

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 31st March, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:

The Financial Statement of the Municipal Council of Garissa for the year ended 30th June, 2008 and the certificate thereon by the Controller and Auditor-General.

The Financial Statement of the County Council of Maragwa for the year ended 30th June, 2008 and the certificate thereon by the Controller and Auditor-General.

The Financial Statements of the County Council of Tharaka for the two years ended 30th June, 2007 and 30th June, 2008 and the certificate thereon by the Controller and Auditor-General.

The Financial Statement of the County Council of Marsabit for the year ended 30th June, 2008 and the certificate thereon by the Controller and Auditor-General.

The Financial Statement of the County Council of Kitui for the year ended 30th June, 2008 and the certificate thereon by the Controller and Auditor-General.

The Financial Statement of the County Council of Nyambene for the year ended 30th June, 2008 and the certificate thereon by the Controller and Auditor-General.

The Financial Statement of the County Council of Meru Central for the year ended 30th June, 2008 and the certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Meru Central for the years ended 30th June, 2004 and 30th June, 2005 and the certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Meru Central for the year ended 30th June, 2003 and the certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Mbeere for the year ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Information and Communications
(Mr. Khaniri) on behalf of the Deputy Prime Minister
and Minister for Local Government)*

QUESTION BY PRIVATE NOTICE

Mr. Speaker: Hon. Members, we will take the Questions directed to the Minister of State for Provincial Administration and Internal Security last because the Minister is engaged

elsewhere and is on his way to Parliament. We expect that he would have arrived by the time we have gone through the rest.

ORAL ANSWERS TO QUESTIONS

Question No.773

FAILURE TO ACCESS LOANS FROM VIHIGA TRADE DEVELOPMENT JOINT LOANS BOARD

Mr. Speaker: Member for Vihiga! Perhaps under the notion that his Question will come after the one by Private Notice and two others, the Member for Vihiga is not here. We will give him the benefit of the doubt.

Question No.749

SETTING UP OF INDUSTRIES IN KISII COUNTY

Mr. Speaker: Member for Nyaribari Chache! Maybe, the same circumstances would apply.

Question No.400

STAFF ESTABLISHMENT AT BURA/HOLA IRRIGATION SCHEMES

Mr. Speaker: Member for Bura! It could be the same reason.

Question No.592

FAILURE TO PROMOTE TEACHERS

Mr. Kioni asked the Minister for Education:-

(a) Why the Teachers' Service Commission (TSC) failed to promote 123 teachers to Job Group H i.e. ATS IV (78 from Nyandarua, 20 from Thika and 25 from Machakos) as per circular No.DPM/PA/4/41/ VOL 2 (79) dated 5th July, 1996;

(b) What the official remuneration package for this Grade is; and,

(c) What urgent measures the Minister is taking to address the apparent discrimination.

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

(a) The letter referenced DPM/PA/4/41/ VOL 2 (79) dated 5th July, 1996 was for the scheme of service for non-graduate teachers and not approved teachers; that is, ATS IV. As per the scheme, S1 teachers who were promoted from P1 would convert to ATS IV in Job Group H. Thus for the P1 teachers to be promoted to ATS IV, Job Group H, they were required to pass Teachers Proficiency Examination No.2.

(b) The remuneration for ATS IV, Job Group H is as follows: Salary scale, Kshs16,260 by 435 to Kshs19,305 by 442 to Kshs19,947 per month; House Allowance, Kshs3,000; Medical Allowance, Kshs1,157; and, Commuter Allowance, Kshs1,181.

(c) There is no discrimination for ATS IV, Job Group H teachers. The P1 teachers who did not qualify for the long-service promotion to ATS IV are required to undergo the Teachers Proficiency Course for promotion to ATS IV. The 123 teachers should provide their documents for records verification. If they did not get their rightful promotion, then the Ministry will act accordingly to give them their promotion.

Mr. Kioni: Mr. Speaker, Sir, I want to thank the Assistant Minister for the answer. However, have these people been invited to take the Teachers Proficiency Examination II? What does one need to for one, to sit that examination?

Prof. Olweny: Mr. Speaker, Sir, that was quite some time back, but they have to be teachers. They have to belong to their rightful grade. There is some money that they used to pay only that I do not remember the right amount. I am sorry for that, Mr. Speaker, Sir. That is all they need. If they pass the examination, they get the promotion. It is as simple as that.

Mr. Koech: Mr. Speaker, Sir, most of the teachers in this grade are supposed to have retired if we did not push the retirement age to 60 years. The Assistant Minister has indicated that he expects the 123 teachers to provide their documents for verification. I expect the TSC to have all these records. If they do not have them, what are they doing to ensure that all teachers in Kenya faced with the same matter actually provide all the documents and that they undergo the Teachers Proficiency Course for promotion so that they are not left out?

Prof. Olweny: Mr. Speaker, Sir, this issue was raised about 20 years ago. Of course, some of them could be retired by now. I said that if they provide us with their documents, we shall even promote them in retirement and give them their dues which they missed during that time.

Mr. Mwangi: Mr. Speaker, Sir, according to the Question, a circular was issued in 1996. Could the Assistant Minister give another circular for the purpose of those who have not already received the information? They need to get the information and then the TSC can take up the matter and pay arrears to the teachers who have since retired, but had attained the required certificates.

Prof. Olweny: Mr. Speaker, Sir, when teachers feel that they are missing out on some of their rights, they always come forward to provide their documents and TSC acts accordingly. This is a case of 123 teachers. If there is any teacher outside there who missed out on this, I have said that they should come forward and we shall handle this matter. Here, we have hon. Members representing these teachers. If you know of any teacher who deserves this, please, let them come forward.

Mr. Kioni: Mr. Speaker, Sir, the Assistant Minister's answer seems to imply that all the teachers in Nyandarua, Thika and Machakos would have benefitted from this arrangement. Could he confirm to us that we do not have cases pending in this area? Even as we go telling these teachers to provide documentation, by the time they come to us seeking our intervention, certainly, they would have had difficulties with the Ministry. These 123 teachers have given their documents to the Ministry but the answer seems to imply that there are no such cases. Could the Assistant Minister come out clear and tell us whether we have anything pending in Nyandarua, Thika or Machakos?

Prof. Olweny: Mr. Speaker, Sir, it will be difficult for me to know, unless someone brings the information forward. After all, this is almost 20 years ago. Most teachers who have

been due for promotion have been promoted. Any of them that misses out goes to TSC and gets the case sorted out. They also have a very vibrant union representing them in case a teacher does not get what is due to him or her in terms of promotion or remuneration. The KNUT and KUPPET champion the rights of teachers. As I have said, in case there is any teacher outside there that missed out on this, let them come forward and we shall handle it.

Question No.773

FAILURE TO ACCESS LOANS FROM VTDJLB IN VIHIGA

Mr. Chanzu to asked the Minister for Trade:-

(a) whether he aware that small scale traders in Vihiga District have not been able to access loans from the Vihiga Trade Development Joint Loans Board for the last seven (7) months; and,

(b) when he will gazette the persons nominated to the Board so as to facilitate the processing of loans to applicants.

Mr. Speaker, Sir, I would like to apologize for coming late.

The Minister for Trade (Mr. Mwakwere): Mr. Speaker, Sir, I beg to reply.

(a) It is true that small scale traders in Vihiga District could not access loans from Vihiga Trade Development Joint Loans Board (VTDJLB) for seven months up to February 2011. This was occasioned by the fact that the Board's term expired in July 2010 yet vetting and other necessary formalities for identifying suitable members took longer than anticipated and we apologize for that.

(b) The gazette of the new members was done on 4th February 2011 vide Gazette Notice No.1517 to serve for a period of three years. The VTDJLB held its meeting on 17th March 2011 at which applications for loans were processed.

Mr. Chanzu: Mr. Speaker, Sir, I want to thank the Minister for the answer, although I would expect that the Ministry should have been ahead to notify those traders and the committee in place. Today, I just received a message that the matter was suspended again. What is the Ministry doing to fast-track this, because it appears that the Board meeting that was to take place on 17th did not take place? What steps are you taking and the assurance you can give that this can be fast-tracked so that they can benefit from the money which is lying there?

Mr. Mwakwere: Mr. Speaker, Sir, we will wait, and I think this will be brought to our attention by the District Joint Loans Board. They will also indicate in their notice if the meeting did not take place. As to when they will meet, because it is mandatory that they meet, I will look into that and I can assure the hon. Member that there will be no delay; they will meet very soon.

