister aware that the manner in which he has led the discussion of the New KCC, he has succeeded in harming it nearly irretrievably because he has discussed its operations and profitability in public that is replete with other competitors? Since he has said that he is more concerned about small farmers than hon. Members, could he give a guarantee to those who rear dairy cattle and produce milk that he will turn around or enhance productivity and achieve the Kshs1 billion profitability in the next one or so years? That will make us know that, indeed, he is concerned and what he does is in the interest of small farmers.

Mr. Speaker: Order! Mr. Minister, you need not respond to that. I have listened very keenly and carefully because of the sensitivity of the matter but I have seen no point of order in that statement. All I have heard are three questions and matters of argument. So, you need not respond to that.

Mr. Mwathi: On a point of order, Mr. Speaker, Sir. The Minister has said that the Board was so annoyed that it decided to advice that the contract be renewed for one year. I do not know whether that is how it should be. Am I in order, going by the interest this matter has generated and looking at the previous rulings of the Speaker on the issue of the Managing Director (MD) for the Kenya Medical Training College (KMTTC), to seek your indulgence to refer this matter to the Departmental Committee on Agriculture, Livestock and Co-operatives?

(Applause)

Mr. Speaker: Order, hon. Members! The facts pertaining to the two cases, as I see them, through my position as the Speaker, obviously are not the same. The circumstances are different! Even the stories told by this Minister compared to the other Minister are different. As a matter of fact, the letter which has been tabled by Dr. Khalwale does not come out as if the Board has been overlooked. The Board says:

“As you are the appointing authority for the Managing Director of New KCC, we seek you authority to enable us grant Mr. Mwangi a contract of one additional year on the current terms and conditions of service.”

In other words, this Board is clearly recognizing that the Minister is the appointing authority and they are pleading with him to accept their recommendation and grant them authority for a one-year extension. The Minister on the other hand, says that if Mr. Mwangi wanted an extension according to the regulations which he works under or according to his terms of service, then he should have sought that extension by a given date which apparently he did not do. So, the facts, obviously distinguish this case from the earlier case that we dealt with last week. But given that all the necessary documents in this matter have been tabled and the Minister given his side of the story, the Committee which oversees this Ministry is at liberty to look at those documents and make a report to the House. I do not need to give a directive in these circumstances. I am afraid I will not, therefore, make that finding.

Mr. Mbugua: On a point of order, Mr. Speaker, Sir. Should the *status quo* be maintained as the Committee looks into this issue?

Mr. Speaker: This is not a court of law! I have no power to give that order. I will not give an order that I do not have authority to enforce.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. I appreciate that because you are perusing the letter under the pressure of also presiding over the House, you might not have seen paragraph 1 where the Chair tells the Minister that Mr. Mwangi, indeed, wrote to them requesting that his contract be renewed. I request the Chair to appreciate that some of the documents tabled by the Minister, and the need for professional advice to have been the one informing the Minister by way of the Kenya Anti-Corruption Commission (KACC) and the Efficiency Monitoring Unit (EMU), I beg that you find that it is important that the House helps the situation by ruling that we expect a report within a particular period.

Mr. Speaker: Dr. Khalwale, I shall not do that. I have made a ruling which takes into account all those matters that you have alluded to. It is true that the Committee will have more than ample time to look at all these documents. The Committee, in fact, is at liberty to carry out its inquiry even in a short period as, for example, seven days, if they deem it appropriate to do so. They may very well take up to a month, six months or even a year. I think it is upon the Committee to work within the Standing Orders and ensure that they carry out their inquiry as they deem fit and inform the House. So, I am afraid I will not make that directive because I am convinced and persuaded beyond doubt that the Standing Orders have sufficient provisions for the Committee to proceed.

POINT OF ORDER

CONSTITUTIONALITY OF NEW RULES ON NOISE POLLUTION

Mr. Mungatana: Mr. Speaker, Sir, I rise on a different matter to seek a Ministerial Statement from the Minister---

Mr. Speaker: Order, hon. Mungatana! Before you go there, hon. Members, there are two other Ministerial Statements but, unfortunately, we have run out of time. So, the Statement on the Cholera epidemic and the one on traffic rules from the Ministry of

Transport will be delivered tomorrow morning. So, those Members who are interested should ensure that they are here tomorrow morning to receive those Statements.

Hon. Mungatana, you may proceed.

Mr. Mungatana: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Environment and Mineral Resources regarding the newly gazetted noise pollution rules as published by the National Environment Management Authority (NEMA).

