

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 14<sup>th</sup> July, 2010

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### NOTICES OF MOTIONS

#### INTRODUCTION OF POLICY GUIDELINES AND REGULATIONS TO PROVIDE FOR EMISSION STANDARDS

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

THAT, in view of Vision 2030's goal of getting a just and cohesive society enjoying equitable social development in clean and secure environment; further aware that this development and growth are bound to generate the highest pollution and emission of toxic waste and greenhouse gasses contributing to climate change; this House urges the Government to introduce policy guidelines and regulative measures to provide for emission standards and for matters incidental thereto and connected therewith.

#### AMENDMENT OF REGULATIONS GOVERNING NOMINATION OF BOGS IN PUBLIC SCHOOLS

**Mr. Chanzu:** Mr. Speaker, Sir, I wish to give notice of the following Motion:-

THAT, cognizant that when the colonialists came to this country, they sponsored education where they played most of the roles such as provision of physical facilities, learning materials, teachers and the like; aware of the fact that at independence, the Government started playing a bigger role in the provision of the facilities and services thereby diminishing the role of the so called sponsors who were in most cases missionaries and today, those who play these roles are the Government, the local communities and leadership; this House urges the Government to consider amending the regulation governing the nomination of Board of Governors for public secondary schools such that community representation and special interests are each increased from three to four and sponsor representation be reduced from four to two in order that the role played by each group is commensurate with the role played in the provision of physical facilities, learning materials and teaching staff.

**Mr. Speaker:** Order! Member for Vihiga, I approved two Motions under your name. So we will have expected that you will give two notices. Can you proceed and give notice of the second Motion?

**Mr. Chanzu:** Thank you, Mr. Speaker, Sir. Sorry I thought it was just one copy, because I was given much later than---

**Mr. Speaker:** Order, hon. Member for Vihiga! There are two Motions which came to my desk yesterday and I approved both of them. Proceed!

#### INTRODUCTION OF POLICY TO BALANCE COST OF EDUCATION IN PUBLIC UNIVERSITIES

**Mr. Chanzu:** Mr. Speaker, Sir, I wish to give notice of the following Motion:-  
THAT, aware that the minimum university entry requirement is a C+ attained at KCSE, concerned there has been an exponential increase in students attaining the qualifying mark against stagnating capacity in public universities; alarmed at the continued drastic increase in the cost of university education; this House urges the Government to balance the cost between the regular and parallel systems of university education, in order to ensure equity and accord more students an opportunity to pursue education at that level while providing the institutions with sustainable sources of income.

#### ORAL ANSWERS TO QUESTIONS

##### *Question No. 271*

#### RELINQUISHING OF KINYOO/EMALI LAND OWNERSHIP BY MAKUENI COUNTY COUNCIL

**Mr. Kiilu** asked the Minister for Lands-

(a) to explain the circumstances under which the County Council of Makueni (Trustee) relinquished ownership of LR. Nos. 12968/1 and 12968/2, commonly known as Kinyoo/Emali in Emali Township to a group calling itself Emali Land Owners Association (EMLA);

(b) whether the group has any legal capacity to stop the Government from constructing a health centre and jua kali sheds under the Economic Stimulus Programme in the town by demanding land compensation; and,

(c) what he is doing to ensure that these projects are implemented without interference.

**Mr. Speaker:** Minister for Lands not here! We will come to that Question a little later. Next Question, Member for North Imenti!

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): On a point of order, Mr. Speaker, Sir. I do not know whether we are reading from the same script. If you look at the Order Paper, we should be dealing with the Question by Private Notice by hon. Konchella to the Office of the Deputy Prime Minister and Minister for Finance and then we move to Ordinary Questions.

**Mr. Speaker:** Order, hon. Ojode! There are no hard rules in the Standing Orders that I must start from page 271. I am at liberty to start from whatever point I deem appropriate.

Next Question by the Member for North Imenti!

*Question No. 289*

SUPPLY OF CLEAN WATER TO TIMAU TOWNSHIP

**Mr. Ruteere** asked the Minister for Water and Irrigation-

- (a) what plans the Ministry has to supply clean and sufficient water to Timau Township;
- (b) if he could consider sinking a borehole for Timau Sub-District hospital to alleviate the water shortage in the hospital in the financial year 2010/2011; and,
- (c) if he could also consider constructing a sewerage system for Timau Township, which is expanding rapidly.

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): Mr. Speaker, Sir, I beg to reply.

- (a) My Ministry, through the Tana Water Service Board, is currently undertaking rehabilitation of Timau Water Supply at a cost of Kshs36 million, which on completion, is going to supply clean and adequate water to Timau Township.
- (b) My Ministry has no plans of sinking a bore hole for Timau Sub-District Hospital as the ongoing rehabilitation of Timau Water Supply will improve the water supply to the hospital. The hospital will be supplied with water through a fifteen metre diameter pipeline from the mains.
- (c) Once rehabilitation of Timau water supply is completed, my Ministry, through Tana Water Service Board, is going to explore the possibility of putting up a sewerage system to serve Timau Township. A sewerage system is a capital investment which requires high budgetary allocation which needs to be properly costed before I can make any undertaking.

**Mr. Ruteere:** Mr. Speaker, Sir, the answer given is very casual. I came from Timau and I can confirm there is nothing which is going on there. I would wish the Assistant Minister to tell me the progress of the work, when it started, how far it has gone and how he expects the sub-district hospital to continue running without water.

**Mr. Kiunjuri:** Mr. Speaker, Sir, I think you agree with me that having given this township Kshs36 million, the answer cannot be casual. When I said it has been allocated, it is this financial year. It is now upon the Ministry to go ahead and start the use of this money so that the Member of Parliament can see work going on.

Mr. Speaker, Sir, I want to assure you that I am an interested party in this case because Timau serves both my people and Mr. Ruteere's people. Therefore, I cannot give a casual answer.

**Dr. Monda:** Mr. Speaker, Sir, could the Assistant Minister tell this House what the Ministry is doing to ensure that there is sufficient supply of water to all health facilities in the country so that we do not have one health facility here or there running out of water?

**Mr. Kiunjuri:** Mr. Speaker, Sir, last year when we experienced drought in the county, we made sure that we took mitigation measures, whereby we could give each dispensary a water tank of about 10,000 litres. This means that each could cushion a dispensary for over six months. If there are dispensaries in the country which are really needy and have no water, then we would like to know them. We will then be able to do the same for them. It is easy; we would have gutters and water tanks as an emergency measure.

**Dr. Monda:** On a point of order Mr. Speaker, Sir. I was talking of all health facilities and the Assistant Minister is talking about dispensaries when there are several hospitals in the country which operate without sufficient water. Is he in order to talk about dispensaries yet we are talking about the entire health sector?

**Mr. Kiunjuri:** Mr. Speaker, Sir, it is important for Members to be patient. Even before I gave half my answer, the hon. Member was already on a point of order.

We are also making sure that we supply water to other sub-district hospitals, health centres and where it is not possible for us to have piped water, we are making sure that we drill boreholes. In the case of Timau, I have assured the hon. Member that there is no need of drilling the borehole because he can get water through gravity to serve the dispensary.