Mr. Linturi: Mr. Speaker, Sir, time is a resource that most people are really not able to quantify. In this case, the Minister should have known in good time that the Board was due to expire by the seventh month of the last year. Why is it that the Ministry did not start the process of identifying and vetting the board members in good time so that those young business people who benefit or borrow money from that institution really do not have to suffer by waiting for over seven months before they agree to give them loans?

Mr. Mwakwere: Mr. Speaker, Sir, the process of identifying members of the board requires that they are vetted by different organs of the State, and secondly, they must be willing to serve because it is more or less a voluntary responsibility. In some cases, we have had problems of getting volunteers. I call them volunteers even though they are given a seating

allowance of Kshs1, 800 whenever they are called to sit. It has not been easy in some places to get volunteers. Once somebody volunteers, the vetting process is instituted because this is public money and it must be managed properly.

Mr. Wambugu: Mr. Speaker, Sir, I believe this programme of a joint loans board is quite a good programme that can help *wananchi* advance their businesses. I am a bit worried because some of these programmes are not known to *wananchi*. What measures is the Minister taking to sensitize traders in all the districts, especially Mathioya so that people can be aware that there exists a programme like this one?

Mr. Mwakwere: Mr. Speaker, Sir, I am surprised to learn that the existence of this programme in the country is not known. This programme was started way back in 1954, most likely before my colleague hon. Member was born. I have just learnt that it is not known that the programme exists. I undertake to sensitize every county of the availability of these funds. I had every confidence that this was not an issue for sensitization, having been in existence since 1954. But I will take responsibility of ensuring that every county will get details of how much their zones are awarded every year for the committee to lend to traders as a revolving fund.

Mr. Njuguna: Mr. Speaker, Sir, while thanking the Minister for offering a very appropriate answer for this situation, could he indicate to this House the kind of action he intends to take against the inefficient officers who failed to execute this very important process?

Mr. Mwakwere: Mr. Speaker, Sir, I have no records anywhere of my officers having failed to execute this important responsibility. If there is any situation that needs my attention, I will be very pleased to take immediate action once I get details from any Member concerned.

Mr. Chanzu: Mr. Speaker, Sir, the answer the Minister has given to the question that was asked by Mr. Linturi and what he has just said shows that it is the Government which is not working well enough. It is the policy of Government to create employment in the rural areas. This is also envisaged in the Vision 2030. These are the kind of things that we require. So, if you say that this has been there from 1954 to now and that those who are serving are doing voluntary work, yet there must be an inbuilt component in the money that is given out for administrative charges which these people should be paying. In Vihiga District, there are very many people who are willing to work.

I would like the Minister to give us assurance in this House that he is going to put this board in place next week because the money is there. The question of waiting for the officer to call you should be something of the past. Could you ensure that you talk to the officer there so that the board can be constituted for the money to be given out from next week? It is now ten months since the board ceased to exist.

Mr. Mwakwere: Mr. Speaker, Sir, I would like to assure the hon. Member that Vihiga District has been executing this programme efficiently over all these years. The only handicap was for the last seven months, between July last year and February this year. This is the end of March and we have rectified the situation. We have board members appointed and the officer is working towards the processing of all the applications. It is not a cause of worry for Vihiga District. We are doing the right thing and so far, I do not have any issue to raise with my officers or the board. The delay was the constitution of the board. We have put it together and everything will move smoothly henceforth.

(Mr. Chanzu moved to the microphone)

Mr. Speaker: Order, the Member for Vihiga! That is not the way to do it. You must catch my eye before you move to the microphone. You cannot be laughing about that because it is a serious matter!

Mr. Chanzu: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it?

Mr. Chanzu: Mr. Speaker, Sir, the answer the Minister has given here talks about the meeting to be held on 17th March. He is vague in his answer. I want an assurance from the Minister that this can be put in place by next week. Is he in order to avoid answering this question, because 17th March has already passed?

Mr. Speaker: Order! You have made your point.

Yes, Minister?

Mr. Mwakwere: Mr. Speaker, Sir, as far as my records show, the meeting was held on 17th March and it was attended by the people I will mention. I just want to put the record straight for the hon. Member to see. The meeting was attended by Mr. Billy Elias Nyonje - Chairman; the District Commissioner - *ex-officio* member; the District Trade Development Officer, Vihiga - Secretary; Mrs. Grace Gwasi---

Mr. Chanzu: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Chanzu! Please, relax. Give the Minister an opportunity to answer you!

Mr. Mwakwere: Mr. Speaker, Sir, the Chairman of the Kenya National Chamber of Commerce and Industry, Vihiga Branch also attended that meeting. This is not the only meeting they will hold this year. There will be a series of meetings and they will deliberate on the applications for loans for Vihiga.

Mr. Chanzu: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it the Member for Vihiga?

Mr. Chanzu: Mr. Speaker, Sir, I think the Minister is taking a very long route to answer the question. I was not asking for the names of the people who attended the meeting, but I was asking when they can start drawing the money because it has been there from July, last year. That is what I was asking and not who attended the meeting.

Mr. Mwakwere: Immediately, Mr. Speaker, Sir.

Mr. Speaker: Very well!

Question by the Member for Kisumu Town East!

Question No. 772

DISMISSAL OF MAURICE
W. SIMIYU FROM POLICE FORCE

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

(a) why Mr. Maurice W. Simiyu (P/F No. 27377) was dismissed from the Police Force on 10th March, 1988;

(b) whether he is aware that the man was acquitted of the offence he had been charged with on 31st October, 1988; and,

(c) why he has not been paid his pension and other benefits and when he will be paid.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, first of all, I apologize for coming in late, but with your authority, you will remember that I asked for permission. I had another function in Naivasha and I came straight to Nairobi after opening the function.

Mr. Speaker: Mr. Assistant Minister, that is already on record.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Thank you, Mr. Speaker, Sir,

I beg to reply.

(a) Mr. Maurice W. Simiyu, who was a constable at the time of his dismissal was based at Miwani Police Station. He was transferred to the Traffic Headquarters in Nairobi on 3rd February, 1988 and failed to report even after being released from his previous station. Instead he opted to disappear. He was declared a deserter after the expiry of 21 days that is on 25th February, 1988 and subsequently, arrested on 8th March, 1988 and charged before the Resident Magistrate Court, Kisumu with the offence of being a deserter from the Police Force, contrary to Section 41/3 of the Police Act, Cap. 84 of the Laws of Kenya.

Similarly, he was dealt with departmentally and charged with two counts in orderly room proceedings. The first one was willfully disobeying a lawful command contrary to Section 3/8 of the Police Regulations and secondly, absenting himself without leave contrary to Section 3/9 of the Police Regulations.

Mr. Speaker, Sir, when he was called upon to plead to the charges against discipline by the presiding officer he refused claiming that he had been acquitted by the court. The disciplinary proceedings went on in absentia as provided for by the Standing Force Orders and he was found guilty, convicted and sentenced with dismissal from the police with effect from 15th June, 1989. He was given the right to appeal to the Commissioner of Police within seven days. The appeal was later disallowed by the appellate board on the grounds that the two counts of indiscipline were serious and did not amount to double jeopardy.

(b) I am aware. However, it is not double jeopardy to undergo internal disciplinary process after answering two criminal charges.

(c) The ex-officer does not qualify for retirement pension since he was dismissed from the force. However, he will be paid a refund for the Widows and Children's Pension Scheme, which he contributed while in service. The delay to repay the refund was occasioned by delay in forwarding the requisite documents and the numerous appeals he launched through his lawyers.

Mr. Shakeel: Thank you, Mr. Speaker, Sir. The Assistant Minister has replied, but this gentleman was charged on 8th February, 1988. The court acquitted him of all the charges, including that of being a deserter and willfully disobeying a lawful order and absenting himself without leave. The court was provided with a sick leave order which was sent to Nairobi. On the basis of the sick leave order the court acquitted that officer on all counts. As such, I am wondering whether the police can ignore the court order when the man has been acquitted on all the counts. How come the Assistant Minister charges him on the counts for which a court in this country has acquitted him?

Mr. Ojode: Mr. Speaker, Sir, you know we are dealing with a disciplined force. This is not just an ordinary department within the Government. This is a disciplined force where you are required to take a sick leave when you want to go to hospital. You do not do it the other way round. You are allowed to go and take a sick leave in order for your boss to know where you are going and give you time limit. It is the other way round. This gentleman was transferred---

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. The Assistant Minister is not answering the question. When the court of this land has acquitted the gentleman on all counts that the Assistant Minister charged him with, is he saying that the police is over and above the court?

