

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 12th May, 2004

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.194

WHEREABOUTS OF JAXON MUHINDI

Mr. Speaker: Is Mr. Mwenje not here? We will come back to this Question later.
Next Question.

Question No.195

POLICE STATION FOR BUTULA DIVISION

Prof. Mango asked the Minister of State, Office of the President:-
(a) whether he is aware that there is rampant insecurity in Butula Division; and,
(b) when a police station will be built at Butula divisional headquarters.
Mr. Speaker: Is there anyone here from the Office of the President?
We will come to this Question later.
Next Question!

Question No.173

RETIREMENT OF NBK CHIEF EXECUTIVE

Mr. Muiruri asked the Minister for Finance why the chief executive of the National

Bank of Kenya has not retired, yet he has attained the mandatory retirement age.

Mr. Speaker: Is there anybody here from the Ministry of Finance? We will come to this Question later.
Next Question?

Question No.198

TOTAL PUBLIC DEBT IN 2002/2003

Mr. Speaker: Is Eng. Muriuki not here? We will come back to this Question later.
Next Question.

Question No.077

COMPLETION OF MASALANI BRIDGE

Mr. Y. Haji asked the Minister for Roads, Public Works and Housing:-
(a) whether he is aware that Masalani Bridge has taken one year longer to complete;
(b) what the causes of this delay are; and,
(c) when it is expected to be completed.

Mr. Speaker: Is there anyone here from the Ministry of Roads, Public Works and Housing?
What is happening today? We will come back to this Question later.
Next Question?

Question No.202

REPAIR OF MURI FARM-KINDARUMA ROAD

Mr. Mbai asked the Minister for Roads, Public Works and Housing:-
(a) whether he is aware that Muri Farm-Kindaruma Road (Road 626) in Masinga Constituency is incomplete;
(b) whether he is further aware that the road is impassable on the side of Ndithini Division; and,
(c) what urgent measures he is taking to ensure that the road is repaired and the bridge on Thika River constructed.

Mr. Speaker: Is there anyone here from the Ministry of Roads, Public Works and Housing?
We will come back to this Question later.
Next Question!

Mr. Ndile: Bw. Spika, nitaliuliza Swali langu kwa siku ya nne mfululizo.

Question No.142

EFFECTS OF MARRIAGES BETWEEN
YOUNG MEN AND ELDERLY WOMEN

Mr. Ndile asked the Minister for Planning and National Development:-
(a) whether he is aware that due to poverty in the country, young men in their twenties are marrying women aged over 70 years; and
(b) whether he could assure the House that the trend will not adversely affect the social fabric of the society.

(Laughter)

Mr. Speaker: Order! I think we are deteriorating in seriousness to this House. Could we please be serious in these issues. Is there a Minister?
We will come to this Question later.
Next Question!

*Question No.208*EXCLUSION OF NEP FROM
POVERTY REDUCTION FUNDING

Mr. Abdirahman asked the Minister for Planning and National Development:-

(a) why North Eastern Province was left out in the regional distribution of approved proposals for funding under the Government's Poverty Reduction Strategy in the final document of November 2002; and,

(b) what steps the Ministry is taking to ensure that the anomaly is corrected.

Mr. Speaker: Is there anyone here from the Ministry of Planning and National Development? We will come back to this Question later.

Next Question!

*Question No.205*DISAPPEARANCE OF MR. CHARO
FROM MATHARE HOSPITAL

Mr. Khamisi asked the Minister for Health:-

(a) whether she could inform the House the circumstances that led to the mysterious disappearance in September, 2003 of a mental patient, Mr. Tony Jacob Charo, from Mathare Mental Hospital; and,

(b) what action she has taken to trace this person.

Mr. Speaker: Is there anyone here from the Ministry of Health? We will come back to this Question later.

Next Question!

Question No.180

HARNESSING OF RIVER NZOIA WATERS

Dr. Kibunguchy asked the Minister for Water Resources Management and Development:-

(a) what plans the Ministry has to harness water from River Nzoia for use by *wananchi* of Lugari; and,

(b) why Lugari has not benefited from the clean piped water that goes to the Eldoret bullet factory from River Nzoia.

Mr. Speaker: Is there anyone here from the Ministry of Water Resources Management and Development?

Cap. Nakitare: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Just a moment. Relax.

Today is a record of sorts. I have never seen anything like this for all the time I have been the Speaker, where either all the Ministers are absent, or all the hon. Members are absent. This is terrible.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order Mr. Speaker, Sir. It is not true that all Ministers are absent. Only Ministers with Questions are absent. We are here!

Mr. Speaker: That may as well be true, but until half a minute ago, that applied to you as well. You have just walked in.

I am really disgusted about this state of affairs. I truly hope it ceases to happen. It is disgusting! It is totally unacceptable that we cannot have a single Question answered in round one.

Mr. Speaker, Sir, in fact, there should not be any rounds. Everybody should be here. I will try again.