In his Statement, could he kindly clarify the following issues?

1. Whether the said rules are not in contravention of the constitutional right to freedom of worship, particularly, enunciated under Section 78 of the Constitution which states:-

“Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience and for the purposes of this section, that freedom includes the freedom of thought and religion, freedom to change his religion or belief and freedom either alone or in community with others, and both in public and private, to manifest and propagate his religion or belief in worship, teaching practice and observance.”

2. Is the Minister satisfied that the rules are not injuring religious feelings, particularly of churches of Pentecostal nature and mosques that have to give their announcements aloud?

3. Could the Minister consider withdrawing the said rules and bringing fresh rules that are in consultation with stakeholders, including traders and others who have been negatively affected by the said rules?

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Is it in order for my good friend to read the provisions of the Constitution half way? That is because if he reads the same Constitution to the end, the enjoyment of those rights is also subject to others. Is it in order for him to read half of the provisions of the Constitution under Section 78, rather than reading the entire Section, so that there is no misleading of the public on the issue?

Mr. Speaker: Hon. Mungatana, I think that is for you. Could you respond to that challenge by way of point of order?

Mr. Mungatana: Mr. Speaker, Sir, the whole of this Section 78, as hon. Imanyara will bear with me, consists of Sub-sections 1, 2, 3, 4 and 5. In all of those, it is specific on the freedom of religion. Section 78, which I have cited, is completely different from the one he is talking about which talks about Section 70 – the personal liberties. It is this Section 78 that I am asking the Minister to clarify whether he is satisfied that it has not been contravened. I have stated the other clarifications that I sought from the Minister.

Mr. Speaker: Hon. Members, we will now take the Minister’s undertaking.

The Assistant Minister for Environment and Mineral Resources (Mr. Kiptanui): Mr. Speaker, Sir, I do undertake to give the Statement on Thursday next week.

Mr. Speaker: Can you not do so by Thursday this week? It does not look that complicated.

The Assistant Minister, Ministry of Environment and Mineral Resources (Mr. Kiptanui): Next week, Mr. Speaker, Sir.

Mr. Speaker: Why can we not do it on Thursday this week? This matter does not look complicated at all. I direct that you bring that Statement on Thursday this week.

(Applause)

The Assistant Minister, Ministry of Environment and Mineral Resources
(Mr. Kiptanui): It is in order, Mr. Speaker, Sir.

Mr. Speaker: Thank you. Next Order!

COMMUNICATION FROM THE CHAIR

DEFERMENT OF COMMITTEE STATE:
THE NATIONAL YOUTH COUNCIL BILL

Mr. Speaker: Hon. Members, I have received a request and a plea from the Minister for Youth Affairs and Sports as well as the Committee which superintends this Ministry that they have been unable to complete their consultations on the amendments that should be incorporated in the Bill. For those reasons, therefore, I will defer this Order to tomorrow, Wednesday, at 2.30 p.m.

MOTION

ADOPTION OF KENYA ECONOMIC
REPORT OF 2009

The Assistant Minister Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Kenya Economic Report 2009 laid on the Table of the House on Tuesday 24th November, 2009.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, this Report was published by the Kenya Institute for Public Policy Research and Analysis (KIPPRA). In accordance with the KIPPRA Act, Part V, Section 23, Sub-section 3, KIPPRA is required to prepare and submit to the Minister in charge of Planning an annual report on:-

- (a) the performance of Kenya's economy during the past financial year; and,
- (b) the country's economic prospects for the next three financial years.

This Report is, therefore, prepared pursuant to that mandate in order to inform public policy debates in the country. The Report that we laid before the House is the first edition. Subsequently, editions of the Kenya Economic Report shall be tabled in this House every year.

Mr. Temporary Deputy Speaker, Sir, this Report identifies the key economic concerns, analysis and policy implications and bench-marks Kenya's economic performance against a number of selected middle income countries. This Report whose overall theme is "building a globally competitive economy" analyses Kenya's

competitiveness in the global economy and provides important policy advice that will enable Kenya achieve its goals as envisaged in the Kenya Vision 2030.