**Mr. Chanzu:** On a point of order, Mr. Speaker, Sir. I think the Assistant Minister is not telling us the truth. It is just recently when I raised the issue of the Vihiga District Hospital which does not have water. Is he in order to tell us that they have the capacity to provide water when they do not have?

**Mr. Speaker:** Order! That is not a point of order; it is a matter of argument.

**Mr. Pesa:** Mr. Speaker, Sir, could the Assistant Minister tell this House how prepared his Ministry is in responding to areas where we have breakages in the water systems in our district hospitals?

**Mr. Kiunjuri:** Mr. Speaker, Sir, the question of breakages is a matter of the water companies that run the particular facilities. However, you will agree with me that we cannot say that we are adequately prepared because it is based on the budget that we are allocated by the Ministry of Finance and the Budgetary Committee. We are trying our level best. What we are doing is mitigation and in cases where we do not have water, we try to supply.

Mr. Speaker, Sir, it would not be convenient for us to have dispensaries, health centres or sub-district hospitals operating without water.

**Mr. Njuguna:** Mr. Speaker, Sir, as we laud the Assistant Minister for that very positive reply, could he, in the same breath, indicate to this House when these rehabilitation works are likely to come to an end so that the kind of suffering these people are experiencing will be contained?

**Mr. Kiunjuri:** Mr. Speaker, Sir, as usual, there are Government procedures whereby there is acquisition if there is any tender to be done. I, however, want to assure the Member that this will be done as fast as we can.

**Mr. Ruteere:** Mr. Speaker, Sir, the same Assistant Minister in reply to another of my Questions told me that Makutano Township was going to get Kshs700 million for our sewerage expansion. Today, he is promising me some money for the rehabilitation of the water system in Timau. Is it going to be real or it will be a mirage like in the case of Makutano?

**Mr. Kiunjuri:** Mr. Speaker, Sir, I think it is not in order for the hon. Member to insinuate that what I said in this House was not true. We are still carrying out---

**Mr. Ruteere:** On a point of order, Mr. Speaker, Sir. Could the Assistant Minister tell this House how far the work at Makutano has gone if it is not true? The financial year ended two years ago.

**Mr. Speaker:** Order! That is a question!

Mr. Kiunjuri, perhaps you should answer the question which he asked earlier.

**Mr. Kiunjuri:** Mr. Speaker, Sir, I have already said that I have personal interest on this issue of Timau. It serves my people and his people almost at 50/50. I, therefore, think I should not mislead my people, his people and this House. We are going to rehabilitate Timau Water System.

**Mr. Speaker:** Next Question by the Member for Kilgoris!

### QUESTION BY PRIVATE NOTICE

#### JUSTIFICATION FOR LOWERING IMPORT DUTY ON WHEAT

**Mr. Konchella:** Mr. Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Finance the following Question by Private Notice.

(a) What justification does the Minister have for lowering Import Duty on wheat to 10 per cent in the 2010/2011 Budget, considering that even the previous rate of 35 per cent was in reaction to the drought in 2008/2009?

(b) What plans does the Minister have to increase the duty to enable farmers benefit from the expected bumper harvest, particularly in Narok North and Narok South?

(c) Is the Minister aware that farmers held a demonstration on 28<sup>th</sup> June, 2010 and blocked the Narok–Nairobi Highway in reaction to the expected financial loss resulting from his action?

**The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta):** Mr. Speaker, Sir, first I apologize for coming late. I hope you accept my apology before I answer this Question. I apologize to the House as well.

**Mr. Speaker:** Yes, I accept your apology and believe that you have a lot of business to work through.

**The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta):** It is very true, Mr. Speaker, Sir.

*(Laughter)*

Mr. Speaker, Sir, I beg to reply.

(a) The Deputy Speaker directed that we provide more information by drawing comparison between wheat produced by Kenyan farmers and rice produced by Tanzania and Uganda farmers which attracts 35 per cent Import Duty to discourage undue competition, whereas the one of Kenya is rated at 10 per cent Import Duty which encourages competition from European farmers.

Mr. Speaker, Sir, since the 1<sup>st</sup> of January 2005 when the Customs Union Common External Tariff (CUCET) came into force, rice and wheat grains were classified as

sensitive products attracting common external tariff of 75 per cent or US\$2,000 per metric ton (whichever is higher) and 35 per cent respectively. Wheat flour imported into the EAC also attracted a higher duty of 60 per cent.

As demonstrated above, rice farmers in the EAC enjoy a higher protection in tariff than wheat farmers because EAC as a region produces about 80 per cent of its rice demand while it produces only 20 per cent of its wheat demand. Currently, both Uganda and Tanzania apply a duty rate of 75 per cent on all imported rice while Kenya applies a lower rate of 35 per cent. The reason of the higher protective rate for Uganda and Tanzania is because the two countries are self sufficient in rice production.

Kenya's lower rate of 35 per cent is due to two factors: One, is a bi-lateral agreement with the Government of Pakistan imposing a 35 per cent Import Duty on Pakistan rice in exchange for Kenya tea exports to Pakistan.

Two, is the need to provide some protection to our farmers who produce about 80,000 metric tons annually against the national demand of 300,000 metric tons.

On wheat, Kenya produces about a third of its national demand while Tanzania produces only 5 per cent of its demand. The rest of the EAC does not produce wheat, bringing the total production in the region to about 20 per cent of the demand. Wheat grain is taxable at 35 per cent while wheat flour imported into the region is taxable at 60 per cent under the EAC Common External Tariff (EACCET).

Mr. Speaker, Sir, due to shortage of wheat grain in the East African Community, no single country has, since 2005, applied the CET rate of 35 per cent. Tanzania has been applying 10 per cent while Uganda, Rwanda and Burundi have been applying 0 per cent on all their wheat grain imports. It is only Kenya that has been applying a higher rate of duty on wheat imports under the EACCET. That is 35 per cent in 2007/2008, 10 per cent in 2008/2009 and 25 per cent in 2009/2010 to provide some level of protection to our farmers. Protection through higher rate was only possible over the period of 2005 to 2010 when the movement of products made from such raw materials imported by partner states were restricted

Mr. Speaker, Sir, with the coming into effect of the East African Common Market (EACM) where goods are expected to move freely, it would be difficult to have different import duty on any product imported into the region since those products can find their way to other partner states. In this regard, wheat imported into Tanzania at 10 per cent may find its way into Kenya thus defeating the purpose of imposing a duty rate higher than 10 per cent. In addition, free movement of goods across the East Africa partner states will make it difficult for the local manufacturers that import raw materials at higher rates than others to survive. As a way forward, we take serious note of the concerns raised by our farmers and hon. Members and assure them that, as a country, we shall petition our partner states to reconsider the level of duty on imported wheat grain as part of a long term solution. The Government, through relevant Ministries, will implement appropriate reform measures to address structural constraints facing our wheat farmers in order to ensure efficiency and competitiveness. However, I wish to point out that any unilateral increase of duty on imported wheat, raw material for wheat flour, for Kenya alone, from 10 per cent to 25 per cent, will make wheat flour in Kenya expensive, encourage free imports of wheat flour milled using cheaper imported wheat grains from Uganda and Tanzania, thereby reducing demand for Kenyan wheat flour and Kenyan wheat grains from our farmers, as well as distorting investments in milling with the

consequence of relocation and unemployment of our people, including the loss of our tax base.