Mr. Speaker: Order! The Assistant Minister is, indeed, answering you!

Mr. Shakeel: Mr. Speaker, Sir, he is claiming that the police---

Mr. Speaker: Order, the Member for Kisumu Town East!

Mr. Ojode: Mr. Speaker, Sir, if he can wait and hear from the Assistant Minister, he will be a gentleman and a half today.

However, let me say that this is not an ordinary department within the Government. This is a disciplined force. When this gentleman was transferred from wherever he was to the headquarters in Nairobi, he never showed up.

(Mr. Shakeel consulted loudly)

I want the hon. Member to listen to the Assistant Minister so that he can ask me questions!

(Laughter)

Mr. Speaker, Sir, when we transferred that police officer to the headquarters in Nairobi, he never showed up or reported to his work. When something like that happens, our procedure is for us to look for you and arrest you. The guy was arrested. After being arrested, we proceeded with our requirements and that is exactly what we did. Later on, upon realizing that we were looking for him to be arrested, because he knew the procedures, he went to court and got acquitted on those charges. However, we had to follow our regulations. That is not done to one individual. That is the procedure! The only thing I can do to this gentleman is to pay him the Widows and Children's Pension because he is not entitled to normal pension. We had been looking for him and he did not want to work. What do I do?

Mr. Mbadi: Mr. Speaker, Sir, it is a bit interesting that the Assistant Minister says this gentleman took himself to court, charged himself, and then got acquitted. Yes, this is a disciplined force. What procedures does he have, especially in cases where his senior officers or supervisors, for that matter, decide to be indisciplined and use other extraneous factors to purportedly discipline officers with whom they may have personal differences and which are totally not related to the work?

Mr. Ojode: Mr. Speaker, Sir, let me give my colleagues one example. Upon realizing that I might delay to attend to Parliament matters, I had to write a letter in order for you to allow me to be late, which you did very well. At any time you want to leave, you have to inform your bosses that you are going somewhere.

Mr. Olago: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Minister to use the Chair of this House as an example of what he wants to say? It is undignified.

Mr. Speaker: Order! It is in order. The Assistant Minister is demonstrating what discipline entails. It is relevant!

Proceed, Mr. Assistant Minister!

(Applause)

Mr. Ojode: So, Mr. Speaker, Sir, it is not true that senior officers can take any opportunity to discipline their juniors. The law within the police force is quite clear. The officers know very well that if they want to take leave, there is a procedure to follow. They even know that if they do not follow that procedure, they bear consequences. There are procedures to be followed to discipline an officer. So, the Commissioner is perfectly right to discipline this particular officer in this manner.

Mr. Speaker: Member for Kisumu Town East!

Mr. Shakeel: Mr. Speaker, Sir, could I ask my colleague, Member of Parliament for Kisumu Town West to take this opportunity?

Mr. Speaker: Yes, you are at liberty to donate your opportunity to him to ask the question.

Mr. Shakeel: Mr. Speaker, Sir, I wish to donate my chance to him.

Mr. Ojode: Mr. Speaker, Sir, the hon. Assistant Minister must be aware that police orderly room proceedings are not judicial proceedings. They are subordinate to judicial proceedings. Police orderly room proceedings are presided over by the immediate senior of the police officers; most of the time, the Officer Commanding Station (OCS) or the Officer Commanding Police Division (OCPD), the same persons who offer to charge the same police officer. In the past, it has been a process that has been misused to suppress junior officers by their seniors.

Under these circumstances, if the police were aware that they were opting to charge this police officer, P.C Simiyu with criminal offences, they should have decided to take one course of action, not two. They should not have a double bite at the cherry by having acquitted and then charging him again under police orderly room proceedings.

Mr. Speaker, Sir, under the circumstances, was it in order for the police to charge this man afresh after he had been acquitted by the court, thereby putting him in double jeopardy?

Mr. Ojode: Mr. Speaker, Sir, yes. We are following our own rules. That is why I was sharing with my colleagues that this is not just an ordinary department. This is a disciplined department, where officers must adhere to the rules of the law. Even if he never decided to go to court, we would have still arrested him and taken him to court. That is exactly what we did.

Mr. Speaker, Sir, if there is any other evidence because---

Mr. Shakeel: On a point of order, Mr. Speaker, Sir.

Mr. Ojode: You cannot stand on a point of order when I am still replying---

Mr. Speaker: Order! Order, Mr. Assistant Minister!

Mr. Shakeel: Mr. Speaker, Sir, is the Assistant Minister right to continuously say that the man took himself to court? It is very clear even from your answer that you are the ones who arrested him, took him to court and charged him. Why are you misleading us now that he went to court himself?

Mr. Ojode: Mr. Speaker, Sir, he did not hear what I was saying. What I said is that even if he took himself to court, we would still discipline him following the procedures and our regulations. That is the law within the disciplined forces.

Mr. Speaker: Very well, Mr. Assistant Minister.

QUESTION BY PRIVATE NOTICE

ENFORCEMENT OF EVICTION ORDERS

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

(a) Why have the police not enforced the eviction orders against Messrs. Hakar Abshir, Abdullahi Ibrahim Gare, Shaye Abdi Kusow and Sambul Ali Bulugho to vacate Plot No. 272 within Garissa Municipality, issued pursuant to Garissa PMCC No. 18 of 2005 and Criminal Case No. 693 of 2007 at the Garissa Principal Magistrate's Court?

(b) What disciplinary actions will the Ministry take against the officers who have failed to enforce the orders?

(c) When will the order be enforced and the plot reverted to the rightful owner?

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

(a) The police have not been served with any court or eviction order against Messrs. Hakar Abshir and others for reinforcement pursuant to Civil Case No. Garissa PMCC No. 18 of 2005 and Criminal Case No. 693 of 2007.

(b) The Minister will not take any disciplinary action against police officers since they were not served with any order to execute.

(c) When the order will be presented to the police, I want to assure this House that appropriate action will be taken.

Mrs. Noor: Mr. Speaker, Sir, it is unfortunate that I get this kind of answer from the Assistant Minister. The case in point is about an 80 year old man whose case was ruled in his favour for three times by the court. He went to the police station three times. I have court orders here with me. The police were not able to help him.

In addition, in 2006, hon. M.Y. Haji wrote to the District Commissioner on the same subject requiring law and order to be maintained so that this person can be served and justice can be done to this old man, who is very poor. He lives in Garissa.

I beg to lay these documents on the Floor of the House.

(Mrs. Noor laid the documents on the Table)

Mr. Speaker: What is the question?

Mrs. Noor: Mr. Speaker, Sir, personally, I went to the police station and talked to the Provincial Police Officer (PPO) about this matter. He told me that he would enforce this order, but he did not do so. So, is the Assistant Minister in order to mislead this House that the police were not served and the DC does not know about this matter?

Mr. Ojode: Mr. Speaker, Sir, if you look at the so-called Civil Suit No.18 of 2005, I agree with my police officers. It is not shown anywhere that they were served. There is no copy which was given to the police. Under those circumstances, the only thing I can do is to ask hon. Noor to come to my office, so that we see a way of helping this old man. Where police are not served directly, it becomes very difficult for them to enforce the law. There are cases where the police are given copies for them to enforce the law, but on this particular one, I have not seen any paper which shows that---

(Mrs. Noor stood up in her place)

Mr. Speaker: Order, hon. Noor! Please, relax you still have one more opportunity to ask yet another question.

Mr. Ojode: Mr. Speaker, Sir, I think we will share with you also on this particular one.

Mr. C. Kilonzo: Mr. Speaker, Sir, this matter has been known to the Government for a long time. In 2006, the Member of Parliament, Mr. M.Y. Haji, who is the current Minister of State for Defence wrote a letter, which was addressed to the then DC, Garissa. It says:

“The plot of the above person has been forcefully occupied by some people”.

Then he says down here that he is requesting the DC to take action to ensure that law and order are observed. He then says as follows:-

“I will hate to raise this matter in Parliament having been myself a Provincial Administrator.”

Mr. Speaker, Sir, I am just curious. This matter is known to the Government. The Provincial Administration and Kenya Police know the matter. So can he come out very clearly, what is it that he does not understand?

