

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 20th July, 2011

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of the Kenya National Library Service for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Regional Development Authorities
(Mr. ole Metito) on behalf of the Minister for Gender, Children and Social Development)*

Annual Report and Accounts of Policy Holders Compensation Fund for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Regional Development Authorities
(Mr. ole Metito) on behalf of the Deputy Prime Minister
and Minister for Finance)*

Annual Report and Financial Statement of the University of Nairobi for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General

Financial Statement of Jomo Kenyatta University of Agriculture and Technology for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Regional Development Authorities
(Mr. ole Metito) on behalf of the Minister for Higher
Education, Science and Technology)*

Financial Statements of the Coffee Board of Kenya for the years ended 30th September, 2001, 2002 and 2003 and the certificates thereon by the Controller and Auditor-General

Financial Statement of the Pyrethrum Board of Kenya for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General

Annual Report and Accounts of the Tea Board of Kenya for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Regional Development Authorities
(Mr. ole Metito) on behalf of the Minister for Agriculture)*

Financial Statement of the Coast Development Authority for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Regional Development Authorities
(Mr. ole Metito) on behalf of the Minister for Regional
Development Authorities)*

Abstracts of Accounts of the Town Council of Chepareria for the year ended 30th June, 2004 and the certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Regional Development Authorities
(Mr. ole Metito) on behalf of the Deputy Prime Minister
and Minister for Local Government)*

Annual Report and Financial Statement of the Kenya Year Book for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for Regional Development Authorities
(Mr. ole Metito) on behalf of the Minister of State for
National Heritage and Culture)*

QUESTION BY PRIVATE NOTICE

STALLED PROJECTS IN RONGAI

(Mr. Kigen) to ask the Deputy Prime Minister and Minister for Local Government:-

(a) Is the Minister aware that the construction of a storey school building in Boror Location, construction of classrooms at Solai Kale Secondary School, construction of Kipsyenan Health Centre and Kasururei Water projects (all funded through the Local Authorities Transfer Fund) have stalled due to insufficient funding?

(b) Could the Minister state when each project was initiated and provide the progress reports on status of the projects?

(c) What is the Ministry doing to ensure all the projects are completed without any further delay?

Mr. Deputy Speaker: Is Mr. Kigen not here? We will leave his Question until the end then.

ORAL ANSWERS TO QUESTIONS

Question No.984

IRREGULAR ALLOCATION OF PLOTS BY
NZOIA COUNTY COUNCIL

Mr. Deputy Speaker: Mr. Kutuny also not here? We will leave his Question until the end. Let us move to the next Question by hon. Yakub.

Question No.729

PAYMENT OF DUES TO FAMILIES OF
DECEASED POLICE OFFICERS

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

(a) whether he is aware of the deaths of police officers APC Twaha Fankumpi Mzee (P/No. 2003049184), APC Badi Said Mwajirani (P/No. 77012125) and Juma Yusuf Mwagatu (Reg. No. 1993047588);

(b) why the Ministry has not paid death gratuity and pensions to the families of the deceased police officers, even after the relevant documents were delivered to the Ministry's Pensions Department; and

(c) when the families of the deceased police officers will be paid.

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

(a) I am aware of the deaths of Twaha Fankupi Mzee (P/No.2003049184), Badi Said Mwajirani (P/No.77012125) and Juma Yusuf Mwagatu (P/No.1993047588).

(b) The status of the death gratuity and pensions for the mentioned deceased officers are as follows:-

1. On the late AP (IP) Badi Said Mwajirani – P/No.77012125- the Group Personal Accident claim for civil servants in respect of the above deceased was processed and forwarded to Treasury on 21st January, 2011. A Work Injury Benefits claim was also processed and submitted to the Directorate of Occupational Safety and Health Services on 8th February, 2011. The death gratuity claim has been processed and will be submitted to the Director of Pensions soon. The delay in payment has been occasioned by delay on the part of the family in submitting relevant documents, which were required. However, these documents have since been submitted and payment will be made within one month.

2. The late AP (IP) Juma Yusuf Mwagatu of P/No.93047588, has Pension No.APN/PC 228017. Death gratuity for the late IP Juma Yusuf Mwagatu amounting to Kshs521,640 was paid in November, 2010 through the Public Trustee, Mombasa, while the Group Personal Accident claim was paid through the Public Trustee, Nairobi. Injury benefits have been processed and the next of kin are advised to liaise with the Treasury for further directions. That means that if the next of kin goes to Treasury, they will be forced to provide their account number for the money to be banked.

3. The late APC Twaha Mzee Fankumpi of P/No.2003049184, has Pension No.APN/GC232480. The death gratuity claim for the deceased was processed and submitted to the Director of Pensions on 19th April, 2011; the same will be paid through

the Public Trustee, Mombasa, within one month. However, it should be noted that the delay was occasioned by non-submission of the relevant documents to support the claim.

(c) As noted above, all the relevant documents have been forwarded to Treasury by my Ministry and, therefore, the family members are advised to pursue the matter with the Pensions Department at the Treasury. Indeed, it should be noted that with regard to the cases of the late Juma Yusuf Mwagatu and Twaha Mzee Fankumpi, they have been issued with pension numbers. So, once you have received the pension number, it means what is going to follow is just the cheque. They will be getting their cheques soon.