Thank you, Mr. Speaker, Sir.

**Mr. Konchella:** Mr. Speaker, Sir, while I thank the Minister for giving a reasonable and detailed answer for the first time, the duty of every nation and Government is to protect its own citizens. While we agree that we are now partner states and, therefore, we should conform to what the Minister is talking about, there is a sense in the Minister's understanding. There are 3 million bags of wheat that have been produced by farmers who, for the last three years, have not been able to sell their harvest because of drought. While the Minister has said that---

**Mr. Speaker:** Please come to the question!

**Mr. Konchella:** Mr. Speaker, Sir, the duty remission scheme is going to be set up by the Minister. The farmers are now indebted because of the bank loans which they took to produce their wheat. Could the Minister request the millers or the Government to buy the wheat that is ready now, and then apply all the other measures that he intends to take? Those measures are reasonable and justifiable. But the Government should buy what is there now, so that the farmers do not incur losses as they are doing now.

**Mr. Kenyatta:** Mr. Speaker, Sir, I take the recommendation from the hon. Member positively and, indeed, as he has correctly stated, Kenya cannot, on its own, take unilateral decisions. But I have taken his request positively and, through the relevant line Ministry, we will try and see how we can work with millers to ensure that before they import, they can, first and foremost, purchase what is available locally. So, I take that in good consideration!

**Mr. Bahari:** Mr. Speaker, Sir, the effect of what the Ministry has done is to export jobs to Europe; jobs which are badly needed in East Africa. Could the Minister, now that we have a competitive advantage on wheat production in East Africa – Kenya has a competitive advantage – consider financing the improvement and increase of acreage under wheat? I had the opportunity to be with Mr. Konchella in Narok on Friday. Could the Minister consider supporting wheat farmers so that the acreage under wheat in East Africa, especially in Kenya, is increased so that we can improve on our employment and food security?

**Mr. Kenyatta:** Mr. Speaker, Sir, I disagree with the point that what we have done is actually to export jobs. I have repeated - and I want to do it again - that Kenya produced, to be precise, 337,000 tonnes in 2008 against the consumption in Kenya alone of more than 950,000 tonnes. For the region, we are only producing in terms of wheat, 20 per cent of our demands. I agree that through the Ministry of Agriculture, we need to do everything possible to see how we can expand wheat production. Indeed, I believe they have their own programme and we, as the Ministry, will support them in that particular endeavour. But currently as we stand, we are not producing adequate wheat for our own home market and that of the region and, hence, until such a time as the region is producing adequate quantities, then we can say that we can add and increase that tariff in order to protect local farmers in Kenya and, indeed, throughout the region.

**Mr. Outa:** Mr. Speaker, Sir, is the Minister aware that as a result of lowering the import duty on rice, there is a lot of cheap imported rice in this country that has really hampered our rice farmers to competitively sell their product? What is the Minister going to do to ensure that local rice farmers do not make losses?

**Mr. Kenyatta:** Mr. Speaker, Sir, the Question was addressing itself more to wheat as opposed to rice. I mentioned in my response that the reason for the 35 per cent is because of a bilateral agreement between Kenya and Pakistan. It is a trade off for rice and tea. Like I said, in other countries, they are producing adequate supply and that is why they have the higher tariff rate. We still have a shortfall in our country as it stands currently and like I said, we need to honour our bilateral agreement with Pakistan because it has its direct effect on tea exports to Pakistan.

**Ms. A. Abdalla:** Mr. Speaker, Sir, Mr. Konchella has highlighted that the urgent matter now is that our farmers are receiving lower prices at the National Cereals and Produce Board (NCPB) and the millers. Could the Minister consider increasing the funding to NCPB so that it can pay our farmers high rates as an emergency measure?

**Mr. Kenyatta:** Mr. Speaker, Sir, within the funds that are available, we are trying to do everything that we can through the NCPB to support not just our wheat farmers, but our maize farmers and all the other farmers in this country.

**Mr. Mututho:** Mr. Speaker, Sir, is the Minister aware that the so-called importers he is trying to protect are less than five people against 45,000 Kenyans who are growers? Further, is he aware that the same organization which deals with the millers and the association has put in their recommendation - which I would like to table? They have put a recommendation of 10 per cent? However, they have put three riders among them. They are all stating that he should invest more on agriculture. I am prepared to table this so that he can see whatever he is doing is wrong even to the eyes of the importers he is trying to protect. They are saying: "It is wrong. You cannot do it this way unless you are going to consider these three other factors!"

*(Applause)*

*(Mr. Mututho laid the document on the Table)*

**Mr. Kenyatta:** Mr. Speaker, Sir, I think the objective of the Government is not just to protect millers. We also have to protect consumers. I have said that we are not producing adequate supply. Indeed, I agree with the hon. Member and I think, as a Government, we have continued to increase the allocation to the agricultural sector in order to support our farmers. I mentioned in my response that we need to address the structural and competitive issues surrounding agriculture in this country. As a Government, that has been our priority and it will continue to be our priority.

**Mr. Twaha:** Mr. Speaker, Sir, I think the Minister is aware that local maize is good for *Githeri*, *Irio* and *Muthokoi*. However, it has high moisture content. Could he consider lowering the rate of duty of maize?

**Mr. Kenyatta:** Mr. Speaker, Sir, I am not aware that it is only good for *Githeri*, *Muthokoi* and *Irio*. I am sure that it is also good quality and it is able to be milled adequately. We have not yet received such complaints. So, we have no intention of lowering that duty.

**Mrs. Shabesh:** Mr. Speaker, Sir, I thought that the Deputy Prime Minister and Minister for Finance has really looked into this detail economically. But he should now see that this has become a real issue where people are demonstrating on a daily basis. Members of Parliament cannot really sit back and watch.



Mr. Speaker, Sir, I would like the Deputy Prime Minister and Minister for Finance to tell us exactly what channels within the East African Community he is using, including the East African Legislative Assembly that has a Committee that can look into this issue and sort out?

**Mr. Kenyatta:** Mr. Speaker, Sir, we are using the channels that are, indeed, available through the community headquarters. We did raise this particular issue at the post-budget meeting and we intend to continue addressing ourselves to our counterparts in the four other member countries. But as I said, this is always an issue of trade off. At the end of the day, if Kenya alone was to push, for example, and say that we shall maintain our duty rate at 35 per cent or even applies for that stay, the subsequent consequence of that is that other member countries can then turn around and say we shall return to our zero. With the facts that goods can now move freely unlike previously, it, therefore, means that wheat will be milled in Kampala and Tanzania and basically exported to Kenya. So, ultimately, the net effect is that our farmers will still be even worse off than they are now. But we are continuing to consult with them. The way to address ourselves to this issue is to see how we can structurally support our farmers to make them more competitive to be able to increase production. Ultimately, we can say that Kenya has the capacity, not just to supply itself with wheat, but also to supply the region. At that stage, we can be in a position to apply a much higher rate, even 70 per cent like Tanzania and Uganda have for their rice because they are in a position to meet their demand. So, they are able to demand that higher rate. We are still not quite there yet.