Mr. Mwenje's Question for the second time!

Question No.194

WHEREABOUTS OF MR. JAXON MUHINDI

Is Mr. Mwenje not here? The Question is dropped.

(Question dropped)

Prof. Mango's Question for the second time!

Question No.195

POLICE STATION FOR BUTULA DIVISION

Prof. Mango asked the Minister of State, Office of the President:-

- (a) whether he is aware that there is rampant insecurity in Butula Division; and,
- (b) when a police station will be built at Butula divisional headquarters.

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, may I request that you go on with the other Questions. I will answer this one in a short while.

Mr. Speaker: Order, Mr. Tarus. You know this Question should have been answered by now? We are now in the second round. What else do you people do if you cannot do your jobs?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, I definitely apologise for being late to answer this Question.

I am only requesting that you give me half an hour and I will be able to answer this Question.

Mr. Speaker: Half an hour! Why? Are you scared of the Question?

The Assistant Minister, Office of the President (Mr. Tarus): Mr Speaker, Sir, I am not scared of the Question, but I have not received the answer. I am sure I will be able to answer it.

Mr. Speaker: Prof. Mango, you can see the predicament the Chair is in? Can I defer it to tomorrow?

Prof. Mango: Yes, Mr. Speaker, Sir.

Mr. Speaker: The Question is deferred.

(Question deferred)

Mr. Muiruri's Question for the second time!

Question No.173

RETIREMENT OF NBK CHIEF EXECUTIVE

Mr. Muiruri asked the Minister for Finance why the Chief Executive of the National Bank of Kenya has not retired yet he has attained the mandatory retirement age.

Mr. Speaker: Is there anyone here from the Ministry of Finance?
What can I do, Mr. Muiruri?

Mr. Muiruri: Mr. Speaker, Sir, can I have this Question answered tomorrow?

Mr. Speaker: All right. The Question is deferred.

(Question deferred)

Mr. Sungu: On a point of order, Mr. Speaker, Sir. It looks quite unfair that when an hon. Member is supposed to ask a question and is absent, his question is dropped. However, when a Minister is not present, no action is taken against him. It is time the Chair took some serious action to make sure that these Ministers are serious with their work. When we started a while ago, there was not a single Minister in this House. There were two Assistant Ministers. This matter is very serious. Is the Government on leave or asleep?

Mr. Speaker: Mr. Sungu, you should be telling me what is happening. You are on the Government side! Tell me exactly what is happening to your Government.

(Applause)

Next Question, Eng. Muriuki!

Eng. Muriuki: Mr. Speaker, Sir, I wish to apologise for coming late.

Mr. Speaker: Why were you late?

Eng. Muriuki: Mr. Speaker, Sir, I was just walking to the House---

Mr. Speaker: Leisurely! Maybe, today the House will allow that. However, we do not allow hon. Members walking in leisurely while coming to this House. This is a serious business. Proceed and ask your Question!

Question 198

TOTAL PUBLIC DEBT IN 2002/2003

Eng. Muriuki asked the Minister for Finance:-

- (a) what was the total public debt as at 31st December, 2002; and,
- (b) what was the total public debt as at 31st December, 2003.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, the Minister for Finance is not here. He was here this morning, but we all know he is tied up with the preparation of the Budget. If I may seek the indulgence of the House to defer this Question to tomorrow, or Tuesday, next week.

Mr. Speaker: Mr. Musyoka, sitting as you do as the Leader of Government business for now, what is happening with your Government?

The Minister for Foreign Affairs (Mr. Musyoka): Mr. Speaker, Sir, all I can say for now is that I hear you loud and clear. We will be taking up these matters with all the seriousness they deserve.

Mr. Speaker: I am sorry, Eng. Muriuki, I will defer this Question.

(Question deferred)

Mr. Haji, for the second time!

Question No.077

COMPLETION OF MASALANI BRIDGE

Mr. Y. Haji asked the Minister for Roads, Public Works and Housing:-

(a) if he is aware that Masalani Bridge has taken one year longer to complete;

(b) what are the causes of this delay; and,

(c) when it is expected to be completed.

Mr. Speaker: Mr. Haji, I am sorry the Minister is absent.

Mr. Haji: Mr. Speaker, Sir, the Question could be answered tomorrow.

Mr. Speaker: Very well, the Question is deferred.

(Question deferred)

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

Mr. Speaker: What is it, Mr. Osundwa?

Mr. Osundwa: Mr. Speaker, Sir, I have ascertained from the Clerk's Office that there are over 400 questions which are still pending. Some of us filed questions over three months ago and they are not appearing in the Order Paper. What will we do? Could the Chair call a *Kamkunji* so that we thrash out these matters?

Mr. Speaker: I do not think it is my business to whip the Government. I think they have their own whips who, unfortunately, I do not see them here. The Government has leaders of their business whom I do not see either. They have their Ministers. Unfortunately, those whose Questions appear in today's Order Paper are not here. Now, I think the House must decide what to do in all seriousness.