Mr. Yakub: Thank you, Mr. Deputy Speaker, Sir. I wish to thank the Assistant Minister for the information he has just given us. Parts “a” and “b” of his answer are a true position of what has been done to the two families, even though it has taken a long time. When will death gratuity be paid to the family of the late Fankumpi Mzee? When can the families go and collect their dues?

Mr. Ojode: Mr. Deputy Speaker, Sir, I did mention here that the family members should now pursue these cases with the Department of Pensions at the Treasury. If they have any problems, they can always come to my office in order for me to assist them. Since the Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance is here he can also assist the family members get their money immediately.

Mr. Koech: Thank you, Mr. Deputy Speaker, Sir. While I thank the Assistant Minister, such cases are rampant across the country. When civil servants or security officers find themselves in this situation, the Government normally takes too long to process the gratuity. In this case, it has taken almost two years and yet most of these officers have very many dependants. They have children who go to school and, therefore, this affects the payment of fees and sometimes some of them drop out of school. The reason given always is failure by the family to submit documents. What has the Assistant Minister done to ensure that some of these very fundamental or very important documents are already with the Government every other time so that the processing can be done within, at least, six months after the death?

Mr. Ojode: Mr. Deputy Speaker, Sir, you are aware that this is not the first case we have. I can only speak to officers falling within my docket. What normally happens is that we try to fast-track the processing of the documents in order for the family members to get payment.

Mr. Deputy Speaker, Sir, you are also aware that we had already passed a Motion in this House that the Treasury should be fast-tracking the processing of pension. I urge the Treasury to try and assist the family members of the bereaved. As you know, Mr. Deputy Speaker, Sir, I am also partially bereaved because I lost my father. So, I request the Assistant Minister or the Minister in charge of the Treasury to try and fast-track my father’s benefits in order for me to also gain.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Pesa: Mr. Deputy Speaker, Sir, I agree that the Assistant Minister is also aggrieved, but in the name of collective responsibility, whenever Questions about gratuity arise in this House, it is always the same Assistant Minister who answers and yet, the problems are not in his docket. For the sake of that responsibility, so that they work together, could the Assistant Minister talk with his colleagues so that they undertake to give us the timeframe within which after receiving the documents from the employer,

maybe the TSC or whatever Ministry, the Office of the Deputy Prime Minister and Ministry of Finance or the Treasury can actually release that money to the bereaved?

Mr. Ojode: Mr. Deputy Speaker, Sir, I will try and talk to my colleagues at Treasury to, at least, fast-track the payments for those who are bereaved. I entirely agree with the hon. Member. He is my neighbour and I know he also has the same problem.

Mr. Deputy Speaker: Mr. Yakub, ask the final supplementary question on the same or are you satisfied?

Mr. Yakub: Thank you, Mr. Deputy Speaker, Sir. The personal claims were paid through the Public Trustee in Mombasa. Could the Group Personal Accident claims also be transferred to the Public Trustee in Mombasa instead of holding the money in Nairobi?

Mr. Ojode: Mr. Deputy Speaker, Sir, you know that is not within my docket. Therefore, I will not be able to answer that question as to whether the claims can be transferred to Mombasa or be paid here in Nairobi. However, if the family members pursue the matter and they need any assistance, I am ready to try and assist them at the Treasury.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Let us move on to Question No.960 by hon. Letimalo!

Question No. 960

DISMISSAL OF POLICE CONSTABLE
STEPHEN LESIOKONO

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

(a) under what circumstances Police Constable Stephen Lesiokono (P/No.59882/90006208), who was based at the General Service Unit (GSU), was dismissed from service on 31st October, 1997 and yet he had permission from his seniors to be off duty;

(b) why appeals against wrongful dismissal by him in December 2010 and by the Public Complaints Standing Committee (PCSC) on 25th January, 2011, have not elicited any response from the Minister; and,

(c) whether he could consider reinstating the officer and also pay him his one-month salary prior to dismissal.

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

(a) Ex-Police Constable Stephen Lesiokono of P/No.59882/90006208 was dismissed from the Police Service on 31st October, 1997, following a series of serious disciplinary convictions against him. Indeed, between 23rd September, 1992, and 10th October, 1997, the officer had been convicted with seven different counts of indiscipline on various dates. I wish to table those counts here. It is a big bundle. If the hon. Member goes through it, he will sympathize with this officer.

(Mr. Ojode laid the documents on the table)

(b) The Force Standing Orders provide that an officer so convicted of an offence against discipline can appeal against such conviction or sentence within seven days from the date of sentence. Although the ex-police constable was informed about his right to appeal within seven days from the date of receipt of the letter of dismissal, he failed to appeal to the Commissioner of Police within seven days as stipulated within the Standing Orders of the Force. He was supposed to appeal to the Commissioner of Police through the Commandant as is required. He did not appeal until 7th December, 2010, when an unsigned letter of appeal was received. We received an unsigned letter purporting to be an appeal when the seven days had already expired. That was several years after his dismissal. The PCSC, through a letter dated 25th January, 2011, forwarded another appeal to the Permanent Secretary, Provincial Administration and Internal Security, who in turn forwarded it to the Commissioner of Police. Subsequently, the Commissioner of Police sent a signal dated 1st April, 2011, to the GSU Commandant directing him to forward memoranda of appeal for further action.