**Dr. Nuh:** Mr. Speaker, Sir, I find some contradiction in the Minister's answer in that the difference in rates of duty will impact negatively on the economy because he has shown himself that the rates for rice are different for the three member states. Beside the point, I want to ask him whether he, indeed, consulted the Ministry of Agriculture, so that they are able to forewarn farmers for them to be able to be cushioned, so that they do not suffer eventualities.

**Mr. Kenyatta:** Mr. Speaker, Sir, whenever we are engaged in consultations with our partner States we always consult the relevant line Ministry. In this regard, we did consult the Ministry of Agriculture and, indeed, we have a written response from them giving us the basis on which they believe we can negotiate. So, they were fully consulted.

**Mr. Koech:** Mr. Speaker, Sir, we, as a country, must always ensure that we protect the farmer to ensure that he does not just produce for himself, but makes some little profit.

Mr. Speaker, Sir, we, as a country, must ensure that our products remain competitive at all times. What is the Minister doing to ensure that we completely subsidize the farmer in terms of inputs such as fertilizer and seeds, so that in future, they can make profits?

**Mr. Kenyatta:** Mr. Speaker, Sir, the solution does not necessarily lie in complete subsidy. Those are issues that we would need to address ourselves with the Ministry of Agriculture. But ultimately, the solution lies in improving the productivity and dealing with structural problems that have made our farmers uncompetitive. That is a long term solution but, indeed, in consultation with the relevant line Ministry, we can look at other options as he has mentioned.

**Mr. Farah:** Mr. Speaker, Sir, throughout the modern history of the world, no country has reached any meaningful level of development without having food security and having taken care of its farmers. Our policies have been those that take care of traders, millers and international conventions, but never takes care of our own farmers. Our farmers, when they produce, are told to maintain a market; do not get engaged. The World Bank, IMF and others, stopped the Government from investing in those farmers and put in a lot of money, so that farmers have a reason to farm the next season. The farmers now have their maize and wheat rotting. Nobody is buying it from them. The next season, the farmer does not grow because he has no incentive to grow. The inputs, whether they are in the form of food aid, sheds, millers---

**Mr. Speaker:** Order, Member for Lagdera! Could you ask a question?

**Mr. Farah:** Mr. Speaker, Sir, could you give us a food policy? When you do policies, you do not have to do subsidies that essentially become so open that the World Trade Organization and other countries--- You cannot help farmers in Eastern Europe who are subsidized by their Governments to come dump into our markets and kill our farmers, kill our industry and create unemployment. What powerful departure from the beaten track, from 47 years of bad policies in taking care of our families, do you have for us now?

**Mr. Kenyatta:** Mr. Speaker, Sir, that is a very good question. But I believe it is a question addressed to the wrong Minister.

*(Several hon. Members stood up in their places)*

**Mr. Speaker:** Order! hon. Members! Member for Ikolomani!

**Dr. Khalwale:** Mr. Speaker, Sir, decisions in the East African Community are not meant to punish any partner State. The Minister knows that first, we start with high level consultations. You go to the Council of Ministers. If they cannot agree, you normally involve the Summit.

Mr. Speaker, Sir, the Minister having let down the Kenyan farmers because he has responded to the interest of the farmers in the other East African countries and the interests of the Cereal Millers Association, could he table in this House, minutes of the proceedings in the East African Community, showing that he went all out of his way to defend the interest of Kenyan farmers? The procedure at the community and by the way, I was an Assistant Minister there, is that in a country where you have the highest interest, it is your interest which is normally protected by the other players. In this matter, Kenya has the highest interest in the wheat industry.

**Mr. Kenyatta:** Mr. Speaker, Sir, indeed, the hon. Member is correct. We have the highest, but ultimately, we do not produce sufficient quantities to meet the supply or demand of the region. Were we in a position to meet the demand of the region, we would have had full authority and status to apply a higher duty rate.

**Mr. Farah:** On a point of order, Mr. Speaker, Sir. Basic economics teaches us that the fiscal policy of a country is a very powerful tool, either in developing a section of the economy or in killing it. We have killed our rice production because farmers do not earn sufficiently from it and Government policies.

**Mr. Speaker:** Order, the Member for Lagdera! Remember that you have stood on a point of order!

**Mr. Farah:** Mr. Speaker, Sir, I just want to develop it to show the Deputy Prime Minister and Minister for Finance that he is out of order. He is out of order by saying that it is in the wrong Ministry.

We have killed our rice industry because we never gave our farmers incentives to develop production of rice that is sufficient for the region. It is the same thing with maize and wheat. The farmers cannot produce if they cannot get the right prices and the right Government protection. You need the fiscal policies. Is the Minister in order to tell us that this matter is addressed to the wrong Ministry when the tariffs that he has accepted have allowed Uganda and other rice-producing countries to give more incentives to their rice farmers so that they can produce more rice? He has, in fact, slapped a punitive tax on importation of rice and made it easier for them to produce more rice. He has allowed foreigners to come and compete with us because he lowered tariffs on the rice. Is it in order for him to say that that matter does not fall within his Ministry? Is it also in order for him to say that it is not helping our people?

**Mr. Speaker:** Order, the Member for Lagdera! You would have done that very simply. All the same, we have given you the latitude.

Mr. Deputy Prime Minister and Minister for Finance, will you indicate whether or not you are misleading the House by saying that this matter is directed to the wrong Minister when in fact, the matter relates to your Ministry?

**Mr. Kenyatta:** Mr. Speaker, Sir, I am not misleading the House. The Questioner was very clear. He asked about the food policy of this country which is the responsibility of the Ministry of Agriculture. That is the Question I was asked and that is the response I gave.

**Mr. Ochieng':** On a point of order, Mr. Speaker, Sir. The Deputy Prime Minister and Minister for Finance is evading the Question. The Member for Lagdera was very clear. The tariffs are normally formulated in the Deputy Minister and Minister for Finance's docket. Why is he evading the question and yet this is the gist of the problem?

**Mr. Speaker:** Order, the Member for Nyakach! Maybe, you have not followed the questions. When the Member for Lagdera started asking his question, he referred to food policy. His question was premised on whether or not, we have a proper food policy in place. In which case the Deputy Prime Minister and Minister for Finance is entitled to make that claim.

**Mr. Farah:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, the Member for Lagdera! Order!

*(Laughter)*

Hon. Members, it is for this reason that we advise and a lot of the time, direct that you try and make your question simple and relevant to the matter that has been addressed. If you talk about too many things at the same time, then even the Minister loses direction on which question you want answered. The Member for Lagdera talked about food policy, fiscal policies, tariffs and duty. So, where are we?

**Mr. Farah:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, the Member for Lagdera! Because you are the Deputy Speaker, I will accommodate you. What is your question? Ask a simple question.