Mr. Temporary Deputy Speaker, Sir, the Report reviews the recent performance of the economy under the glare of both domestic and international shocks. The Report finds that changes in food prices constitute a major proportion of the overall changes in the general price level. It, therefore, recommends increased productivity and food production in order to achieve price stability and overall micro-economic stability. According to the Report, Foreign Direct Investment (FDI) inflows to the country have remained low due to poor infrastructure, corruption, high cost of borrowing, crime and insecurity and low investor confidence. It recommends continued implementation of governance reforms and increased Government investment in infrastructure in order to attract foreign direct investments. Efforts to alleviate poverty and improve the wellbeing of Kenyans are laudable as the proportion of those living in absolute poverty declined from 56 percent in the year 2000 to 46 percent in the year 2006. However, the actual number of people living below the poverty line increased from 13.4 million in 1997 to 16.6 million in 2006. This underscores the need to double our efforts in combating poverty.

Mr. Temporary Deputy Speaker, Sir, on population dynamics, the fertility rate is still high and the annual labour force growth is highest among the competitor countries. The main challenge is, therefore, on the need to expand job opportunities in order to curb increasing unemployment, underemployment and the problem of the working poor. It is also noted that Kenya's dependence ratio is quite high at 84 percent.

Mr. Temporary Deputy Speaker, Sir, in the education sector, Kenya has a low education index, meaning that a large proportion of the labour force has not attained basic education and technical skills. However, the report points out that the reforms in this sector are bearing fruits as there is an increased access to education, thanks to the free primary education and free tuition based secondary initiatives.

In the Health Sector, the report recommends increased resource allocation to improve on per capita health expenditure which is still low compared to other countries. For example, Kenya spends about US\$86 per person per year compared to Uganda which spends US\$135 per person per year or South Africa that spends US\$748 per person per year. This expenditure is lower than WHO's recommended threshold.

Mr. Temporary Deputy Speaker, Sir, agriculture is a key sector as it contributes about 24 percent of the Gross Domestic Product (GDP), and 19 percent of formal employment. This sector is crucial for food security. The report, therefore, calls for increased agricultural productivity, exploitation of irrigation, legal and institutional reforms including land tenure reforms. There has been a Government initiative towards this direction as well documented in the land policy that was passed here last week.

Mr. Temporary Deputy Speaker, Sir, the manufacturing sector has not yet achieved its full potential in job creation and value addition. The sector's contribution to the GDP has stagnated over the years at a continuous 10 percent and its performance has been lower than those of our neighbouring countries of Uganda and Tanzania. There is, therefore, need for more incentives to stimulate production of intermediate products, especially those with export potential.

Mr. Temporary Deputy Speaker, Sir, the Micro and Small-Enterprises (MSE) contribute about 18 percent of the GDP; account for 87 percent of new jobs and employ

about 77 percent of the total employees of this country. In order to support this sector, the report recommends reduction in the cost of starting and registering a business and need to integrate the MSE into the large firms within the production and marketing arrangements.

Mr. Temporary Deputy Speaker, Sir, trade is one of the key drivers of the Kenya Vision 2030. However, the country's trade GDP ratio is very low at 55 percent compared to Ghana at 98 percent and Malaysia at 222 percent. There is, therefore, need to enhance the country's export competitiveness through technological development and innovation, as well as value addition by exporting manufactured products.

Mr. Temporary Deputy Speaker, Sir, tourism is a key sector under the Kenyan Vision 2030. It is envisaged to be among the top ten long holiday destinations in the world. It contributes about 5 percent of our GDP and 4 percent of total employment. It is a leading foreign exchange earner. However, per capita tourist expenditure in Kenya is still low compared to Tanzania, Tunisia, Malaysia and Mauritius. Kenya is classified as a cheap destination and is ranked number 15 out of 130 countries. The report recommends increased investments in the tourism infrastructure and capacity building for local communities.

Mr. Ogindo: On a point of Order, Mr. Temporary Deputy Speaker, Sir. I rise on a point of order to seek your direction. What the Assistant Minister is in the process of outlining or moving is a very important document for this country. I think it would be proper that we have a reasonable membership, particularly on the Government side so that we can move together on this matter. So, I would ask for the Chair's direction.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ogindo, are you raising the issue of quorum or what are you seeking direction on?

QUORUM

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I think we will be doing a lot of de-service to the nation if this document is being moved without quorum.

The Temporary Deputy Speaker (Mr. Imanyara): So, it is the issue of Quorum you are raising?

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, there is no Quorum for this important business!

The Temporary Deputy Speaker (Mr. Imanyara): I have been informed by the Clerk-at-the-Table that there is no quorum. Ring the Division Bell.

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! We are unable to raise the requisite quorum. Therefore, the House stands adjourned until tomorrow, Wednesday, 9th December, 2009, at 9.00 a.m.

The House rose at 5.10 p.m.