Mr. Deputy Speaker, Sir, I believe we are together on this particular case, because it touches on an officer who was dismissed from the police force or payroll. I said that the Commissioner of Police sent a signal dated 1st April, 2011, to the GSU Commandant directing him to forward memoranda of appeal for further action. A response will be made once the ex-officer's file is analyzed by the Police Appeals Board at the Police Headquarters. The Minister is awaiting the results of the analysis to be undertaken by the Police Appeals Board. It is against this that the Minister will make a decision either to reinstate or uphold the dismissal.

I would like to assure my friend, Mr. Letimalo that once the Police Appeals Board comes up with the analysis as to whether to retain this officer or not, I will be in a position to either reinstate this officer or uphold the dismissal.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Letimalo: Mr. Deputy Speaker, Sir, I appreciate the answer given by the Assistant Minister, and the fact that this Board is analyzing and considering the appeal by the officer. However, let us look at the incident that led to the dismissal of this officer. In his appeal, this officer claims he had sought permission from his Station Commander to be allowed to go home to attend to an emergency issue. There is a letter to that effect.

Mr. Deputy Speaker: Order! You cannot turn Parliament into the Appeals Board itself! That is a matter to be argued to the Appeals Board. You cannot argue a matter that is before an Appeals Board on the Floor of the House.

Mr. Letimalo: Mr. Deputy Speaker, Sir, I was just trying to give the background of my question. My question is---

Mr. Deputy Speaker: In any case, it is only fair that you acquaint yourself with that bulk of documents.

Mr. Letimalo: Mr. Deputy Speaker, Sir, it is true that this officer sought permission from his Station Commander and he was allowed to go home. Before this officer was dismissed, did the Commissioner of Police find out from the officer in charge of that station, whether this officer actually had permission to go home or to be away from duty? If it is true, then all the other proceedings must be tabled.

Mr. Deputy Speaker: Order! The House has no capacity to discuss this matter in the manner you want it discussed. This is a matter before an Appeals Board. In any case,

the information that you are seeking now is information that is being handled in another quasi-judicial process.

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. Would it be in order then for the Assistant Minister to undertake, after the Appeals Board has concluded, to come back and give this House a brief on the issue?

Mr. Deputy Speaker: Order, Ms. Karua! I realize that you were consulting with your own professional colleague, Mr. Olago, while the Assistant Minister was answering the Question. So, in any case, he has undertaken to deal with that matter in accordance with the provisions of the law. So, this matter should rest there.

Ms. Karua: Mr. Deputy Speaker, Sir, would it not be in order for the Assistant Minister to report to the House after the conclusion, so that this matter is concluded?

Mr. Ojode: Mr. Deputy Speaker, Sir, that is not a big problem for me. I can do the same to the hon. Member himself or come back to the House after the Appeals Board meets. The Appeals board can sit even next year; you never know! They might even sit in 2013! So, in 2013, I may not be a Member of Parliament, but a Senator or a Governor. So, how can a Governor or a senator come back to this House and then make a---

Mr. Deputy Speaker: Order, hon. Assistant Minister! You are out of order! You are making an undertaking in the name of the institution of the Ministry itself. It is not your personal responsibility.

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. You realize that the Assistant Minister has displayed his Ministry as being totally inefficient when he talks of a Board sitting in 2013! Could he undertake that, within two months, he will report to the House knowing that this is the right of a person whose appeal is pending to be heard expeditiously under our Constitution?

Mr. Ojode: Mr. Deputy Speaker, Sir, there is no need of giving me two weeks! If the Board sits today, I can give the report tomorrow!

Ms. Karua: I said two months!

Mr. Deputy Speaker: When will the Board sit?

Mr. Ojode: Mr. Deputy Speaker, Sir, there is a procedure to be followed for the Board to sit. The Board does not sit to only solve one case. It awaits other cases also and then they are scheduled because the Board hears these cases as and when they come. They wait for a minimum of say ten to 20 cases because it also involves a number of officers who are coming from other stations. So, it is not a question of two or three months. The Board can sit next week and then I report within a week. So, let us just hold our horses. I will try to push for the board to sit so that we know the fate of this gentleman.

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to subject this ordinary Kenyan to unnecessary delay when the Board is an internal organ of the Ministry which can be directed to expedite a case instead of waiting for some other cases whose origin is not known? It has take more than ten years for this case to be determined. Is he in order to infringe on the rights of this officer?

Mr. Deputy Speaker: This again comes to exactly what the Chair ruled before. Parliament cannot become an Appeals Board in the Police Department. The information that you are seeking is not information that he can have at his fingertips. All that needs to be done is that at an appropriate moment that matter again is raised. "Appropriate" might

mean one month. It might be two months, but certainly anything more than that is a matter that can raise eyebrows.

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. While I appreciate your ruling, this is a case of 1997 and---

Mr. Deputy Speaker: Order! You realize it is a matter of 1997, but the officer in question did not put up an appeal until 2010! That is 11 good years!