Mr. Ojode: Mr. Speaker, Sir, in a case of this nature, you cannot just assume. You have to go by what comes from the court. If the court orders the enforcement of the law, the good thing is that you are a lawyer and you know that the court must give you the orders to enforce the law. In this circumstance, there are no papers at all, ordering the police officers to enforce that law.

Mrs. Noor: Mr. Speaker, Sir, I have a court order addressed to the OCS, Garissa Police Station, ordering him to---

Mr. Speaker: Order, hon. Noor! I have asked you to relax. Do you have evidence of service in your possession?

Mrs. Noor: Yes, Mr. Speaker, Sir. It is here.

(Mrs. Noor laid the document on the Table)

Mr. Ojode: Mr. Speaker, Sir, getting the document and serving it are two different things. If you look at what has been tabled here, there is no evidence to show that this particular order was served.

Mr. Speaker: Can I look at it?

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Member for Yatta! Let me have time to look at this document.

(Mr. Speaker perused the document)

Order, hon. Members! I see, yes, that there is an order directed to the OCS, Garissa Police Station, which requires him to take action to remove a person from a plot, but I see no evidence of service of this order. I am afraid, I cannot rule that it has been served.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Member for Yatta! Even if you want to catch the Speaker’s eye, you do not have to engage yourself in theatrics. What is it?

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. The year 2006 is a long time ago. The Assistant Minister belongs to a party which promised “*maisha bora*” to the citizens of this country. Rather than committing himself to investigate the matter, he has become defensive. Is he in order to deny this old man the *maisha bora*, which his own party promised him?

Mr. Ojode: Mr. Speaker, Sir, that is true, but on the same vein, *maisha bora* cannot be in vacuum. The Member, who is a Lands Surveyor, is a very good friend of mine and he knows

very well that we have to follow the law. That is why I was extending my invitation to the hon. Questioner to come to my office, so that I can see how we can help her. Without serving the police officers, it is not possible for the police to know that there was a court case and they are required to do certain things.

Mrs. Noor: Mr. Speaker, Sir, I have mentioned here that I have personally gone to the police, the PPO and the OCS with this document. If the police are going to lie like this to the Assistant Minister---

Mr. Speaker: Order, hon. Noor!

Mrs. Noor: Mr. Speaker, Sir, I am sorry to mislead---

Mr. Speaker: Order! Please, resume your seat! Refrain yourself from using very strong language because it may not be warranted in these circumstances. The formality for enforcement of a court order is that the person who is being called upon to enforce it must be served. So, there must be evidence of service and evidence of service will entail things such as showing when this order was taken to the police station and being stamped by the police station that it has been received. Even you, when you took that order to the police officer, you should have got him, even if he did not have a stamp, to sign back acknowledging receipt or getting an affidavit from somebody that they served the police officer. Otherwise, you are labouring in vain. We have a lot of sympathy for this citizen, but you must comply with the formalities of the law, namely, the due process, otherwise, you will be subscribing to what you people popularly refer to as impunity and that is not helpful. It will not get us to any place. So, please, allow the matter to rest there. Go and tidy your steps. Serve the order and engage the Assistant Minister.

ORAL ANSWERS TO QUESTIONS

Question No. 770

INTERDICTION OF CHIEF/ASSISTANT CHIEF IN EMALI

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

(a) whether he is aware that the Chief of Emali Location and the Assistant Chief of Emali Sub-location have been under interdiction for the last two and half years;

(b) the reasons for the interdiction ; and,

(c) what steps he is taking to ensure that the cases involving the officers are concluded.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, you are aware that I have just arrived.

Mr. Speaker: Yes, I am.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, this particular Question was supposed to be answered by my colleague, hon. Lesrima, but it looks like he is busy somewhere else. If I had the answer here, I would have answered it.

Mr. Speaker: Order, hon. Members! In the meantime, we will, so as to save time, move to the next Question.

Question No. 749

SETTING UP OF INDUSTRIES IN KISII COUNTY

Dr. Monda asked the Minister for Industrialization whether he could appraise the House on the progress made in setting up industries for soapstone, sugar and bananas in Kisii County.

Mr. Speaker: Minister for Industrialization! Leader of Government Business!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, we have word from the Minister that he would wish to request that this Question be deferred until Tuesday, 5th April, 2011, so that he can be able to deal with it. This came through the Office of the Leader of Government Business.

Mr. Speaker: Dr. Monda, are you comfortable with that?

Dr. Monda: Mr. Speaker, Sir, the Question was on the Order Paper yesterday and by the request of the Minister, it was scheduled for this afternoon and that second rescheduling has not been communicated to me.

Mr. Speaker: Leader of Government Business, your Minister committed himself to answer this Question today. So it is by his action that the Question is on the Order Paper today.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg the Chair's indulgence because the Minister has written to my office asking that this Question be handled this way. I would just want to plead with my friend, Dr. Monda, to give him the very last chance. It is now in writing that he wishes the Question to be dealt with on Tuesday, 5th April, 2011. It could very well be that the Minister was not able to get all the facts right.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. If the Minister was present here yesterday and committed himself to answer the Question today and the Chair directed so, is he in order if he feels he cannot answer it today, to seek permission from the Leader of Government Business or he should have addressed the letter to the Speaker's Office?

Mr. Speaker: Order, Member for Gwassi! I think sometimes it is good to be accommodating, particularly when the Leader of Government Business commits himself to what he considers a rational explanation. We do not have to be cynical and sarcastic about every situation. So, I order that this Question appears on the Order Paper on Tuesday next week at 2.30 p.m.

(Question deferred)

Question No.400

STAFF ESTABLISHMENT AT BURA/HOLA IRRIGATION SCHEMES

Dr. Nuh asked the Minister for Water and Irrigation:-

(a) whether she could provide a list of staff establishment at Bura and Hola Irrigation Schemes, indicating their respective details, departments, terms of service and date of employment; and,

(b) whether she could also provide the details of all workers who have retired from the schemes in the last 5 years and indicate whether or not they have been paid their respective retirement benefits.

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

(a) I have provided a list of the staff establishment for both Bura and Hola irrigation schemes, indicating their names, designation, job group, year of birth, sex and terms of service in Annex 1.

(b) In the last five years, no staff member has retired from the scheme.

Dr. Nuh: Mr. Speaker, Sir, I want to seek your indulgence because this answer was handed over to me only a few minutes ago, and it has a list which I ought to go through. As per the Standing Orders, for me to interrogate this matter fully, I wish that the Question be deferred to Tuesday, because the Minister delayed with the answer.

Mr. Speaker: Can you be able to go through it and be ready by Tuesday, next week?

Dr. Nuh: Tuesday will be fine, Mr. Speaker, Sir.

Mr. Speaker: Minister, are you comfortable with that?

Mrs. Ngilu: Mr. Speaker, Sir, could he repeat what he said?

Mr. Speaker: The hon. Member said that he has just received the answer, and it has details he is unable to acquaint himself with at short notice. So, he requires some time to prepare to ask you questions.

Mrs. Ngilu: Mr. Speaker, Sir, if you look at the number of people we have employed, you will realise that the list is not long.

Mr. Speaker: Yes, Minister, by your standards; but your standards may not necessarily be the same as those of the hon. Member.

Minister, will you be here at 2.30 p.m., on Tuesday?

Mrs. Ngilu: Yes, Mr. Speaker, Sir. I will be here, but let me just tell the hon. Member that there is something I have just detected from the answer, which he may not have detected so far. I have looked at the number of people employed in this scheme and, quite honestly, I am very disappointed because most of them are male. There are only about three or so female employed. This is something for which I need more time to find out why. So, maybe, we can do it next week, on Thursday.

Mr. Speaker: So, by mutual agreement, the Question is deferred to Tuesday, at 2.30 p.m.

Mrs. Ngilu: Mr. Speaker, Sir, let me answer it on Thursday.

Mr. Speaker: Member for Bura, will you be here on Thursday?

(Dr. Nuh stood up in his place)

Dr. Nuh, please, just address yourself to that request! Be here on Thursday!

Dr. Nuh: Mr. Speaker, Sir, I will be here, but I want to raise a matter of procedure because we do not want to have a tug of war between the Executive and Members of the Back-Bench. In many instances, I have complained about this. Answers are supplied to us in the Chamber when proceedings are going on. The Standing Orders are very clear that Members of Parliament are supposed to be supplied with the answers well in advance in order for us to be able to interrogate matters. So, it is unfair for the Executive to always ambush us with answers.