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

Mr. Speaker: Let us, first of all, go through the Questions then you can raise your points of order.

The Minister for Water Resources Management and Development (Ms. Karua): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What would you like to do, Ms. Karua?

The Minister for Water Resources Management and Development (Ms. Karua): Mr. Speaker, Sir, I am just undertaking to communicate to the relevant Ministries about this. However, now that the answer to this Question is here, I am ready to present it.

Mr. Speaker: Anyway, I think the Government should work much better than that. If a Minister cannot come, he must contact his or her colleague and make arrangements to answer the Question.

The Minister for Water Resources Management and Development (Ms. Karua): We have the answer!

Mr. Speaker: Order! You know you do not heckle the Chair! This is a serious issue. If you cannot see that this matter is serious, then nothing else can be serious.

For the second time, Mr. Mbai!

Question No.202

REPAIR OF MURI FARM-KINDARUMA ROAD

Mr. Mbai asked the Minister for Roads, Public Works and Housing:-

(a) if he is aware that Muri Farm-Kindaruma Road (Road 626) in Masinga Constituency is incomplete;

(b) if he is further aware that the road is impassable on the side of Ndithini Division; and,

(c) what urgent measures he is taking to ensure that the road is repaired and the bridge on Thika River constructed.

Mr. Speaker: Were you here during the first round?

Mr. Mbai: Yes, Mr. Speaker, Sir.

Mr. Speaker: Very good.

Mr. Mbai: Mr. Speaker, Sir, I would like to know what will happen if we will not be given the answers to these Questions. Will they reappear again in future?

Mr. Speaker: Ms. Karua, would you like to answer that?

The Minister for Water Resources Management and Development (Ms. Karua): Mr. Speaker, Sir, the answer is ready, but since I may not be able to deal with supplementary issues, I request that this Question be deferred to be answered by the relevant Ministry. I undertake to communicate the same.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Hon. Members, could you allow me to go through all the Questions, then you can rise your points of order at the end.

I will defer this Question.

(Question deferred)

For the second time, Mr. Ndile!

Question No.142

EFFECTS OF MARRIAGES BETWEEN
YOUNG MEN AND ELDERLY WOMEN

Mr. Ndile asked the Minister for Planning and National Development:-

(a) if he is aware that due to poverty in the country, young men in their twenties are marrying women aged over seventy years; and,

(b) if he could assure the House that the trend will not adversely affect the social fabric of the society.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Bw. Spika, ninaomba msamaha, Waziri hayuko hapa.

Mr. Speaker: I will defer the Question.

(Question deferred)

Next Question, Mr. Abdirahman!

Question No.208

EXCLUSION OF NEP FROM
POVERTY REDUCTION FUNDING

Mr. Abdirahman asked the Minister for Planning and National Development:-

(a) why North Eastern Province was left out in the regional distribution of approved proposals for funding under the Government's Poverty Reduction Strategy in the final document of November 2002; and,

(b) what steps the Ministry will take to ensure that the anomaly is corrected.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I would like to convey apologies again because Prof. Anyang'-Nyong'o is not here.

Mr. Speaker: Very well. The Question is deferred.

(Question deferred)

Next Question, Mr. Khamisi!

Question No.205

DISAPPEARANCE OF MR. CHARO
FROM MATHARE HOSPITAL

Mr. Khamisi asked the Minister for Health:-

(a) if she could inform the House the circumstances that led to the mysterious disappearance in September, 2003, of a mental patient, Mr. Tony Jacob Charo, from Mathare Mental Hospital; and,

(b) what action she has taken to trace this person.

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

(Applause)

Mr. Speaker: Mr. Konchella, at least, you must be orderly in the presence of the Chair. This Question is coming for the second round. So, you owe the House an apology.

Dr. Ali: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it?

Dr. Ali: Mr. Speaker, Sir, the Assistant Minister for Foreign Affairs, Mr. Wetangula, said Prof. Anyang'-Nyong'o is not in the country, and he has just walked in the House. Could the Chair deal with this Assistant Minister?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Speaker, Sir. Anybody with ears heard me say that Prof. Anyang'-Nyong'o is not here. I never said he is out of the country.

Mr. Speaker: Very well. Mr. Konchella, could you apologise to the House?

The Assistant Minister for Health (Mr. Konchella): Mr. Speaker, Sir, I apologise to the House for being late.

However, I beg to reply.

(a) I am aware that Mr. Tony Charo, a medical patient No.58263, escaped from Mathare Mental Hospital on 9th October, 2003, at about 7.20 a.m., while the nurses were taking stock, preparing to give breakfast, medication, as well as cleaning of the patients in the ward. He jumped over a perimeter wall of the ward and escaped despite all security measures. Mr. Charo was admitted in ward 9, male; a general ward.

(b) The police in the hospital are investigating the disappearance of the patient.