Mr. Koech: Mr. Deputy Speaker, Sir, my point of order is that yes, the Appeals Board will sit, but could the Assistant Minister give an indication on the timeframe; two months or three months because there must be so many other cases? Otherwise, the indication that it can take three years is really of serious concern. As a matter of policy, could he give an indication of a timeframe?

Mr. Ojode: Mr. Deputy Speaker, Sir, I have said clearly here that the procedure is to get about ten cases for the Board to be called to sit. The membership of the Board comprises of officers who are outside Nairobi also. So, what I am telling my colleagues is that once the Board sits, I will tell the hon. Questioner and the House the fate of the officer. That is not a problem. As I mentioned earlier, the Board can sit next week, next month or two months from now. But eventually, I will inform the House of the fate of this particular officer.

Mr. Letimalo: Mr. Deputy Speaker, Sir, this officer was actually dismissed on 31st October, 1997 and he was not paid that month's salary. Could the Assistant Minister undertake to pay that month's salary?

Mr. Ojode: Mr. Deputy Speaker, Sir, I do not know why we should rush on this particular matter. Let us tread carefully in order for this person to be reinstated. Let us pray that he gets his job back. The Board will also decide whether there are some funds which were supposed to be paid to him. It is not a question of Ojode; this is not an individual matter. It is the board which will decide. If the hon. Member can bear with us, two to three months is not a long time.

Thank you.

Question No.747

FATE OF PYRAMID SCHEMES MONEY HELD BY BANKS

Mr. Deputy Speaker: Mr. C. Kilonzo is out of the country on official Parliamentary business. Under the circumstances, this Question is deferred until such time that Mr. C. Kilonzo is back in the country.

(Question deferred)

Question No.948

NUMBER OF KENYANS WORKING IN THE UAE

Ms. Karua asked the Minister for Foreign Affairs:-

(a) how many Kenyans are working in the United Arab Emirates (UAE),

(b) whether he is aware that many Kenyans in Dubai are being denied work permits since some time in 2010; and,
(c) what he is doing to address the situation.

Ms. Karua: It is the same Minister! Prof. Saitoti is acting!

Mr. Deputy Speaker: Minister for Foreign Affairs?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, my substantive Minister is the Acting Minister for Foreign Affairs. However, they were short of also naming me as an acting---

(Laughter)

Mr. Deputy Speaker, Sir, I undertake to inform the Acting Minister, who is away in United States of America on official, duty to come and answer this Question by next week.

Mr. Deputy Speaker: When will the Minister be back?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): He will be back on Sunday. So, let us deal with the matter on put Wednesday morning, next week.

Mr. Deputy Speaker: Fair enough! The Chair directs that this Question be listed on the Order Paper on Wednesday morning, next week.

(Question deferred)

Question No.961

NUMBER OF ORPHANS AND
VULNERABLE CHILDREN IN KENYA

Mr. Deputy Speaker: Is Mrs. Odhiambo-Mabona not yet in?
We shall come back to that question at the end of Question Time.

Question No.990

GOLD MINING IN MIGORI

Mr. Pesa asked the Minister for Environment and Mineral Resources:-

(a) whether he could confirm that there are gold deposits in Otacho Location in Migori and that mining is going on in the area currently;

(b) to inform the House which firms have been licensed to undertake the mining in the area; and,

(c) how the residents of Migori are benefiting from the mining activity.

Mr. Deputy Speaker: Is the Minister not here?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I seek the indulgence of the Chair to allow this Question to be answered in the second round. In the meantime, I am going to try and get the Minister.

Question No.992

MAGNITUDE OF LOANS GIVEN TO PARASTATALS UNDER
GOVERNMENT-GUARANTEED PUBLIC DEBT

Mr. Ochieng asked the Deputy Prime Minister and Minister for Finance:-

(a) to inform the House how much money has been borrowed by parastatals in Government-guaranteed public debt;

(b) to list to the House which parastatals have defaulted in repayment and what are the respective amounts of default; and,

(c) what measures the Ministry has taken to recover monies owed by the parastatals?

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

(a) As at 31st May, 2011, the total Government-guaranteed public debt by parastatals amounted to Kshs72,467,000,000.

(b) Fifteen parastatals have defaulted in the payment and the respective amounts of defaults are as follows:-

The list is a bit long and I wonder whether I could table it, although I will just mention the major ones. I will table it but let me just quickly run through.

1. The Kenya Power Company – Kshs1,487,367,793 interest is Kshs1,156,483,377.70
2. TARDA – Kshs1,681,276,000
3. TARDA Power – Kshs1 billion and interest is Kshs1.1 billion.
4. Kenya Railways – Kshs1.1 billion and interest is Kshs204 million.
5. Nzoia Sugar Company – Kshs4,605,000,000
6. City Council of Nairobi – Kshs1.8 billion and interest is Kshs2.1 billion.
7. National Housing Corporation – Kshs9,166,000
8. East African Sugar – Kshs226 million and interest is Kshs75,780,000
9. Kenya Broadcasting Corporation – Kshs4,158,000,000
10. South Nyanza – Kshs53 million and an interest of Kshs2 million.
11. Development Finance Company of Kenya – Kshs92 million and interest is Kshs40 million.
12. Kenya Ports Authority – Kshs90 million and interest is Kshs19 million
13. Industrial Commercial Development Corporation Kshs486 million and interest is Kshs191 million.
14. Kenya Fibre Corporation, interest is Kshs14 million.
15. Agricultural Development Corporation, Kshs106 million and interest is Kshs72 million

16. Agri-Chemical Food Company – Kshs540 million and interest is Kshs41 million.

The total is Kshs17.5 billion and interest is Kshs10.4 billion.