**Mr. Farah:** Mr. Speaker, Sir, given the intricacies of our economy which is basically all these, this is the only Ministry that has a role in our food production which can only be enhanced if we have the right tariffs. There is what we call contractual economy and expansion economy. If he wants to expand our economy, he has to have the right policies and tariffs in order for us to be able to have the right food production and policies in the country. This will enable us create the kind of production that we need. So, it is---

**Mr. Speaker:** Order! You have done very well. What is your question? Simple!

**Mr. Farah:** Mr. Speaker, Sir, what does the Deputy Prime Minister and Minister for Finance intend to do because the agricultural sector in this country depends on his policy?

**Mr. Speaker:** Again, you are getting lost, Mr. Deputy Speaker!

**Mr. Farah:** Mr. Speaker, Sir, how does the Deputy Prime Minister and Minister for Finance intend to deal with the tariffs to enable the farmers in this country to have a reason to produce? How does he intend to protect the farmers?

**Mr. Speaker:** Order! Now you have done well. Mr. Deputy Prime Minister and Minister for Finance, can you answer that question?

**Mr. Kenyatta:** Mr. Speaker, Sir, the issue of tariffs is not one that affects one product or commodity. We are able to protect our farmers. Ultimately, we are able to maintain higher rates because we, with the exception of years of drought, have the capacity to grow adequate wheat.

With regard to rice production, we currently are not growing adequate rice. I gave the statistics. I stated that the highest production in the recent past was 65,000 tonnes against a demand of 300,000 tonnes.

**Mr. Outa:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, the Member for Nyando! Please relax.

**Mr. Kenyatta:** Mr. Speaker, Sir, the Government is expanding areas under rice irrigation. Last year, we expanded the Mwea Irrigation Scheme. This year, we are actually applying a further Kshs9 billion to expand rice production in this country. Under the Economic Stimulus Package (ESP), we are bringing new areas under maize production through irrigation. We had a major programme last year of enhancing fertilizer and seed delivery to our farmers. The Government is doing all these in an attempt to support our farmers and also to be a food secure country.

In the interim, we cannot impose higher rates when member countries are not producing adequately. Our first negotiation point when we started was to maintain a tariff rate of 35 per cent. I said before that it was impossible to maintain that with the coming into force of the Common Market because other countries would have insisted on maintaining a zero rate for their imports. This would have resulted in those countries importing at a zero rate, milling in their respective countries and delivering to Kenya, and we would have had no reason to stop them. Is that really the way we would have protected the farmers?

So, the 10 per cent we got was in itself no mean achievement because the neighbouring countries wanted it to be at zero rate, given the fact that the region was not producing enough. Our first point of call was 35 per cent. If we had stood at that while Uganda, Rwanda and Burundi wanted to maintain the zero rate, that would not have

supported our farmers. We felt that by achieving the rate of 10 per cent to be applied throughout the region, it was the best way to protect our farmers.

**Mr. Speaker:** Ask the last question, Mr. Konchella!

**Mr. Konchella:** Mr. Speaker, Sir, the Deputy Prime Minister and Minister for Finance is not the Minister for East African Community. He is assuming a role that is not his by talking about tariffs on East Africa and yet the relevant Minister is articulate and is able to do that job. The Deputy Prime Minister and Minister for Finance should consult him before he comes to give an answer in this House.

Considering the fact that the Deputy Prime Minister and Minister for Finance has indicated that he will allocate funds to the Ministry of Agriculture to purchase wheat from the farmers and said that millers will buy this wheat first before they use imported wheat, could he assure this House that he will, indeed, allocate the money to the Ministry of Agriculture, and that the price which every farmer will be paid to be able to sort out his debts is Kshs2,700 per bag? That is the minimum production cost incurred by farmers.

**Mr. Kenyatta:** Mr. Speaker, Sir, I cannot and I am not in a position to give the kind of guarantees. I think when I responded to his question in the first instance, I said that within the available funds that we have and in consultation with the relevant line Ministries, we will see what we can do to support our wheat farmers and increase wheat production in this country. However, it is not possible for me to give guarantees, even on a question of prices.

**Mr. Mututho:** On a point of order, Mr. Speaker, Sir. Listening to the Minister for Finance is baffling! Would I be in order to request that this Question to be deferred and to give my committee about two weeks so that we can give him all the time he needs to take us round in circles and then come up with a conclusion?

**Mr. Speaker:** Order, hon. Members! We have done adequate justice to this Question, considering that we have allowed it to be interrogated for 25 minutes. The matter of investigating the issue is for granted and you do not need directions from the Chair to execute the mandate which rightfully belongs to your committee.

**Mr. Farah:** On a point of order, Mr. Speaker, Sir. This is a very serious matter.

**Mr. Speaker:** Order, Deputy Speaker! This matter must rest where it is. Member for Wajir South!

## ORAL ANSWERS TO QUESTIONS

*Question No.220*

DISMISSAL OF ABDISIRAT BUNDID  
DAAR FROM POLICE FORCE

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

(a) why Mr. Abdisirat Bundid Daar (P/No.63597) a CID officer at Thika Police Station, was dismissed from the police force; and,

(b) what steps he will take to reinstate him to the force, considering that he had served for a period of 19 years and seven months with a clean record of service.

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

(a) Abdisirat Bundid Daar joined the police force on 19<sup>th</sup> October 1991. His last duty station was CID Thika. At the time of dismissal, he had served the force for 18 years and six months. On 27<sup>th</sup> April, 2010, it was reported to the PPO Coast by one Islamic spiritual leader that he had received information from two police officers namely; Abdisirat Bundid and Abdullahi Kento of Thika CID and Ukwala Police Station, Siaya respectively, that there was uranium hidden in a place in Malindi. The PPO requested the spiritual leader to take the two officers to his office the same afternoon which he did. The two officers, after being questioned by the PPO and the PCIO alleged that they had been investigating the case of uranium for three months and had been assigned the case by the Senior Deputy Commissioner of Police I and the Senior Deputy Commissioner II of police headquarters.

The officers further alleged that they were carrying out investigations privately. After investigations, it was found that the information was false. It was further discovered that previously, Anti-Terrorism Police Unit had opened an inquiry file No.22 of 2009 on the same information and found it false. Further, it was discovered that the second officer, Abdullahi Kento had deserted duty and a warrant of arrest was imposed by Ukwala Police Station TCR. No.107/201 and Court File No.191/210, before the Principal Magistrate's Court, Siaya. The two officers were, therefore, found to be acting in contravention of the rules of discipline by carrying out investigations privately.

The officers were dealt with in accordance to the force's standing orders and were charged as follows: Guilty of conduct to the prejudice of good order and discipline contrary to Regulation 3(41) of the Police Regulations. Particulars of the offence were as follows: While in Mombasa Township on the 27<sup>th</sup> April, 2010, Abdisirat Bundid while knowing that information regarding uranium in Malindi was not true, undertook to commence investigations in the allegations while accompanied by another officer. The officer was found guilty of the offence against discipline and since he had five previous convictions against discipline, he was dismissed from service with effect from 4<sup>th</sup> May, 2010.

(b) After he was dismissed, he was informed of his right of appeal within seven days. However, he did not appeal and instead, moved to the High Court, Mombasa and filed for judicial review by the High Court Mombasa, Miscellaneous Application No.64 of 2010. Therefore, in the absence of appeal against dismissal as per the requirements of the force's standing orders, there are no steps being taken to reinstate the officer, unless he appeals for reinstatement.