Mr. Khamisi: Mr. Speaker, Sir, the information given by the Assistant Minister is most unsatisfactory. Mathari Hospital is under a 24-hour guard and I do not understand how a patient could move out of a locked dormitory, walk unnoticed through a maze of corridors and just disappear into thin air. That is most unsatisfactory and I do not think that, that explanation is correct. Could the Assistant Minister explain the whereabouts of that individual?

Mr. Konchella: Mr. Speaker, Sir, the hon. Member should know that Mathari Hospital is not a prison. It is a hospital to treat people who are sick. When the staff went to clean and provide medication to the patients, he slipped out when they were busy attending to other patients. We also know that some mental patients could, sometimes, be very active and strong. That man just jumped over the wall and disappeared. The matter was reported to the police the same day and they are investigating up to now.

Mr. Mwandawiro: Bw. Spika, umemsikia Waziri Msaidizi akisema kwamba Hospitali ya Mathari si jela. Mimi nimekuwa nikitembelea hospitali hiyo hivi majuzi na najua ni kama jela!

An hon. Member: Ulikuwa unaenda kufanya nini huko?

(Laughter)

Mr. Mwandawiro: Bw. Spika, sisemi nina wazimu! Nilikuwa na mgonjwa hapo! Je, Bw. Waziri Msaidizi, unachukua hatua gani kuhakikisha Kwamba Hospitali ya Mathari si jela, bali ni hospitali ya wagonjwa?

Mr. Konchella: Bw. Spika, nimesema kwamba Mathari ni hospitali na wala sio jela. Kwa hivyo, sijui tufanye nini ili iwe tofauti. Kwa sasa, nawahakikishia Wabunge kwamba katika hospitali hiyo, [Mr. Konchella] watu wanatibiwa kama hospitali nyingine katika Kenya.

Mr. Shakombo: Bw. Spika, ulimsikia Waziri Msaidizi akisema kwamba yule mgonjwa alipanga mipango yake na akatoka bila kuonekana. Sisi tunajua kwamba wagonjwa walioko kule ni wendawazimu. Waziri Msaidizi anaweza kutueleza kati ya wale askari na wale wagonjwa, ni nani wana wazimu zaidi ya wengine?

(Laughter)

Mr. Speaker: Order, Mr. Shakombo! The last bit of your question is easily an insult to the guards there. You know that, under the Standing Orders, an hon. Member is not allowed to insult any other person who cannot defend himself. So, will you withdraw the bit about the guards and apologise?

Mr. Shakombo: Mr. Speaker, Sir, my argument was---

Mr. Speaker: Order, Mr. Shakombo! This is your second term. You know very well that when you are asking a question, it is not debating time. Therefore, you do not argue. You

interrogate the Assistant Minister! There is a world of difference between argument and interrogation. You are only allowed to interrogate the Assistant Minister and not to argue with him. So, will you withdraw that bit about the guards and apologise?

Mr. Shakombo: I withdraw.

Mr. Speaker: And apologise!

Mr. Shakombo: I apologise.

Mr. Speaker: Very well. I think we shall have the last one. Whose Question was it? Mr. Khamisi!

Mr. Khamisi: Mr. Speaker, Sir, first of all, it is not true that the matter was reported to the police the following day. The parents of that individual went to the police station three months later and the report had not been made. My question is: The Assistant Minister has said that the matter is being investigated.

Mr. Speaker, Sir, could he tell the House how far the investigations have gone?

Mr. Konchella: Mr. Speaker, Sir, it is not true that the incident was not reported. I have a report form here. It was reported the same day, and it is signed by officers from Muthaiga Police Station. The hon. Member may wish to look at it, because it is here. As far as I know, the patient is still being looked for by the police.

Mr. Speaker: Very well! Next Question by Dr. Kibunguchy for the second time!

Question No.180

HARNESSING OF RIVER NZOIA WATERS

Dr. Kibunguchy asked the Minister for Water Resources Management and Development:-

(a) what plans the Ministry has to harness water from River Nzoia for use by *wananchi* of Lugari; and,

(b) why Lugari has not benefited from the clean piped water that goes to the Eldoret Bullet Factory from River Nzoia.

Mr. Speaker: For the second time--- Were you here the first time, Dr. Kibunguchy.

Dr. Kibunguchy: Yes, Mr. Speaker, Sir.

The Minister for Water Resources Management and Development (Ms. Karua): Mr. Speaker, Sir, I apologise. It was due to a traffic jam that I came in a bit late. I beg to reply.

(a) My Ministry plans to harness water from River Nzoia by developing a new water abstraction facility near Moi's Bridge and augment the distribution and storage system of Little Nzoia Water Supply which serves Lugari residents among other beneficiaries. The proposed project was estimated to cost Ksh130 million in 1993. It was intended to serve a population of 232,000. My Ministry intends to review that proposal during the next financial year, with the aim of including the project in the forward budget of the Ministry.