(c) The Government has put in place measures to recover monies owed by the parastatals. These measures include monitoring the performance of defaulting parastatals and effecting recoveries whenever their financial position improves and promotion of good corporate governance within the parastatal sector.

Mr. Ochieng: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to explain the reasons why some of these organizations have continued to default and whether the defaults are politically instigated.

Dr. Oburu: Mr. Deputy Speaker, Sir, the reason why the parastatals default are varied and there are a myriad reasons why they default. I want to give an example of the National Housing Corporation (NHC). The loans which are guaranteed are passed on to the local government authorities like the municipalities. When the municipalities default, the NHC also defaults in the payments but because we guaranteed, we pay it. So, I cannot give any one single reason for all the parastatals which have defaulted because the reasons are varied. As to whether they are politically instigated, I do not know of any of them which has been politically instigated.

Mr. Ogindo: Mr. Deputy Speaker, could the Assistant Minister clarify which firm he has referred to in this written reply as Kenya Power Company? Which company is that and is it a Government or private company? If it is a private company, did it take up the liabilities?

Dr. Oburu: Mr. Deputy Speaker, Sir, when we talk of parastatals we mean, where the Government has controlling shares. At the time the guarantees were given, this was a government parastatal. That is why the Government gave those guarantees even if eventually they became partially private. As the guarantees stand, the Government is obliged to pay as an obligation when they default.

Mr. Deputy Speaker: The hon. Member asked you whether this is still a public company or a parastatal. Is it still a parastatal with the Government majority shareholding or has it gone private? That is what he asked. Could you answer that?

Dr. Oburu: Mr. Deputy Speaker, Sir, the Government has lost the controlling shares and therefore it is not---

Mr. Deputy Speaker: The second question was: If it is private, whether those liabilities were passed on to the new owner.

Dr. Oburu: Mr. Deputy Speaker, Sir, the guarantees still stand. That is what I replied.

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to evade a simple question as to whether the new private company took over the liabilities even if the guarantee still stands?

Dr. Oburu: Mr. Deputy Speaker, Sir, when there is a guarantee, the Government recovers whatever the Government has paid on their behalf from them just like it does for State parastatals.

Mr. Deputy Speaker: Mr. Kigen, has your question been answered?

Mr. Kigen: Mr. Deputy Speaker, Sir, the Assistant Minister is deliberately avoiding to answer a clear and simple question. He should be able to confirm to us

whether all the liabilities that were associated with the parastatal then were carried over by the new owners in totality.

Dr. Oburu: Mr. Deputy Speaker, Sir, I have said so.

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. The reason why we are belaboring this point is because there is a tendency where Government parastatals are allowed to take loans and then they are privatized, leaving the Government to repay the loans. This is making our Budget very rigid in terms of servicing these loans. Could the Assistant Minister come out clearly and tell us what the policy of privatizing these parastatals is in terms of their liabilities, so that we do not end up with a Government that is paying debts while the parastatals are going scot free?

Mr. Deputy Speaker: Perhaps you should educate the House. You are a finance person and the Chair admits that it has very limited knowledge of financial terms. Is a guarantee a liability?

Mr. Oburu: Mr. Deputy Speaker, Sir, privatization considers the rights of some debts in order to make those parastatals which are being sold by the Government viable to be bought by the private sector. So, it is not that in all cases the people who are buying the parastatals take over all the liabilities. In this particular respect, they did.

Mr. Kiptanui: Mr. Deputy Speaker, Sir, the Assistant Minister has given a list of 15 parastatals that have defaulted and the Kenya Power and Lighting Company is one of them. If you will remember, last year, the KPLC declared a profit of about Kshs3 billion. How come they have defaulted? If they made profits, why have they defaulted?

Dr. Oburu: Mr. Deputy Speaker, Sir, these were parastatals which defaulted and the Government paid on their behalf. The Government is recovering whatever has been paid on their behalf.

Dr. Eseli: Mr. Deputy Speaker, Sir, if the Government is recovering money from the respective parastatals, how much has it recovered from the KPC?

Dr. Oburu: Mr. Deputy Speaker, Sir, I do not have that specific figure as to how much has been recovered, but whenever parastatals improve and become viable, we recover everything that we have paid on their behalf.

Mr. Deputy Speaker: Including the guarantees?

Dr. Oburu: Mr. Deputy Speaker, Sir, including the guarantees.

Ms. Karua: Mr. Deputy Speaker, Sir, I want to appreciate the Assistant Minister as genuine when he says that they will not leave any money unrecovered. Could he give a schedule of the money so far recovered from all these parastatals and the plan that each one of them has given to refund this money to the Government? He should also give information on whether they have analyzed the viability or otherwise of all these parastatals.