**Mr. Abdirahman:** Thank you, Mr. Speaker, Sir. I want to thank the Assistant Minister for the response and I know hon. Ojode has been quick and very prompt in answering such questions but I would want to draw his attention to three areas in his response which are very important. This is actually going to the bottom of this matter.

The first is the fact that on the 22<sup>nd</sup> April, 2010, the PPO Coast, who would have actually dealt with those officers directly had to seek the intermediary of a spiritual leader. Two, is the fact that this is not a new case. Such an issue was reported to the Anti-Terrorism Police Unit under File No.2/2009. The third issue is actually the fact that police ordinarily even rely on informers. If the officers were really engaged in this, I am surprised at the quick manner in which these decisions were arrived at.

My question to the Assistant Minister is: From the 27<sup>th</sup> of April to 4<sup>th</sup> May when they were dismissed, in a span of six days, the police did not really give this issue the due process it deserves. Why did the police rush to dismiss these fellows, having known that this is a serious matter and there is overwhelming evidence available to this issue of uranium?

**Mr. Ojode:** Mr. Speaker, Sir, this is a disciplined force and we have to go by the police force standing orders. If the dismissal was done in a hurried manner, I would want to advise the hon. Member who is also a good friend of mine to ask the officer to appeal. When he appeals, that is when we are going to hear from his side. Instead, he rushed to the High Court to file a case which I do not think will help much if he wants us to reinstate him.

I would advise the hon. Member to ask the officer to appeal so that we also hear from him because involving the spiritual leader is not quite correct. The officer should appeal in order for us to deal with this matter once and for all.

**Mr. Bahari:** Mr. Speaker, Sir, nearly 20 years of service is not a short period. I know that you are very much in the know as a legal practitioner, that dismissal is a very severe disciplinary action. I have personally met this officer while he was on duty and he was a very diligent officer.

Could the Assistant Minister reconsider that decision because it was done hurriedly and this case had been rightly reported and reconsider this harsh decision and reinstate this officer without having to subject him to appeals and all that?

**Mr. Ojode:** Mr. Speaker, Sir, you will agree with me that meeting the officer at his workplace does not constitute that he was quite diligent. I have said that the officer appeals against the dismissal and then I will take action, if he convinces us.

**Mr. Olago:** Mr. Speaker, Sir, in the last part of the hon. Assistant Minister's answer, he has said that this officer, instead of appealing, moved to the High Court and filed an application for judicial review in Mombasa High Court. The effect of that would be to quash the decision that dismissed him. If that happens, it means that the order of the High Court would take precedence over the dismissal by the force. Under these circumstances, could the Assistant Minister tell this House the outcome of the judicial review application in the High Court?

**Mr. Ojode:** Mr. Speaker, Sir, we cannot predict what the High Court will say, because the High Court can quash or refuse if he is found guilty of the offence. What I am saying is that whether the High Court---

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. In my question, I was referring to the answer of the hon. Assistant Minister. It is in his answer that he mentioned the issue of judicial review. He should know whether that judicial review application has been determined or not. He should not tell the House that we must await the outcome when we do not know whether it is pending or not.

**Mr. Ojode:** Mr. Speaker, Sir, the case will be coming up I think, in a month's time. It is not yet determined.

**Mr. Speaker:** Last question, Mr. Abdirahman!

**Mr. Abdirahman:** Mr. Speaker, Sir, I want to thank hon. Ojode for the very good response in terms of asking me to ask the police officer to actually appeal. But I just want to bring to his attention the fact that there was no official letter for dismissal. All I got in my possession is actually a police signal signed by a Deputy Provincial Police Officer.

Could the Assistant Minister provide me with the official dismissal letter if it exists in any way? I am ready to actually go by his advice.

**Mr. Ojode:** Mr. Speaker, Sir, ordinarily, if we dismiss an officer, I do not give a copy to the Member of Parliament. I give it to the person who is affected. So, if the officer does not have a dismissal letter, he should ask for it from the authorities.

**Mr. Speaker:** Very well! At any rate, the officer knows that he has been dismissed. That is why the hon. Member was querying the dismissal. So, surely, it does not arise.

Next Question, Member for Mumias!

*Question No.227*

CRITERIA FOR IDENTIFYING BENEFICIARIES  
OF AGED PERSONS MONTHLY EARNINGS

**Mr. Speaker:** Hon. Members, the Member for Mumias is away on official Parliamentary business. So, we defer the Question to next week on Thursday.

*(Question deferred)*

*Question No.262*

REPAIR OF NJORO-MOLO/NJORO-MAU-NAROK ROADS

**Mr. Kiuna** asked the Minister for Roads when he will repair Njoro-Molo and the Njoro-Mau Narok roads which are in a state of disrepair.

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

My Ministry will carry out routine maintenance of Njoro-Molo and Njoro-Mau Narok Roads in this financial year, 2010/2011. The roads in question are classified as C56 and C57. Under the Kenya National Highways, I have allocated a total of Kshs34,364,000 for routine maintenance of these roads within this financial year.

**Mr. Kiuna:** Mr. Speaker, Sir, although this road has been earmarked for tarmacking, I would like the Assistant Minister to state whether he can try to assist these people. Right now, there is no vehicle which can pass between Mwisho wa Lami and Tipis. All the farm products are being taken to Narok and back to Mai Mahiu, up to Nakuru. Could the Assistant Minister provide some emergency funds to seal those potholes within that section, which is just about three to five kilometres?

**Mr. Kinyanjui:** Mr. Speaker, Sir, I want to, indeed, agree with the hon. Member that the section of the roads in question is, indeed, impassable. My Ministry has sent engineers to assess the damage and will be able to act on it on emergency basis.

**Mr. Chanzu:** Mr. Speaker, Sir, we have had an opportunity for this road. I think one of the reasons these roads are in this kind of state is because they were not designed to carry the kind of load they carry when the main road from Nakuru to Kisumu is in a bad state. What is the Assistant Minister doing to ensure that when the road from Nakuru



to Kisumu is being repaired the heavy trucks are given subways so that they do not use roads which are not designed to carry that kind of load?

**Mr. Kinyanjui:** Mr. Speaker, Sir, I want to agree with the hon. Member that, indeed, we have that challenge. Even today as we were talking about the Daraja Moja Question in Kisii, the diversion that was initially designed to carry small weight now has to carry more weight as we divert traffic and it ends up more damaged than it was before the road was used. I want to assure the hon. Member that we do ensure that we return the roads to their previous state after it has been used as a diversion. In this case, we will repair the Njoro-Mau Narok Road to ensure that it is restored to how it was before.

**Mr. Ruteere:** Mr. Speaker, Sir, the Assistant Minister has said that the road will be repaired within this financial year. Since it is in a state of disrepair, could he specifically say when it will start because the financial year runs from July to June 2011? Could he specify which month because motorists cannot continue suffering and the farmers cannot continue using that long route to take their produce to the market?

**Mr. Kinyanjui:** Mr. Speaker, Sir, we are in the procurement process and within the next 60 days, we will be able to have the contractor on site.