Mr. Speaker: Very well, Dr. Nuh! You have made your point. The Leader of Government Business, as a matter of fact, has taken note. So, I am sure, that will be rectified.

(Question deferred)

Mr. Speaker: Next Question, Member for Maragwa!

Question No.652

TENSION IN MAKUYU DIVISION

Mr. Wambugu, on behalf of **Mr. Mbau**, asked the Minister for Roads:-

(a) whether he is aware of the heightening tension between residents of Kangangu Sub-location in Makuyu Division and Kakuzi Limited on account of an access road to the main Thika-Nyeri Highway; and,

(b) what measures the Government will take to ensure that the company does not deny the residents use of the access road.

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

(a) I am aware that the residents of Kangangu are demanding an access road through Kakuzi Limited property, which is a rather shorter distance to the main road, and will save them a total of 15 kilometres' walk.

(b) It should be noted that the access road in question is inside a private property. Nevertheless, my Ministry, through the Provincial Administration and the local residents, has been in discussions with Kakuzi Limited with a view to acquiring 1.5 hectares of land for the access road. In the meantime, Kakuzi Limited has allowed human traffic and bicycles through the farm. This must remain the case until such a time when we have completed the acquisition of the access road.

Thank you, Mr. Speaker, Sir.

Mr. Wambugu: Mr. Speaker, Sir, I would like to thank the Assistant Minister for the answer he has given.

Mr. Speaker, Sir, this community has been land-locked for the last 40 years. They have not been having access to the main road since Independence. How much longer is it going to take the Assistant Minister to access the 1.5 hectares of land, so that *wananchi* can be able to access the main road? There are other underlying issues. When members of this community get sick, they cannot take their people to hospital on bicycles. When is this process going to be completed?

Mr. Kinyanjui: Mr. Speaker, Sir, the records we have date back to the year 2006, when we had official communication between the management of Kakuzi Limited and the Members of Parliament, together with the community. Since then, we have seen steady progress and I believe that before long, we should be able to get to some conclusion on this matter. However, it would be inaccurate to claim that the community is land-locked when they have access although they are not able to use vehicles. I cannot be able to give a definite date, but I want to assure the hon. Member that we are prioritising this matter.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Last Question, Mr. Wambugu!

Mr. Wambugu: Mr. Speaker, Sir, I am satisfied but, from the Question, the Assistant Minister should know that there is a lot of tension within that area. What other measures will they be taking, so that this situation does not aggravate to almost a riot of some kind within that area?

Mr. Kinyanjui: Mr. Speaker, Sir, we expect that the leaders from this particular area will be able to talk with the people around there, as has been the case in the past. I recall that in the year 2008, we had an incident, where the residents went into the farm and caused some damage.

We expect the local leaders, including the area chief and Members of Parliament, to talk to the community and more so to show respect for private property such as Kakuzi's.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Hon. Members, with respect to Questions Nos.659 and 697, I have communication to the effect that the two hon. Members are engaged elsewhere on Parliamentary Business, but I am not quite happy with that communication. Therefore, I want to now direct all Chairmen of various Committees and Ministers to avoid convening workshops when Parliament is sitting. Please, endeavour to convene those workshops away from sitting days of the House. In future, such explanation will not be accepted.

So, those Questions are deferred to Wednesday, next week.

Question No.659

RENOVATION OF KITUI GK PRISON

(Question deferred)

Question No.697

PROGRESS REPORT ON REHABILITATION OF VOI RIVER

(Question deferred)

Question No.702

UPGRADING OF YATTA NYS TRAINING CENTRE

Mr. C. Kilonzo asked the Minister for Higher Education, Science and Technology whether he could consider upgrading Yatta National Youth Service (NYS) Training Centre into a university to offer agricultural-related training, among others.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Speaker, Sir, I beg to reply.

Yatta NYS Training Centre falls under the Ministry of Youth Affairs and Sports, and the Ministry has not requested that the institution be elevated to a university. It is, therefore, necessary to make consultations with this Ministry first and if it is accepted, we will be quite happy to work with the hon. Member in that regard.

Mr. C. Kilonzo: Mr. Speaker, Sir, the residents of Yatta and the larger Machakos County will be very happy to have a university within the country and in particular, one dealing with issues of agriculture. That is why we felt that the Ministry of Higher Education, Science and Technology could probably take it upon itself to initiate the move rather than wait for the NYS to approach the Ministry for that purpose. So, as the Ministry considers where to put up new universities, we would like them to consider the Yatta NYS Training Centre. There are four centres in Yatta. So, they could consider upgrading one of them into a fully-fledged university to specifically deal with issues of agriculture.

Dr. Mwiria: Mr. Speaker, Sir, certainly, we would be glad to consider that, but let it begin with the Ministry of Youth Affairs and Sports. I am sure that we can work together. The Ministry of Youth Affairs and Sports would also like to have an institution as a constituent college of a university. So, there is no problem. We can pursue that idea.

Mr. Mwangi: Mr. Speaker, Sir, the Assistant Minister has taken the Question very casually. We have heard the Head of State say several times that this country requires more university facilities. Why could he not consult and take the initiative if the Government feels that we need more universities?

Dr. Mwiria: Mr. Speaker, Sir, certainly, we require more universities because of the number of students involved. For sure, there is no reason for us not to consult with the Ministry of Youth Affairs and Sports but it is, really, up to the Ministry to also show willingness to release one of its institutions for that purpose. If that is accepted, there is no problem. However, we will go out to various institutions to negotiate with them, and not just the Ministry of Youth and Sports. There are other institutions which could be converted into constituent colleges of existing universities.

Mr. Olago: Mr. Speaker, Sir, the Ministry of Higher Education, Science and Technology is slowly creating a crisis in the country by converting middle-level colleges into universities and not putting something else in their place. What is the Ministry's policy on changing middle-level colleges into universities and having something else in their places?

Dr. Mwiria: Mr. Speaker, Sir, ironically, the crisis is caused by the same politicians. You have just seen that they are demanding that we convert a youth service into a university. We appreciate that as well. What we need to do is to ensure that, as we convert them into university colleges, they do not lose their character of training certificate and diploma holders. That is the policy of the Ministry right now. When an institution is taken over, it will admit university students. However, it does not stop admitting those who are doing certificate and diploma courses.

Mr. C. Kilonzo: Mr. Speaker, Sir, I am just curious as to why the hon. Assistant Minister who is a friend of mine cannot talk to the Minister there who is also a friend of mine. Why is he asking me to go and talk to the Minister, so that the Minister can talk to him? I am just making a plea. He should take it upon himself as a Government Minister to put up more universities, because we have very many students who are going to study in other countries, for example, Uganda. The best approach would be: Do not wait for us to ask questions in Parliament. Talk to your colleague, Dr. Otuoma, because he is a very good man.

(Dr. Mwiria consulted with Dr. Otuoma)

Mr. Speaker: Order, Dr. Mwiria.

Dr. Mwiria: Mr. Speaker, Sir, we have started talking.

(Laughter)

Mr. Speaker: Very well.

Hon. Members, that brings us to the end of Question Time.

Mr. Kiilu: On a point of order, Mr. Speaker, Sir.

Question No.770

INTERDICTION OF CHIEF AND ASSISTANT
CHIEF IN EMALI

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

- (a) Whether he is aware that the Chief of Emali Location and the Assistant Chief of Emali Sub-Location have been under interdiction for the last two and a half years,
- (b) What the reasons for the interdictions were; and,
- (c) What steps he is taking to ensure that the cases involving the officers are concluded.

Mr. Speaker: Hon. Members, with respect to Question No.770, apparently it did not go to the Minister's office before he came to the House but he did not have the answer. We will defer it, subject to it being convenient to the Member for Makueni and the Minister, to Wednesday afternoon, at 2.30 p.m.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I would plead with you to have it on Thursday, afternoon, because on Wednesday, I will also be attending another function.

Mr. Speaker: Member for Makueni, is that good for you?

Mr. Kiilu: It is okay, Mr. Speaker, Sir.

Mr. Speaker: It is so directed.

(Question deferred)

Next Order!

MINISTERIAL STATEMENTS

SALE OF KENYA RAILWAYS CORPORATION
HOUSES IN SOUTH B

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, as requested by the Member for Makadara, Mr. Mbuvi, I wish to make the following Statement on the sale of Kenya Railways houses in South B.