Dr. Oburu: Mr. Deputy Speaker, Sir, I have the list here with me. The money that has been recovered from these parastatals amounts to Kshs6, 663,853,668. There is a table that shows how much has been recovered from each and every parastatal. Could I table it?

Mr. Deputy Speaker: Yes, you can table it as long as it has the information that the Member is asking for, which is how much has been recovered and how the rest is going to be recovered. It should show how the taxpayers' money is going to be recovered if there is a plan for it.

Dr. Oburu: Mr. Deputy Speaker, Sir, the policy is that we intend to recover everything that we have paid on behalf of these parastatals.

(Dr. Oburu laid the documents on the Table)

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. The Minister for Finance is notorious for taking up debts that ordinarily should not belong to it. Recently, we heard that the pending bills were securitized. These were bills that were pending to individuals. Now the Ministry is taking up these guaranteed loans. Is the Assistant Minister in order to be taking up these guaranteed loans and the pending bills at the expense of social services in this country?

Mr. Deputy Speaker: I thought the Assistant Minister was very categorical that none of that is going to be passed on to the taxpayers and all those companies that have been privatized will have to meet this at the end of the day. Is that not the undertaking you gave, Assistant Minister?

Dr. Oburu: Mr. Deputy Speaker, Sir, I did.

Mr. Deputy Speaker: Okay, proceed! Can you give that undertaking if that is what you meant?

Dr. Oburu: Mr. Deputy Speaker, Sir, that is exactly what I have said.

Dr. Eseli: On a point of order, Mr. Deputy Speaker, Sir. It appears that quietly, the KPC has been privatized. This is a very serious issue. Even the way it is being done raises a lot of questions. Could I be in order to ask your indulgence to commit this issue to the Public Investments Committee to investigate this matter and find out what has been done by way of quietly privatizing these institutions and possibly leaving the Kenyan public holding a lot of liabilities; debts that will be paid by the taxpayers?

Mr. Koech: Mr. Deputy Speaker, Sir, these are very serious concerns given the fact that the Government gives a lot of money to the Rural Electrification Authority (REA) and we also give a lot of money to it through the CDF. Interestingly, after extending the lines, they hand over the same to the KPC, which the Assistant Minister has confirmed today is no longer a Government parastatal.

Would I be in order to support the sentiments that the PIC investigates this and brings up a comprehensive report on the connection between the two and why the Government is still pumping a lot of money into the KPLC through REA?

Mr. Deputy Speaker: Hon. Members, whereas the Chair recognizes and appreciates the gravity of the matter itself, it can only direct the Departmental Committee. The Chair cannot direct either the PAC or the PIC. The mandates of the two of them are spelt out. Under the circumstances, they can do that on their own if they so wish. The only thing that the Chair can do is to direct the Committee on Finance, Planning and Trade and the Committee on Energy, Communications and Information, for that matter.

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. The thrust of hon. Eseli's point of order was on the time lines. If you were to rule on the time lines, the Committees will be more than willing to take up their mandate.

Mr. Deputy Speaker: The Chair, indeed, does recognize very much the gravity of the matter. Assistant Minister, much as you have tried very hard to explain these things, there are a few grey areas in here, in that, the viability of a company, in the

opinion of the Chair, is the ability for that company to turn around. If you turn around a company, the first thing that it has to do is to be able to meet its obligations and liabilities. You cannot pay all the liabilities for the company including the guarantees from the taxpayers and hand it over to private entities. Under the circumstances, the Chair directs that the relevant Joint Committee of Finance, Planning and Trade and the Committee on Energy, Communication and Information investigates this matter particularly of the KPC and report to this House in the next three weeks.

Question No.993

DISMISSAL OF JOSEPH K. NJOROGÉ

Mr. Gaichuhie asked the Minister for Education:-

(a) why Mr. Joseph K. Njoroge (PF No. 81157301), who worked as an Education Officer in Busia, was summarily dismissed from service on 25th October, 1999; and,

(b) whether he could consider retiring him on medical grounds, considering that he had served for 28 years before he was diagnosed with acute malaria.

Mr. Gaichuhie: Mr. Deputy Speaker, Sir, the Minister has informed me that he is not going to be around today. He is out on official duties and would like the Question to be asked on Thursday afternoon.

Mr. Deputy Speaker: Order! Hon. Gaichuhie, you cannot give an undertaking on behalf of the Government! You are a Backbencher! The Chair appreciates your honesty. Of course, every hon. Member knows that what you are saying is true. However, you do not have the mandate to give that undertaking at the same time. Could a Minister give that undertaking?

*(Hon. Members on the Front
Bench consulted loudly)*

Order! Order, Members on the Front Bench! There is a Government here, which has to give an undertaking on this Question!

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I seek your indulgence that this Question appears on the Order Paper tomorrow, so that it can be responded to.

Mr. Deputy Speaker: The Chair directs that the Question be listed on the Order Paper tomorrow, Thursday.

(Question deferred)

Mr. Deputy Speaker: Question by Private Notice, hon. Kigen!

QUESTION BY PRIVATE NOTICE

Mr. Kigen: Mr. Deputy Speaker, Sir, first and foremost, I would like to apologise for coming late.