In the meantime, we have disbursed a total of Kshs6.4 million this financial year for rehabilitation of dam reservoirs and water reticulation system of Little Nzoia Water Supply, in order to increase the present water production. The rehabilitation works are going on.

(b) The clean piped water that goes to the bullet factory is an institutional water supply with a limited capacity. The water supply is not owned, managed or operated by my Ministry, but by the Department of Defence (DoD), Office of the President. There are other water sources including Little Nzoia Water supply, Soy Community and Lumino Dam Water Supply which serve the residents of Lugari living near that bullet factory.

Dr. Kibunguchy: Mr. Speaker, Sir, first of all, I would like to thank the Minister for, at least, being in the House. Secondly, much of what the Minister has said is not true. The Little Nzoia Water Supply, as we talk now, is completely silted. All the other dams that she has mentioned; that is, Lumino Dam and Nzoia Water Project are non-existent on the ground. The important thing that I would like to know from the Minister is: Over the years, River Nzoia causes a lot of flooding in the lower parts of its stream. What is the Minister doing to dam the river in the upper stream, so that she could lower the devastating floods that are caused in the lower stream? Secondly---

Mr. Speaker: That is enough!

Ms. Karua: If the hon. Member cared to listen, I talked of de-silting of dams and rehabilitation of the water supply. I am, therefore, accepting that the dam has a problem of siltation. Half the dams in this country have the same problem and we are doing our best to de-silt and rehabilitate them.

Regarding the issue of floods, that is entirely a different question. But I want to assure the hon. Member that we have long term flood control measures to dam River Nzoia.

Mr. Kimeto: Mr. Speaker, Sir, what the Minister has said is contrary to what is on the ground, as the hon. Member has said. Could she consider giving money to the development committee in the area to be giving her information rather than the officials of the Ministry?

Ms. Karua: Mr. Speaker, Sir, I have not understood the Question!

Mr. Speaker: What have you said?

Mr. Kimeto: Mr. Speaker, Sir, what the hon. Member is saying is contrary to what the Minister is saying. The hon. Member is saying that what the Minister has said is completely opposite. Then I have asked: Could the Minister enable the development committee in charge of water in that area to give her the true information?

(Laughter)

Ms. Karua: I must thank the hon. Member for explaining the question. I have now understood. I want to assure the hon. Member that what the Questioner is saying and what I am saying is the same. He talked about the dam being non-existent due to siltation. I am admitting that the dams are silted and we are doing something about it.

COMMUNICATION FROM THE CHAIR

ABSENCE OF MINISTERS FROM THE HOUSE

Mr. Speaker: Order! Hon. Members, before we go to Questions by Private Notice, you will realise that of all the Ordinary Questions, only two have been answered, the reason being, apart from one, Ministers were absent at that time. Every Member knows, or ought to know, that House Business begins at 2.30 p.m., not 3.00 p.m., not 3.30 p.m. and not 4.00 p.m.; it begins at 2.30 p.m. Last time, I warned that the Chair will consider it very unkindly about the unavailability of Ministers to answer Questions. In spite of that, we have this terrible situation today. For the benefit of Ministers absent, the Speaker was forced to wonder loudly, "Where is the Government?"

(Applause)

And the Speaker was forced to even ask, "Where is the Government Chief Whip or his

Deputy?" This was because I was asked by Members to ask Ministers to come. It is not the business of the Speaker to whip. That is the business of the Whips, the Leader of Government Business and above all, I think it is the responsibility of every Minister who has been bestowed the unique honour, to serve the people of Kenya in the position of Minister. If we tire one-and-half years after being so appointed, then we do not know what will happen another half year from now.

(Applause)

So, I think, hon. Members, let us give the Ministers and the Government time to go and digest and ponder on what has been said from the Chair. So, I leave them to go and digest and ponder, and decide what to do on what I have said from the Chair.

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Speaker, Sir, I do not want to question your ruling. As a Government, we fully understand our responsibility. But it also needs to be appreciated that sometimes, Members themselves come late when the Ministers are here. It has happened several times and the Chair usually excuses them, they apologise and are allowed to ask the Question for a Second Time.

Mr. Speaker: Order! Order, Mr. Raila! I think I am forced again to ask hon. Raila himself to reconsider. He is now becoming very familiar, reacting to every ruling the Speaker makes. Now, you must sometimes control some of the sentiments you may wish to make because it is a fact that after 2.30 p.m. I called about 10 Questions and for nine of them, not a single Minister responsible was present!

(Applause)

I am stating a fact. You were absent when this happened. So, first of all, you, yourself, must relax and pray that at an appropriate time, you will get an opportunity to apologise to the House for not answering the Question listed under your Ministry. For the time being, go and ponder on what I have said and, please, let us leave it at that now. Last time, the House actually pressed me to take action against Ministers who are absent, and I was forced to say that is contempt of the House. It does actually appear that Ministers are not even remorseful. So, could we leave it at that!