Mr. Speaker, Sir, some of the Kenya Railways Corporation (KRC) operations were concessioned to the Rift Valley Railways (RVR) on 1st November, 2006. However, various assets were retained by the corporation. Part of the Government's strategy to improve the corporation's financial position, included disposal of some of the non-strategic land and assets by outright lease or sale.

In order to implement this strategy, an Inter-Ministerial Committee was formed and they prepared a report in September, 2007. This report made recommendations, including the outright disposal of specific properties, re-development and leasing of others.

In addition, the committee recommended sale of some of the properties to staff at preferential rates. The report was then tabled to the board of KRC and recommendations were adopted

The KRC board made recommendations for disposal of the South B houses in line with the requirements of the Kenya Railways Corporation Act (Cap.397). Consequently, the approval that was sought was granted by both the Ministry of Transport and the Ministry of Finance, pursuant to the provisions of the State Corporations Act which require that approval be given by the two Ministries.

The Corporation was directed to dispose of the assets at market prices through a competitive process. You may recall that I mentioned that the committee had earlier recommended that the houses be sold to staff at preferential rates. However, when the approval was given, it was conditional to disposal of the assets at market price through a competitive process.

Mr. Speaker, Sir, the sale of the 38 houses or plots in South B was advertised in the local Press pursuant to the directive and over 300 bids were received. The sale was by open tender and interested bidders, including members of RVR and KRC were invited to buy tender documents giving full descriptions, including the developments thereon, of all the properties. The properties were valued prior to advertising to determine reserve prices.

Mr. Speaker, Sir, the tender process is now complete and names of the would-be purchasers are not known at this point. All the bidders were to obtain a viewing certificate as a mandatory requirement in the tender documents to ensure they familiarize themselves with the property and the developments on them. The tenders were opened on 11th March, 2011, in the presence of all the bidders or their representatives and the bids were read out.

Mr. Speaker, Sir, neither the Ministry nor the Corporation is aware of any inducement having been paid to any person. I request the hon. Member to let myself or any other relevant organization have any evidence in this regard.

In addition, no aliens were allowed to participate in the process as all bidders were required to either provide copies of their national identification or certificates of incorporation in the case of companies.

Further, the lease termination notices issued to the tenants are in accordance with the individual lease agreements. Tenants were given notice in order to give buyers vacant possessions as envisaged in the bid documents and, therefore, no forceful evictions are contemplated.

In conclusion, let me say that the entire process of the sale of South B houses is being carried out in accordance with the directions given by the Government following the report of the Inter-Ministerial Committee and it is in tandem with the provisions of the Public Procurement and Disposal Act of 2005 and the Public Procurement and Disposal Regulations of 2006.

Mr. Speaker: Hon. Members, anybody interested in clarifications on this Statement?

Mr. Olago: Mr. Speaker, Sir, yesterday, I listened very carefully as the Minister for Lands was explaining how valid title deeds can be transferred on leases that were given to public corporations. One of the things that the Minister said was that when conditions of the original lease indicated that the leasehold interest cannot be transferred or sold then any public corporation that attempts to make that transfer or sale, however competitive the process is, will be committing an illegality and will be breaching the conditions of the lease.

Under these circumstances, could he clarify to the House if the leasehold interests that are being transferred by KRC are subject to the conditions of the original lease that was given to them?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, KRC is a body corporate with power to own, contract, have properties and dispose of property. It is no different from an individual who has a lease from the Government. The same conditions that apply to anyone who has a lease will apply to any other body corporate.

Mr. Speaker, Sir, I know we have gone through this. We have also looked through it. There are different legal interpretations on this matter. But in this particular case, I would like to state that the Inter-Ministerial Committee that was formed in 2007 to look at this specific matter, had representation from the Ministry of Transport, Ministry of Finance, Ministry of Housing, Ministry of Lands, Ministry of Local Government, the Attorney-General's office, the Inspectorate of State Corporations and the KRC. They looked at this matter and agreed on the way forward on this.

So, the Ministry for Lands was well represented and the Office of the Attorney-General gave its advice. It was agreed that, that could be done according to the Kenya Railways Act. The Act stipulates how the Corporation's assets can be disposed of or leased. In the meantime, just for the comfort of hon. Members, and because this matter is going round and round, we have put efforts together to get this matter re-looked at afresh, have a Cabinet Memo that will then guide this process. That way, we can have one voice coming out of the Government through the memo that will have been agreed upon in the Cabinet. So, if you could hold on, we will ensure that we will, at least, have one voice coming out because we both believe we are right.

Mr. Olago: On a point of order, Mr. Speaker, Sir. The issue that I have raised has not been addressed by the Minister. The issue was this: If it was a condition in the original lease that the interest would not be transferred, then it is possible that Kenyans who are innocent are being given title deeds which are not worth the paper they are written on. Could the Minister confirm? It is not a question of what the Government will do or what people have agreed on. But has the condition of the lease been changed to allow for transfers of the leasehold interest?

Mr. Speaker: Mr. Minister, maybe, you may want to deal with that one specifically. That is because I understand what the hon. Member is getting at. He has narrowed it down to the conditions on which the lease is granted. If one of those conditions is that the interest is not transferable, then, obviously, any transfer is illegal. So, just address yourself to that area.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, as far as we are concerned with regard to those properties, that matter had been cleared. But before the conclusion of that process, the matter will be looked at afresh. In any case, the transfer process will have to be a joint effort between the Kenya Railways Corporation and the eventual buyers. So, we will have a look at it and if there is a hindrance to that, we will come up with the best way to ensure that nobody gets documents that are doubtful in terms of their legality.

Mr. Speaker: Any other Statements? If there are none, then I think we want to take the last one from you as the Deputy Leader of Government Business. You have a Statement today. Do you not?

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 5TH APRIL, 2011

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I have a Statement. Pursuant to Standing Order No.36(4), I take this opportunity to make the following very brief Statement with regard to the business for the week commencing Tuesday, 5th April, 2011.

The House will be expected to continue deliberation on the Wildlife Conservation and Management (Amendment) Bill, currently at the Second Reading stage. Finally, the House Business Committee will convene again on Tuesday, 5th April, 2011, to consider business for the rest of the week.

POINTS OF ORDER

INDEMNITY REPEAL BILL

Amb. Affey: Mr. Speaker, Sir, I thank the Deputy Leader of Government Business. But there is a matter that the Government has deliberately refused to put on the Order Paper – the Indemnity Repeal Bill, over which the President sent a Memorandum to the House. To date, it is three months down the road and I have raised this matter several times. Apparently, the Government side does not want to put it on the Order Paper and I do not understand why.

Mr. Speaker: Mr. Kimunya, I do not know what your take on that is.

The Minister of Transport (Mr. Kimunya): Mr. Speaker, Sir, indeed, on the Order Paper, there is still quite a lot of business and when the HBC meets, they will then prioritize all the Bills based on the ones that are considered critical. There is also the issue of the availability of the Ministers and the Attorney-General who need to be in the House to respond. I believe that Bill has suffered that fate because of the unavailability of the Attorney-General to come and lead hon. Members through the process. So, it is just a matter of time before we get a match between the presentation of business before the House and there being the substantive person to take the Government side through the matter. So, it has not disappeared. It is still on the Order Paper.

SUPPLY OF COUNTERFEIT FERTILIZER TO FARMERS IN MATHIOYA CONSTITUENCY

Mr. Wambugu: Mr. Speaker, Sir, on 24th February, 2011, I stood before this House to seek for a Ministerial Statement regarding the crisis which is looming in Mathioya. I was promised that I would get a reply on 2nd March, 2011. However, up to now, I have not found or received any reply to that request for a Ministerial Statement.

Mr. Speaker: Was that the Minister for Agriculture?

Mr. Wambugu: Mr. Speaker, Sir, that is correct. It was directed to the Minister for Agriculture. It was very urgent because, as you realize, this is the planting time and my people had a problem with the fertilizer that had been supplied to that area. We do not know what we are going to do until now. I held a small discussion with the Minister who is not here in this House and she said she will try. We request that, that Statement should come before the House as soon as possible, preferably early next week on Tuesday by 2.00 p.m.

Mr. Speaker: Very well! I will then direct that that Statement be availed on Tuesday at 2.30 p.m. It has been pending for a long time and yet, it is speaking to a matter that is very urgent, quite naturally. So, Mr. Kimunya, please give the House the assurance that it will come on Tuesday at 2.30 p.m.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, we will do so!

Mr. Speaker: Very well! Member for Kisumu Town West.