STALLED PROJECTS IN RONGAI

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

(a) Is the Minister aware that the construction of a storey school building in Boror Location, construction of classrooms at Solai Kale Secondary School, construction of Kipsyenan Health Centre and Kasururei Water projects (all funded through Local Authorities Transfer Fund) has stalled due to insufficient funding?

(b) Could the Minister state when each project was initiated and provide the progress reports on the status of the projects?

(c) What is the Ministry doing to ensure all the projects are completed without any further delay?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I wish to seek the indulgence of the House. Indeed, I have consulted the hon. Questioner. I request that the House allows me to prepare a thorough statement because the information I have is still inadequate. So, I will be able to give a comprehensive response on Tuesday, 26th July, 2011.

Mr. Deputy Speaker: Is that request acceptable to you, hon. Luka Kigen, notwithstanding the fact that this is a Question by Private Notice?

Mr. Kigen: Mr. Deputy Speaker, Sir, considering that we want something that is going to be helpful, it is better that he gives us a comprehensive answer, which is going to provide a solution to the outstanding concerns.

Mr. Deputy Speaker: The Chair directs that this Question be listed on Order Paper on Tuesday, 26th July, 2011.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Mr. Deputy Speaker: Question No.984, hon. Joshua Kutuny!

Mr. Kutuny: Mr. Deputy Speaker, Sir, first of all, I wish to apologise for coming late.

Question No.984

IRREGULAR ALLOCATION OF PLOTS BY NZOIA COUNTY COUNCIL

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

(a) whether he is aware that four plots in Motosiet Market (Kaplamai/Motosiet/166 L. R. No. 5340), which were demarcated by

Nzoia County Council to benefit the local community, have been irregularly allocated to private individuals;

(b) who the beneficiaries of the illegal allocations are; and,

(c) what urgent measures the Minister is taking to rescind the allocations and revert the plots to public use.

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

(a) I am aware that four plots in Motosiet Market (Kaplamai/Motosiet/166 L.R. No.5340), which were demarcated by Nzoia County Council, were irregularly allocated to some private individuals.

(b) The beneficiaries of these illegal allocations were Joel Soi, David Koech, Joseph Tanui and Patrick Bosire.

(c) I wish to state that these allocations have been revoked by the Council and even demolition orders issued to these specific beneficiaries. The four plots revert to public utility or for use as an open air market.

Mr. Deputy Speaker, Sir, I will table the minutes as well as the letters and notices that have been issued. I have also followed up the matter with the Clerk of the County Council and told him that he must ensure that the plots are not encroached upon again.

I wish to table the minutes and the letters showing that the revocations have been effected.

(Mr. Mudavadi laid the documents on the Table)

Mr. Kutuny: Mr. Deputy Speaker, Sir, I appreciate the role played by the Minister and the action he has taken on this case. I am satisfied with the action taken by the Ministry. I have no more questions.

Mr. Deputy Speaker: Fair enough. Question No.961, Mrs. Odhiambo-Mabona for the second time!

Question No.961

NUMBER OF ORPHANS AND VULNERABLE CHILDREN IN KENYA

Is Mrs. Odhiambo-Mabona out of the country, by any chance, on any Parliamentary business? If not, the Question is dropped!

(Question dropped)

Question No.990

GOLD MINING IN MIGORI

Mr. Pesa asked the Minister for Environment and Mineral Resources:-

(a) whether he could confirm that there are gold deposits in Otacho Location in Migori, and that mining is going on in the area currently;

(b) which firms have been licensed to undertake mining in the area; and,

(c) how the residents of Migori are benefiting from the mining activity.

The Assistant Minister, Ministry of State for Provincial Education and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I tried calling the Minister but I could not find him. Therefore, I undertake that this Question will be answered tomorrow, or on Thursday next week.

Mr. Deputy Speaker: Which day would you be sure of?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Tuesday would be a better date, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Is Tuesday okay with you, hon. Pesa?

Mr. Pesa: Mr. Deputy Speaker, Sir, I have no choice. This is an urgent Question. I want it answered as soon as possible. So, Tuesday is okay.

Mr. Deputy Speaker: Fair enough. The Chair directs that the Question be listed on the Order of Tuesday next week.

(Question deferred)

Mr. Deputy Speaker: Next Order!

POINT OF ORDER

IDENTITY OF BUYERS/SELLERS OF GRAND REGENCY HOTEL

Mr. Ogindo: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Finance in connection with the sale of Grand Regency Hotel. In the Statement, I would like him to clarify the following issues:-

(a) who were the buyers and the sellers of Grand Regency Hotel, and if it was an entity, who the beneficial owners of those entities were;

(b) what disposal procedure was used in the process;

(c) how much the sale proceeds were, where the money is and how much interest it has earned as at 30th June, 2011; and,

(d) if the money has been spent, I would want to know where it has been spent and if not, where he intends to spend it.

(Members of the Front Bench consulted loudly)

Mr. Deputy Speaker: Order! Order! Hon. Ojode and hon. Lesrima, you are Ministers in the Government. There is a matter which concerns your Government but you are all engaged in your own *tete-a-tete*.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Ojode):---(off record)

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Deputy Speaker, Sir, on a light note, did you hear hon. Ojode say that he is discussing security matters related to *Al Shabaab*?