**Mr. Speaker:** Last question, Mr. Kiuna!

**Mr. Kiuna:** Mr. Speaker, Sir, I am very much grateful to my neighbour. It is true that there is already a grader on that road. But there is a section also from his constituency on the road from Elementaita to Mau Narok, where people from both his constituency and my constituency walk for over 15 kilometres. Could he also do what he has done with the section between Mwisho wa Lami and Tipis on that section of the road?

**Mr. Kinyanjui:** Mr. Speaker, Sir, I also want to acknowledge what the hon. Member has said; that, indeed, that section of the road is impassable, but we have taken adequate measures. We already have got the estimates for that road and we will be able to allocate enough funds to ensure that it is passable, so that produce from Mau Narok and Narok can get to the markets in Nakuru and Molo.

*Question No.271*

RELINQUISHING OF KINYOO/EMALI LAND  
OWNERSHIP BY MAKUENI COUNTY COUNCIL

**Mr. Kiilu** asked the Minister for Lands:-

(a) the circumstances under which the County Council of Makueni (Trustee) relinquished ownership of LR. Nos. 12968/1 and 12968/2, commonly known as Kinyoo/Emali in Emali Township to a group calling itself Emali Land Owners Association (EMLA);

(b) whether the group has any legal capacity to stop the Government from constructing a health centre and jua kali sheds under the Economic Stimulus Programme in the town by demanding land compensation; and,

(c) what he is doing to ensure that these projects are implemented without interference.

**The Assistant Minister for Lands (Mr. Rai):** Mr. Speaker, Sir, I apologize for coming late. Nevertheless, I am ready to respond.

**Mr. Speaker:** Proceed!

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

- (a) I am not aware that the County Council of Makueni has relinquished ownership of L.R.Nos.12968 to Emali Land Owners Association. L.R. No.12968 forms part of the extended boundary of Emali Township which is being progressively planned for urban use.
- (b) From the records held in the Ministry of Lands, Emali Land Owners Association does not exist and, therefore, have no legal capacity to stop the Government from constructing a health centre and Jua Kali sheds under Economic Stimulus Programme in Emali Town.
- (c) The Ministry is ready on request from the concerned Ministry's institutions to process ownership documents for the land parcels. The implementing Ministry should, therefore, liaise with the Ministry for assistance.

**Mr. Kiilu:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for clarifying that important issue. Those two projects are very important for the welfare of our people. I would like to thank the Assistant Minister for clarifying that, that land still belongs to the council. There are people who have been in that group and have been collecting Kshs100,000 for every acre that the Government has taken to develop that facility. Could the Assistant Minister order those people to desist from demanding the money on behalf of the Ministry?

**Mr. Rai:** Mr. Speaker, Sir, as far as my records are concerned, the land belongs to the county council. So, if there is anything that is being done, I am ready to assist the Questioner. However, as far as I am concerned, the County Council of Makueni is in charge of that land.

**Mr. Kiilu:** Mr. Speaker, Sir, during the last financial year, the County Council of Makueni displaced some small-scale traders in Emali Town while constructing a bus park. The Assistant Minister has said that they are progressively planning that town. Could he assure this House that the small-scale traders who were displaced while the council was constructing a bus park will be the first people to be settled when that plan is completed?

**Mr. Rai:** Mr. Speaker, Sir, I could give the hon. Member an undertaking from my Ministry. Since the land belongs to the council, if there is anything that he wants my Ministry to do, he can make the request and I will abide by it.

**Mr. Speaker:** Let us move to the next Question. Where is the hon. Member for Gwassi? Is he not here? That Question is dropped.

Question No.292

DEATH OF LORD OUMA LAGO FROM SNAKE  
BITE IN SEKA SUB-LOCATION

*(Question dropped)*

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

**STATEMENTS**

## MINISTERIAL STATEMENT

### KENYANS AFFECTED BY TERRORIST ATTACK IN KAMPALA

**The Minister for Foreign Affairs** (Mr. Wetangula): Thank you, Mr. Speaker, Sir, for giving me an opportunity to revisit a matter that we discussed here yesterday, relating to the unfortunate incident in Uganda.

I informed the House yesterday, based on information from our Embassy in Kampala, that one Kenyan lady called Mueni had been injured in the blast. Information now available indicates that a Kenyan whose names and details had been entered wrongly in the hospital records as a Southern Sudanese has, in fact, been identified as having lost his life in the blast. The next of kin have not been informed but he comes from Webuye Constituency in Bungoma East District. The second Kenyan, whom we are not quite sure of yet, relates to an identity card, half burnt. The only readable name is Khaemba indicating that he probably comes from Western Province of Kenya. Out of the 74 persons dead, we are informed that only two have not been positively identified because the blast was so severe that their heads were decapitated from the torsos. So, we are not sure that the identity card of Khaemba relates to one of the torsos that are yet to be identified through DNA. So, I would like to urge Kenyans, whose relatives are in Uganda, to also get in touch with them and where they are unable, they should reach my Ministry so that we can communicate whatever information is available.

Once again, on behalf of my Ministry and the whole House, all colleagues here, I would wish to extend messages of condolences to the Kenyans who have lost their lives and, of course, to the Ugandan brothers and sisters who have lost their lives in that very sad event.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Thank you Mr. Minister. We are all in concurrence and confirm those condolences.

## POINT OF ORDER

### SALARIES AND ALLOWANCES OF COTU SECRETARY GENERAL AND OTHER OFFICIALS

**Dr. Monda:** Thank you, Mr. Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Labour.

Considering that there are disparities of salaries and allowances for unionisable workers in the country, coupled with the deplorable working conditions in their places of work, I seek a Ministerial Statement from the Minister. In the statement, the Minister should address the following areas:-

- (i) The disparities of salaries and allowances of all the unionisable workers in the country.
- (ii) The Minister should give and tabulate the salaries and allowances of the COTU Secretary-General and other secretary-generals of all the other trade unions, indicating the taxable ones.

- (iii) He should show how the salaries and allowances of the secretary-generals compare with the earnings of the workers that they represent.  
I thank you, Mr. Speaker, Sir.

*[Mr. Speaker left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Deputy Speaker, Sir, on Wednesday 7<sup>th</sup> July, 2010, hon. Letimalo, Member of Parliament for Samburu East---

**Mr. Deputy Speaker:** Order, Mr. Assistant Minister! Hon. Dr. Monda, you have just sought a Ministerial Statement.

**Dr. Monda:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Mr. Minister, I think you are in the wrong place. You will have to address the House from the Dispatch Box. You are a Front Bencher. You are not a Backbencher unless you have resigned.

**The Minister for Forestry and Wildlife** (Dr. Wekesa): Mr. Deputy Speaker, Sir, I take the responsibility to pass the information by Dr. Monda to the Minister for Labour.

**Mr. Deputy Speaker:** Hopefully, in line with the collective responsibility you will have to give an undertaking to the House on when that Ministerial Statement will be ready.