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Speaker, Sir, I am saying that the Government also has a right to be heard, even if it is only to apologise to the House. This is what I am trying to do. We do not need to go and reflect to come and apologise. I am saying that the Government is run by human beings and sometimes, there are circumstances that make Ministers late to come to the House.

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

Mr. Speaker: Order! You must all sit down. Let me hear what the Minister is saying.

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Speaker, Sir, all that I am saying is that the Government is very remorseful as to what has happened today.

Mr. Speaker, Sir, individual Ministers have reasons why they have come late and I am saying that this is something that is not going to be a practice in future.

By the same token, I would also like hon. Members who have Questions in the House---

(Loud consultations)

Mr. Speaker: Order! Order, Members!

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Speaker, Sir, I am saying that the same principle applies to other Members of the House who sometimes come late.

(Loud consultations)

Mr. Speaker: Order, Members! Order! I will give you a little time to ventilate because this is really important. We must take the Business of this House seriously.

But hon. Members, I have no known way of ever flogging remorse. To the best of my ability and understanding, when somebody has apologised and is remorseful, I do not think I will hit that person.

An hon Member: They are not serious!

Mr. Speaker: If they are not serious, we will find out in due course. In the meantime---

An hon. Member: Throw him out!

(Laughter)

Mr. Speaker: By the way, hon. Members, let us take this matter seriously because it is a serious matter when we cannot transact the Business of the House for which we are paid. So, could we now leave it at that? They have heard me and the hon. Minister, on behalf of his colleagues, has apologised to the House and he has indicated that the Front Bench is remorseful. I think that is enough.

Dr. Ali: On a point of order, Mr. Speaker, Sir. While I appreciate what the Minister has said, after Members put a Question, they wait for six months and if they are not here when the Question is called, that Question is dropped and that is enough punishment for the Members. What happens to the Ministers who know they are supposed to answer a Question and they do not come to the House?

For today, we can forgive them, but we have to take action later if they do not come to the House.

(Applause)

Mr. Speaker: I have expressed the greatest displeasure of the Chair and the House. The Minister has apologised and promised that there will be remedial action. So shall we leave it at that now?

Questions by Private Notice!

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

Mr. Speaker: Sasa tumeondoka hapo! Order, Mr. Ndile!

(Mr. Ndile stood up in his place)

Order, Mr. Ndile! For the whole of this week, you have been persistently disorderly! You must now understand that you have been breaching Standing Order No.88 persistently since yesterday and the week before.

(Loud consultations)

Any hon. Member now who is going to interject will go out! I gave you a stern warning yesterday for persisting the way you are doing now. I have no option now but to ask you---

Hon. Members: Forgive him!

Mr. Speaker: Order! Naomba Bw. Ndile, unifahamu vyema kutoka sasa. Uwe mwangalifu sana kwa utovu wa nidhamu, maanake hatua ifaayo itachukuliwa dhidi yako.

(Applause)

Next Question by Mr. Wamwere!

QUESTIONS BY PRIVATE NOTICE

ISSUANCE OF CERTIFICATES OF GOOD CONDUCT

Mr. Wamwere: Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

(a) Is the Minister aware that Mr. Daniel Kigochi Waimiri is unable to take up employment offered to him by Eldoret Express Company on 12th February, 2004, as he cannot obtain a certificate of good conduct?

(b) Is he further aware that the said certificate is denied on account of a charge that was filed against Mr. Kigochi (Nakuru Case No.CR769/163/93) which was later dropped by the State on 28th January, 1994?

(c) Given that Kenyans looking for employment have to furnish prospective employers with the above certificate, which former convicts and others who have had cases against them cannot obtain, could the Minister consider withdrawing this requirement?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware.

(b) Yes, I am aware that Mr. Daniel K. Waimiri was denied the said certificate on account of a charge with the offence of attempted robbery with violence; File Case No.CR769/163/93, Court File No.2300/93.

(c) This is a requirement by certain employers and countries and for certain categories of jobs and businesses and hence this requirement cannot be withdrawn.

Thank you.

Mr. Wamwere; Mr. Speaker, Sir, I think we need more protection from Ministers who do not really care about the kind of answers they bring to this House. They just absent themselves from the House. You remember, last week, the Assistant Minister asked to be given more time to give a substantive answer to this Question. One week later, I am getting exactly the same reply that he could have given a week ago. Why did the House have to wait for one week only to be told exactly the same thing we would have been told last week?

Is the police at liberty to deny an absolutely innocent Kenyan a certificate of good conduct when doing so means that he would not be able to get employment? If the Criminal Investigations Department (CID) did not intend to give Mr. Kigochi the certificate of good conduct, why did they take Kshs1,000 from him for the same on 10th February, 2004, vide receipt No.828175?

Mr. Tarus: Mr. Speaker, Sir, under the circumstances surrounding this particular case, we

have taken due consideration and found that this individual deserves to be given a certificate of good conduct.

Mr. Speaker: Mr. Bahari, hii ni bahati yako. Today you are not at your usual place.