STEPS TO PROTECT KENYANS
FROM EXPOSURE TO RADIATION.

Mr. Olago: Mr. Speaker, Sir, I rise to ask for a Ministerial Statement from the Minister for Energy and I wish to join His Excellency the President, the Right Hon. Prime Minister and the Vice-President and other Kenyans of goodwill who have condoled with the people of Japan, arising from the recent earthquake and tsunami havoc. The Statement I wish to seek from the Minister for Energy is on safety concerns arising from the recent release of radioactive materials into the environment as a result of the accidental leakage from a nuclear reactor in Japan. In particular, I would like the Minister to clarify whether he is aware that several countries that trade with Japan have now made it a requirement that all products imported from Japan, including motor vehicles and other machinery, must have certificates of gauge radiation dosage and, secondly, to clarify what steps the Ministry has taken to protect Kenyans from exposure to radiation.

Mr. Speaker: Very well. Minister for Environment and Mineral Resources! Proceed, Mr. Kimunya.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, can I ask for Thursday next week?

Mr. Speaker: Very well! It is so ordered! Member for Gichugu.

INSECURITY IN KIRINYAGA COUNTY

Ms. Karua: Mr. Speaker, Sir, just before the Houses adjourned last time, I had asked for a Ministerial Statement from the Minister in charge of internal security on the shooting of civilians in Mwea – it was about shooting to death of five people - and you had ordered that it be given the next Wednesday. Then we adjourned. I am seeking indication as to when the Minister of State for Provincial Administration and Internal Security may give this Statement.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I will check and then give a Statement on Thursday next week.

Mr. Speaker: Very well! It is so ordered! We will now want to move to the next Order but, before we do so, hon. Members, allow me to interject on the Business that appears on the Order Paper, so as to allow the Parliamentary Service Commission (PSC) as represented by the Vice-Chairman of the Commission, to table its Report that is due.

Mr. Nyambati: Mr. Speaker, Sir, thank you for your indulgence to let me table this Report. For that reason, I beg to lay the following Paper on the Table of this House today, Thursday, 31st March, 2011.

PAPER LAID

The following Paper was laid on the Table:-

Parliamentary Service Commission Annual Report 2010

(By Mr. Nyambati)

Mr. Speaker: Next Order!

BILLS

First Readings

THE PROHIBITION OF FEMALE GENITAL MUTILATION BILL

THE NURSES (AMENDMENT) BILL

THE PUBLIC APPOINTMENTS
(PARLIAMENTARY APPROVAL) BILL

Mr. Speaker: Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)
[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE VETERINARY SURGEONS AND
PARA-PROFESSIONALS BILL

Clause 2

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 be amended-

- (a) in the definition of the term “animal”, by inserting the word ‘camel’ immediately before the word “buffalo”;
- (b) inserting the following new definitions in their proper alphabetical sequence-

“animal resource industry” means a sector responsible for animal production, quality assurance, marketing, animal food security and sanitary factors in livestock, companion and other non human animal resources development;

“animal resources secretary” means a veterinary surgeon registered under this Act appointed to co-ordinate the animal resource industry in matters pertaining to animal health and production, policy, welfare, animal food safety and trade certification of animals and animal products;

“veterinary medicine” means any curative or preventive substance, formulated medicament, or mixture of substances, whether proprietary or

in the form of a preparation effective in animals, which is used, or is manufactured, sold or represented as suitable for use, in-

- (a) the diagnosis, treatment, mitigation or prevention of disease or abnormal physical or mental state or the symptoms thereof in an animal;
- (b) restoring, correcting or modifying any physical, mental or organic function in an animal; or,
- (c) controlling internal or external pests and parasites, and includes insecticides, vaccines, hormones, alternative medicines, antiseptics, disinfectants, surgical, nutrients and biological products”;
- (c) by numbering the existing provision as subclause (1);
- (d) by inserting the following new subclause immediately after the newly numbered subclause (1)-

“(2) Until after the first elections under the Constitution, any reference to a Cabinet Secretary shall be construed to mean Minister and any reference to a Principal Secretary shall be construed to mean Permanent Secretary.”

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

(Clause 3 agreed to)

Clause 4

Mr. Mututho: Mr. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 4 be amended in subclause (1) by—

(a) inserting the words “who shall be a registered veterinary surgeon under this Act” immediately after the word “Services” in paragraph (c);

(b) deleting the word “one” in paragraph (g) and substituting therefor the word “three”;

(c) inserting the following new paragraph immediately after paragraph (i)—

“(j) one veterinary surgeon or veterinary para-professional nominated by the Director of the Kenya Wildlife Services and appointed by the Minister to represent the wildlife sector;”

(d) renumbering paragraph (j) as paragraph (k).

(Question of the amendment proposed)

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

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

(Clause 4 as amended agreed to)

(Clauses 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 agreed to)

Clause 17

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 17 be amended-

(a) in subclause (1), by-

(i) inserting the words “diploma or degree” immediately after the word “certificate” in paragraph (a);

(ii) inserting the following new paragraph immediately after paragraph (b)-

“(c) is qualified in animal husbandry, range management or wildlife health, and has undergone a course of not less than one year in animal health prescribed by the Board and has served an internship of not less than twelve months under the supervision of a registered veterinary surgeon”;

(iii) renumbering paragraph (c) as paragraph (d);

(b) in subclause (2), by inserting the following new proviso immediately after the word “therein”

“Provided that the Minister may, on the advice of the Board, review the Second Schedule from time to time as the need arises.”

(Question of the amendment proposed)

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

(Clause 17 as amended agreed to)

(Clause 18 agreed to)

Clause 19

Mr. Mututho: Mr. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 19 be amended in subclause (1), by deleting the word “section” appearing in paragraph (b) immediately after the word “under”, and substituting therefor the expression “section 17”.

(Question of the amendment proposed)

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

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

(Clause 19 as amended agreed to)

(Clauses 20, 21, 22 and 23 agreed to)

Clause 24

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, clause 24 be amended by deleting the word “registered” appearing immediately
after the words “registered but not licensed”.

(Question of the amendment proposed)

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

(Clause 24 as amended agreed to)

(Clauses 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 agreed to)

Clause 35

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 35 be amended in sub-clause (1) by deleting the word “fifty”
appearing in paragraph (d) and substituting therefor the words “one hundred”.

(Question of the amendment proposed)

*(Question, that the word 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 35 as amended agreed to)

(Clauses 36, 37, 38, 39, 40, 41, 42, 43 and 44 agreed to)

Clause 45

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 45 be amended in the marginal note by deleting the expression “Cap. 364” and substituting therefor the expression “Cap. 366”.

(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 45 as amended agreed to)

(Clause 46 agreed to)

New Clause

The Minister for Livestock Development (Dr. Kuti): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following new clause be inserted immediately before Clause 39—

Institutions and the animal resources secretary. **38A.** (1) The Minister may establish institutions to enable the Board function efficiently and effectively in the management of the animal resource industry, especially the livestock sector, both nationally and within the county governments

(2) Without prejudice to the generality of subsection (1), the Minister shall establish—

(a) a veterinary medicines directorate to regulate the manufacture, importation, exportation, registration, distribution, prescription and dispensing of veterinary medicines and poisons;

(b) an animal health inspectorate service for quality assurance of animal production inputs and animal products;

(c) a special inspectorate to oversee the use and utilization of non-traditional animal resources such as genetically modified organisms, and guarantee bio-safety to human consumers, animal health and welfare.

(3) The Minister shall, through a competitive process, appoint an animal resources secretary whose function shall be to coordinate the animal resources industry in order to foster economic development and improve livestock-based livelihoods both nationally and in the counties, and perform such other functions as may be

assigned.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Minister for Livestock Development (Dr. Kuti): Mr. Temporary Deputy Chairman, Sir, I beg to move that part D - Kenya Livestock Research Institute be added to Clause 38A---

The Temporary Deputy Chairman (Prof. Kaloki): Order! I think that is coming up and you will be able to move your amendments at the right time.

(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)

The Minister for Livestock Development (Dr. Kuti): Mr. Temporary Deputy Chairman, Sir, could I consult?

The Temporary Deputy Chairman (Prof. Kaloki): Please, do so.

(Dr. Kuti consulted with Mr. Mututho and Ms. Karua)

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Minister, do you still want to move the amendments?

The Minister for Livestock Development (Dr. Kuti): Yes, Mr. Temporary Deputy Chairman, Sir.