(Laughter)

Mr. Deputy Speaker, Sir, I wish to state that we will get the Deputy Prime Minister and Minister for Finance to issue the Ministerial Statement sought on Tuesday next week.

Mr. Deputy Speaker: It is so directed!
Next Order!

BILLS

First Readings

THE NATIONAL DRUG CONTROL AUTHORITY BILL
THE SUGAR (AMENDMENT) BILL

*(Order for first readings read –
Read the First Time and ordered to be
referred to the relevant Departmental Committees)*

Mr. Deputy Speaker: Next Order!

MOTIONS

ESTABLISHMENT OF CONSUMER PETROLEUM
FUEL SUBSIDY FUND

THAT, aware that the majority of Kenyans and businesses are consumers of petroleum fuel products; concerned that the relevant institutions do not maintain Strategic Fuel reserves to stabilize prices; concerned further that as a result, the cost of petroleum products has significantly increased in the last two months; noting that escalating fuel prices could have far reaching negative socio-economic effects on the nation; this House urges the government to urgently subsidize the prices of all categories of petroleum fuel to maintain pump prices to a maximum of Kshs. 80 per litre by setting up a Consumer Petroleum Fuel Subsidy Fund through re-allocation of funds from various votes of government ministries.

Mr. Deputy Speaker: Is Mr. Benjamin Langat out of the Chamber this morning on any official business outside or inside the country?
Motion deferred!

(Motion deferred)

Hon. members, you realize that there is so much interest in the Motion itself both in the country and in the House. It touches on the purses of ordinary Kenyans and the Chair will give the benefit of the doubt and depart from the tradition and practice of dropping this kind of a no-show without any explanation. I presume that Mr. Langat will have a very good reason for not being in the Chamber today. I hesitate to drop this Motion.

Next Order!

ALLOCATION OF FUNDS TO CONSTITUENCIES

THAT, recognizing the disastrous effects of climate change on environments as shown by the devastating effects of the current famine ravaging the country; noting that this has led to acute water shortages in many parts of the country and especially in Northern Kenya and other Arid and Semi Arid Lands; conscious that water is life and essential to human survival; appreciating the government efforts to improve water availability and sanitation in the country; further appreciating that the government has failed to realize its objective of providing water to all through water services boards; aware of the inequalities in the resource mobilization and allocations to districts and constituencies; this House urges the Ministry to allocate 10% of its budget to all constituencies in equal proportion and another 10% to Northern Kenya and ASAL constituencies; and further that constituency will have a Constituency Committee comprising of the following membership; One Representative of the Provincial Administration; Water Engineer responsible for water matters in that Constituency or his designated representative; Five representatives of the Constituency Development Fund Committee and One representative each for youth and women respectively and that the chairmanship of the committee shall be from category 3 of the membership and category 2 shall be the secretary of the Committee.

Mr. Deputy Speaker: Mr. Ekwee Ethuro is not with us today because of some very compelling reasons. He is in his constituency attending a funeral. Under those circumstances, the Chair directs that this Motion be deferred to a time he will be around.

(Motion deferred)

Next Order!

STOPPAGE OF CONSTRUCTION OF GIBE III HYDRO POWER DAM IN RIVER OMO

THAT, noting that Lake Turkana which is the world's largest and most saline lake is a source of survival for six communities in Northern Kenya (the Turkana, Elmollo, Samburu, Gabbra, Rendille and Daasanach) which depend on it for livestock grazing, watering and fishing; aware that

River Omo, a trans-boundary river which originates from Ethiopia contributes more than 90 per cent of the total water influx into Lake Turkana; further aware that the Gibe 3 Hydropower Dam which is under construction by the government of Ethiopia on River Omo will dramatically reduce the flow of the River into Lake Turkana by over 70 per cent leading to a 10 metre drop in the lake's level and increase in the Lake's salinity which will significantly affect the Lake's biodiversity; deeply concerned about the devastating impact this will have on the long-term ecology of the lake and the socio-economic and wellbeing of the affected communities; and cognizant of the fact that no independent, comprehensive environmental and social impact assessment of the Gibe 3 Hydropower dam was undertaken in the River Omo-Lake Turkana trans-boundary water system areas prior to the commencement of its construction, this House resolves that the Kenya Government officially demands that the Government of Ethiopia stops the construction of the Gibe 3 Hydro Power dam until an independent and comprehensive environmental and social impact assessment is undertaken and appropriate mitigation measures put in place.

Mr. Deputy Speaker: Dr. Wilber Otichilo!

Dr. Otichilo is not in the House. The Chair will defer this Motion also for the same reasons. The issue of damming the river that drains into Lake Turkana is a matter of serious national interest in this country. The assumption of the Chair is that Dr. Otichilo felt that these two other Motions would be moved and rightly so, he would probably not have had time today. However, under the circumstance, the Chair hesitates to drop this Motion and it is deferred to another day.

(Motion deferred)

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, there being no other business, this House is, therefore, adjourned until today Wednesday, 20th July, 2011 at 2.30 p.m.

The House rose at 10.05 a.m.