Mr. Bahari: Mr. Speaker, Sir, employment is something that is hard to come by in this country. Even as we read in the Press today, we are told 20,000 Kenyans are likely to lose employment. Last week, the Assistant Minister undertook to issue a certificate of good conduct to this prospective employee. Now that the Kshs1,000 has been paid, could he undertake to issue that certificate tomorrow?

Mr. Tarus: Mr. Speaker, Sir, if the hon. Member was listening, I said that after due consideration of the issue surrounding the application of this particular individual, it is true that he deserves the certificate of good conduct. However, I cannot assure that it is going to be tomorrow. He shall be given the certificate.

Hon. Members: When?

Mr. Muchiri: Mr. Speaker, Sir, the issue of the certificate of good conduct has been with us in this country for long, particularly when the *matatu* saga started. Could the Assistant Minister tell us what necessitated the increase of the fee from Kshs500 to Kshs1,000? Every other time, when people come from the rural areas, they find that the fee has gone up. What was the reason for increasing the fee from Kshs500 to Kshs1,000? Was it because of high demand?

Mr. Tarus: Mr. Speaker, Sir, more often, there are reviews by the Government with respect to certain services that attract fees. However, I want to say that other than the fee requirement, there are other requirements for one to be given a certificate of good conduct.

With regard to the fee, if it is high, this is something we can give due consideration, given the sentiments expressed by hon. Members.

Mr. Speaker: Last question, Mr. Wamwere!

Mr. Wamwere; Mr. Speaker, Sir, Mr. Kigochi deserved to get this certificate of good conduct ten years ago because he has always been innocent. In any case, the CID took his Kshs1,000 three months ago. For over one week I have been going with him to the Office of the President, but somebody somewhere is saying that he will not get this certificate. I do not know who that person is. The Assistant Minister has even called the police; the Commissioner of Police has called the CID, and they refused to issue the certificate.

In the event, does the Assistant Minister consider it right that the NARC Government should sell to Kenyans the right to work by charging them Kshs1,000 for a certificate of good conduct; that they are at liberty to give or not to give?

Hon. Members: That is corruption!

Mr. Tarus: Mr. Speaker, Sir, I know that the payment of Kshs1,000 may look expensive. I have said that Kenyans do not pay to work in Kenya, but we are saying that we have these regulations in place. We have taken the sentiments expressed by hon. Members, and they will be given due consideration. It is good enough for hon. Members to also take us seriously on this particular issue.

Mr. Mwandawiro: Hoja ya nidhamu, Bw. Spika. Je, ni nidhamu kwa Waziri Msaidizi kusema kwamba "certificate of good conduct" itaendelea kuhitajika huku akisema kwamba analitilia maanani Swali la Bw. Wamwere?

(Laughter)

Mr. Wamwere: On a point of order, Mr. Speaker, Sir. I was just going to ask for the Chair's indulgence. Since the Assistant Minister has said that they have concluded that Mr. Kigochi

deserves a certificate of good conduct, can I ask Mr. Kigochi to go and get a Certificate of Good Conduct from the Office of the President tomorrow?

Mr. Speaker: Mr. Tarus, that is not an unreasonable request from the hon. Member. Can you assist?

Next Question, Mr. Omingo!

PROVISION OF COMMUNICATION EQUIPMENT TO NYAMAIYA
POLICE STATION

Mr. Omingo: Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

When will the Minister provide a vehicle and communication equipment to Nyamaiya Police Station, which is 45 kilometres from Gucha District Headquarters, to fight spiralling insecurity in that area?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, I beg to reply.

Nyamaiya Police Station has a vehicle, Registration No. GK A208B, Land-Rover Tdi. However, the vehicle developed mechanical problems sometime back. It was taken to the workshop for repair and will soon be serviceable. The police station already has communication equipment. Plans are under way to instal high frequency communication sets and boosters to improve the reception in the area.

Mr. Omingo: Mr. Speaker, Sir, the Assistant Minister's response to the Question is pathetic. In as much as he seeks hon. Members' understanding, the kind of response he has given to the House is a joke. It is now seven months since Nyamaiya Police Station got isolated from Gucha District Headquarters. One can shuffle and sack as many senior police officers as he can, but without facilities like the ones in question, one cannot deliver services to the people. When is he going to provide Nyamaiya Police Station with a vehicle and communication equipment? The communication set at that police station is not functional. I was there a week ago.

Mr. Tarus: Mr. Speaker, Sir, I have said that we are repairing the vehicle that broke down. Once it becomes serviceable, it will be in use for the time being, before we acquire additional vehicles. With regard to communication equipment, there are plans to provide the station with vital equipment to enable them communicate effectively. That we shall do.

Mr. Shitanda: Mr. Speaker, Sir, it is not only at Nyamaiya Police Station where we have a problem of vehicles. I believe that all districts in the country are affected. I would like to know whether there are any arrangements in place to replace vehicles that break down, especially those of the police. Whenever vehicles break down in most police stations, they are taken away for repairs and sometimes it takes a whole year for them to be repaired, and yet police stations require vehicles on a 24-hour basis. What is the Ministry doing to ensure that, at any one given time, police stations have access to vehicles?