The Minister for Livestock Development (Dr. Kuti): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, a new part D with the words “Kenya Livestock Research Institute” and part (e) with the words “Kenya Livestock Marketing and Development Authority” be added immediately after part “c” of New Clause 38A.

(Question of the amendment proposed)

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, while supporting the Minister’s proposal, it would have been nicer if the work of the marketing authority was particularized, and even that of the research body. You will note that the other clauses do specify what the institutions will be doing. I do not know whether the Minister intends to do this by an order. Otherwise, the proposal to add those two institutions is welcome.

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

(New Clause 38A as amended agreed to)

(First Schedule agreed to)

Second Schedule

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Second Schedule be amended—

(a) in Part A, by inserting the following new item immediately after Paragraph 9—

“10. Any other function which may be assigned pursuant to this Act”.

(b) in Part B by—

(i) deleting paragraph 7, and substituting therefor the following new paragraph—

“7. under the responsibility and direction of a veterinary surgeon—

(i) the lancing of abscesses;

(ii) the treatment of septic wounds;

(iii) the administration of injections and medicines; and

(iv) the treatment of animals, excluding surgery.”

(ii) by inserting the following new paragraph immediately after paragraph 7—

“8. Any other function which may be assigned pursuant to this Act.”

(c) in Part D by—

(i) deleting the words “in an emergency” appearing at the heading thereof;

(ii) inserting the words “by an animal owner to his own animals”

immediately after the word “operations” in paragraph 2.

Mr. Temporary Deputy Chairman, Sir, under (7) immediately after the word responsibility, I would like to substitute the word “and” with “or”. Further, I would wish to delete the whole of “(iv)”, so that the new section will read, “Under the responsibility or direction of a veterinary surgeon:

(i) the lancing of abscesses;

(ii) the treatment of septic wounds;

(iii) the administration of injections and medicine.

(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)*

(Second Schedule as amended agreed to)

(Third Schedule agreed to)

Fourth Schedule

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, the Fourth Schedule be amended by deleting the word “SURGEON” appearing in the title to Form 3 and substituting therefor the word PARA-PROFESSIONAL”.

(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)*

(Fourth Schedule as amended agreed to)

Preamble

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, the preamble is what I am calling “the Long Title”.

I beg to move:-

THAT, the long title be amended by inserting the word “veterinary” immediately before the word “para-professionals”.

(Question of the amendment proposed)

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

(The Preamble as amended agreed to)

Title

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the title be amended by inserting the word “Veterinary” immediately before the word “Para-Professionals”.

(Question of the amendment proposed)

(Question, that the word be inserted be inserted,

put and agreed to)

(The Title as amended agreed to)

Clause 1

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, clause 1 be amended by inserting the word “Veterinary” immediately before the word “Para-Professionals”.

(Question of the amendment proposed)

(Clause 1 as amended agreed to)

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, the amendment to the Fourth Schedule appears to have deleted the word “surgeon” yet Clause 13 requires both the surgeon and the para-professionals to be registered. It should have added the word “para-professional”---

The Temporary Deputy Chairman (Prof. Kaloki): Ms. Karua, before you move the amendment, could you approach the Chair so that we can---

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I am not moving an amendment. I am just pointing out that a mistake has occurred while my colleague was amending the Fourth Schedule. We should not have deleted the word “surgeon”. We should instead have added the word “para-professional”. I am wondering whether it is in order that that error be corrected now, otherwise it will be an anomaly because Clause 13 requires both the surgeon and the para-professionals to register.

The Temporary Deputy Chairman (Prof. Kaloki): Ms. Karua and Mr. Mututho, could you approach the Chair? Since this is Committee Stage, we can clarify that issue.

(Ms. Karua and Mr. Mututho consulted the Chair)

Since we have already voted on the Fourth Schedule and we have already passed that particular clause as it is, although it could contain some error that you have notified the Chair later, then I will rule that we continue as it is and then we can bring it up with Attorney-General.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I wanted to put it on record for the HANSARD.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Temporary Deputy Chairman, Sir, I am being directed by the Clerks-at-the-Table that we cannot do that. But we can take it up with the Office of the Attorney-General and that can be corrected at a later date.

Next Order!

Second Reading

THE TOURISM BILL

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, the Minister for Tourism is not ready to move the Tourism Bill and has requested for additional time to consult

with the relevant Department Committee which is the Committee on Finance, Planning and Trade. The Chairman, Mr. Okemo, is present and appears to be ready to do that. So the Committee and the Ministry would be able to complete the process and then we would be able to do this at a later date when the Bill will be appearing next time.

(Consideration of the Bill deferred)

Proceed, Minister!

The Minister for Livestock Development (Mr. Kuti): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Committee do report to the House its consideration of the Veterinary Surgeon and Para-professional Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Dr. Laboso) in the Chair]*

REPORT AND THIRD READING

THE VETERINARY SURGEONS AND PARA-PROFESSIONALS BILL

Prof. Kaloki: Madam Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered The Veterinary Surgeons and Para-Professionals Bill and approved the same with amendments.

The Minister for Livestock Development (Dr. Kuti): Madam Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Livestock Development (Dr. Kuti): Madam Temporary Deputy Speaker, I beg to move that The Veterinary Surgeons and Para-Professionals Bill be now read the Third Time.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

Ms. Karua: Madam Temporary Deputy Speaker, I just want to commend the Minister and the Committee on Agriculture, Co-operatives and Livestock for the amendments that have

strengthened the Bill. I think this Bill is long overdue and I want to congratulate the House for passing it.

Madam Temporary Deputy Speaker, I beg to support.

Dr. Monda: Madam Temporary Deputy Speaker, I want to join my colleague, Ms. Karua, in congratulating the Minister for this Bill and to see the veterinary profession reborn considering the long period that the veterinary services have been rendered through the old Act that was in existence before Independence.

Madam Temporary Deputy Speaker, I beg to support.

Mr. Mututho: Thank you, Madam Temporary Deputy Speaker. I join my colleagues in thanking the Minister, Dr. Kuti, because for once, in the Republic of Kenya, the veterinary surgeons and para-veterinary surgeons will be registered now. The tendency has been that somebody comes from any country and claims to be a doctor and being registered. We now have a real register and institutions in the Ministry under the control of the Minister.

Thank you.

Mr. Lekuton: Thank you, Madam Temporary Deputy Speaker. I would also like to join my colleagues in congratulating the Minister for this Bill. About a month ago, I brought my Bill, which is known as The Animal Technicians Bill, which was passed by this House and signed by the President.

Madam Temporary Deputy Speaker, I had a discussion with the Minister to the effect that the animal technicians were complaining that many issues were left out and I am very glad that the Committee, the Minister and the animal technicians' body sat down and tried to iron out some of those issues. The animal technicians are now recognized by law and have their own body and are part of The Veterinary Surgeons and Para-Professionals Bill. They can now practice in this country without being scared of being prosecuted by the police unlike in the past. They are now free to go round our country, treat our animals and even open private business.

Madam Temporary Deputy Speaker, I beg to support.

The Minister for Livestock Development (Dr. Kuti): Thank you, Madam Temporary Deputy Speaker. I will take this opportunity to thank hon. Members for supporting this Bill. I would also like to thank the Committee which has done a great job to satisfy both the veterinary surgeons and the para-professionals.

When this Bill becomes law, it will really change the practice of veterinary medicine such that it will remove the quacks and the so-called "bare-foot vets" and, therefore, bring professionalism and sanity to this very noble profession. I want to assure Kenyans that this law will enable them to have safe livestock products that are free from excess of drugs and other residues.

Thank you, Madam Temporary Deputy Speaker. I support.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and Passed)

The Temporary Deputy Speaker (Dr. Laboso): Let us move on to the next Order!

MOTION

ADOPTION OF REPORT ON 123RD ASSEMBLY OF IPU

THAT, this House adopts the Report of the IPU Kenya Delegation to the 123rd Assembly of the Inter-Parliamentary Union (IPU) held in Geneva, Switzerland from 4th – 6th October 2010, laid on the Table of the House on Tuesday 23rd November, 2010.

The Temporary Deputy Speaker (Dr. Laboso): Is the Leader of Delegation not here to move this Motion? Since there is nobody to move that Motion, I will defer it to a later date.

(Motion deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, we have come to the end of today's sitting. Therefore, the House stands adjourned until Tuesday, 5th April, 2011, at 2.30 p.m.

The House rose at 4.45 p.m.