**The Minister for Forestry and Wildlife** (Dr. Wekesa): Mr. Deputy Speaker, Sir, it will be ready next Thursday.

**Mr. Deputy Speaker:** Fair enough!

**Dr. Monda:** Mr. Deputy Speaker, Sir, I seek the indulgence of the Chair and request that the Statement be brought to the House next week on Tuesday.

**Mr. Deputy Speaker:** I think it is fair to give the Minister a little longer time. So, it is directed that it should be issued on Thursday next week.

Next!

#### DELAYED RESULTS OF ANALYSIS

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Deputy Speaker, Sir, the Member of Parliament for Samburu East, hon. Letimalo, rose on a point of order requesting that I table results of analysis of specimen samples taken to the Government Chemist from the late Nakini Lemoyog. I wish to table the results of the postmortem which was conducted on the late Lemoyog. The following body samples were taken to the Government Chemist on 31<sup>st</sup> March, 2010 with a request to ascertain whether there were any corrosive poisons traces on the specimens. Kidney, stomach contents, liver, blood and urine were the samples I am talking about. Postmortem specimens were examined for chemical toxic substances with negative results. The report from the Government Analyst has been forwarded to the doctor who performed the postmortem to give an opinion as to the cause of death and his report is yet to be received by the police.

I wish to lay on the Table the report from the Government Chemist.

*(Mr. Ojode laid the document on the Table)*

**COMMITTEE OF THE WHOLE HOUSE**

*(Order for Committee read)*

*[Mr. Deputy Speaker left the Chair]*

IN THE COMMITTEE

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

THE PREVENTION OF ORGANIZED CRIMES BILL

*(Clauses 2 and 3 agreed to)*

*Clause 4*

**The Minister of State for Provincial Administration and Internal Security**  
(Prof. Saitoti): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 of the Bill be amended in sub-clause (1) by deleting the expressions “one million” and “fourteen years” and substituting therefor the expressions “five million” and “fifteen years” respectively.

During the time of debate, it was felt that the penalty that had actually been provided for this offence was too light.

*(Question of the amendment proposed)*

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

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

*(Clause 4 as amended agreed to)*

*(Clauses 5 and 6 agreed to)*

*Clause 7*

**The Minister of State for Provincial Administration and Internal Security**  
(Prof. Saitoti): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 7 of the Bill be amended-

(a) in paragraph (c) by adding the words “or otherwise knowingly associates with members of such group” at the end thereof;

(b) by deleting paragraph (d).

The main reason why this amendment has been brought up was because of the very strong presentations here that the two aspects of the clause as formulated, would give a leeway to people who are fairly innocent being penalized. This was not the intention of the clause.

*(Question of the amendment proposed)*

*(Question, that the words to be added be added,  
put and agreed to)*

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

*(Clause 7 as amended agreed to)*

**Mr. Maina Kamau:** On a point of order, Mr. Temporary Deputy Chairman, Sir. In today’s Order Paper, the clauses that you are reading are not indicated, unless there is a Supplementary Order Paper.

**The Temporary Deputy Chairman (Prof. Kaloki):** But all that is included in the published Bill. They are there.

*(Clauses 8, 9, 10, 11, 12, 13, 14, 15, 16, 17,  
18, 19, 20 and 21 agreed to)*

*Clause 22*

**The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti):** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 22 of the Bill be amended in sub-clause (1) by inserting the words “on the advice of the Commissioner of Police” immediately before the words “by notice”

Again, this amendment is brought in response to observations by the Members who contributed during the Second Reading of the Bill. They observed that Clause 22 as it stands gives too much discretion of powers to the Minister to declare a group a criminal organized group. Therefore, this is to ensure that the Minister acts on the advice from the Commissioner of Police, who will have carried out investigations complemented by the intelligence sources to ensure that the group that is being declared an organized criminal group is, indeed, an organized criminal group.

*(Question of the amendment proposed)*

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

*(Clause 22 as amended agreed to)*

*(Clauses 23, 24 and 25 agreed to)*

*New Clause*

**Mr. Ochieng:** Mr. Temporarily Deputy Chairman, Sir, I beg to move:-  
THAT, the Bill be amended by inserting the following new clause immediately after Clause 25 Amendment of

**Amendment of  
Cap.114**

**26.** The Firearms Act is amended by inserting the following new section immediately after section 4 - .....

**Offences relating to  
specified firearms**

**4A.** Notwithstanding section 4, any person who –  
(a) is found in possession of any of the specified firearms without a licence or permit or other lawful justification; or  
(b) being licensed to possess, hold, trade in or otherwise have custody of any of the specified firearms, ammunition or parts of such firearm or ammunition hires or otherwise unlawfully permits another person to take possession of or use that firearm or ammunition to advance the course of organized criminal activity, commits an offence under this Act and is liable to imprisonment for life.

(2) For the purposes of this section, “specified firearm” means any of the following firearms-

- (a) AK 47;
- (b) G3;
- (c) MP5; and

(d) such other similar firearm as may be specified by the Minister by order published in the Gazette.

(3) A court before which an offence under subsection (1) is found to have been committed may order the forfeiture to the State of any firearms, ammunition or other parts produced as exhibits in the trial.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

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

*(The new clause was read a Second Time)*

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

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Minister of State for Provincial Administration and Internal Security**  
(Prof. George Saitoti): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Prevention of Organized Crimes Bill and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## **CONSIDERATION OF REPORT AND THIRD READING**

### **THE PREVENTION OF ORGANIZED CRIMES BILL**

**Mrs. Shabesh:** Mr. Temporary Deputy Speaker, Sir, a Committee of the Whole House has considered the Prevention of Organized Crimes Bill and has reported the same to the House with amendments.

**The Minister of State for Provincial Administration and Internal Security**  
(Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode) seconded.

*(Question proposed)*

*(Question put and agreed to)*



**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Prevention of Organized Crimes Bill be now read the Third Time.

**The Minister for Forestry and Wildlife** (Dr. Wekesa) seconded.

*(Question proposed)*

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I just want to thank my colleagues for having considered this very important Bill. Once this Bill is assented to, we are thinking of reducing criminal activities in this country by 70 per cent. We are saying this because the New Clause 26 bars any citizen from hiring guns. For those who have licences to carry guns like the automatic rifles they will not be giving out their guns for hire. In the same note, those who have guns, especially the automatic rifles, and work with the forces but hire them out, their days are numbered because they will be arrested. This Bill together with the Penal Code Bill and the Money Laundering Bill are enough to apprehend and arrest those who want to commit crime. I also urge the Vice-President and Minister for Home Affairs to make sure that he expands prisons because I know for sure that those who will be found with illegal guns will be arrested and imprisoned for life.

With those few remarks, I beg to support.

*(Question put and agreed to)*

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members Order No. 9 was dealt with in the morning session and now we move to the next Order.

Next Order!

DEFERMENT OF THE WILDLIFE (CONSERVATION  
AND MANAGEMENT (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, on Order No. 10, there are some negotiations that are going on between the Minister and the Mover of the Bill. So those negotiations are still going on and when they are finalized, the Bill will be brought to this House.

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Prof. Kaloki): There being no other business to transact, the House stands adjourned until tomorrow, Thursday, July 15, 2010 at 2.30 p.m.

The House rose at 4.15 p.m.