Mr. Tarus: Mr. Speaker, Sir, although we have, in the past, acquired vehicles for this particular purpose, we are sometimes constrained by resources. However, we will do our best to ensure that problems of this kind are sorted out.

Mr. Omamba: Mr. Speaker, Sir, the problem of vehicles does not only affect Nyamaiya Police Station. For the last five years, my constituency, Uriri, has not had any vehicle despite the spiralling insecurity in that area. What policy does the Ministry have on this matter?

Mr. Tarus: Mr. Speaker, Sir, the problems experienced by police stations across the country are the basic reasons that have called for a serious programme for the entire police force.

We are not saying that we have been able to solve the problem entirely, but we have commenced a programme of ensuring that the problem of vehicles becomes a thing of the past. We have not satisfied the needs of all the police stations, police posts and police patrol bases.

However, we have done what we could, under the circumstances, with the resources that we had.

Mr. Omingo: Mr. Speaker, Sir, in as much as the Assistant Minister seeks the understanding of hon. Members, he should also be truthful to this House and give the facts as they are on the ground. There is no vehicle at Nyamaiya Police Station. While I was there, I asked the officers on duty to communicate with Gucha District Headquarters, but the communication system was not functional. For the last seven months, that police station has not had a vehicle. In the meantime, what is he doing about the problem? Crime is on the increase. You can shuffle police officers, but without the appropriate equipment, there can be no service delivery. In the meantime, what is the Assistant Minister doing to avail a vehicle to Nyamaiya Police Station, so that the officers attached to it can perform?

Mr. Tarus: Mr. Speaker, Sir, Nyamaiya Police Station will be considered for allocation of an additional vehicle, along with other police stations in the country, as soon as new vehicles are acquired.

Mr. Speaker: Very well. Next Question, Dr. Ali!

Archbishop. Ondiek: On a point of order, Mr. Speaker, Sir. The same Assistant Minister promised a vehicle---

Mr. Speaker: Order! Order! Archbishop, that is a supplementary question.

Archbishop. Ondiek: Mr. Speaker, Sir, the same Assistant Minister misleads the House daily.

Mr. Speaker: Order! Order, Archbishop Ondiek! We are not going to transact the business of this House unprocedurally. So, you should either follow the rules or you relax. Please, sit down.

PROGRESS OF IGAD-BROKERED SOMALI PEACE PROCESS

Dr. Ali: Mr. Speaker, Sir, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Could the Minister inform the House the progress made in the reconciliation efforts of IGAD on the Somali peace process?

(b) Could he further inform the House the working relationship among the three main countries of Kenya, Ethiopia and Djibouti on the peace process?

(c) Could the Minister consider relocating delegates of the peace process to another country since Kenya is already hosting large groups of refugees from Somalia and other countries?

The Minister for Foreign Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to reply.

(a) The Somali National Reconciliation Conference commenced in Eldoret on 15th October, 2002. Since then, a lot of progress has been achieved. Subsequently, we had to relocate the conference to the Kenya College of Communication Technology (KCCT), Mbagathi. The conference has been with us for 17 months. We are now into the 18th month, making this the biggest effort ever in terms of trying to reconcile the parties to this conflict. I am sure that hon. Members appreciate that we are dealing with a country that has been put into the category of a failed state. All the same, we have been able to move the Conference from the first phase in Eldoret to the second phase. We are now in the preliminary stages of the third phase which will, hopefully, be the final phase. It is hoped that by the end of July, we will be able to conclude the process in Mbagathi.

(b) We have several countries but, obviously, we started with Kenya, Ethiopia and Djibouti, being the frontline states to this Conference. Subsequently, all the other IGAD member-states joined in as members of the Ministerial Facilitation Committee. The Committee brought on board Uganda, Sudan and Eritrea. I am happy to let the House know that we are all working as a team, as witnessed by our latest Press Communique that I, together with my colleagues, were able to issue at the conclusion of a one-day deliberation, aimed at finding the road map or the way forward with regard to the conference. The happy thing is that we all spoke in one voice. My colleague, Minister Mesfin from Eritrea, was in attendance personally. Minister Augustine Shimiye represented the Chair of the IGAD authority; President Museveni and the late James Wapakhabulo were also present. The Minister for Foreign Affairs of Eritrea, Dr. Said, was also present, and so was the Minister for Foreign Affairs and Parliamentary Affairs of the Republic of Djibouti, Mr. Farah. So, this time round, we had a full house. What we issued to the world was very encouraging. We said that, as members of the Ministerial Facilitation Committee, we will act as a team, and that we will not allow any of the Somali factions to divide the IGAD member countries.

Dr. Ali: Mr. Speaker, Sir, while appreciating what the Minister has said, the fact is that Kenya now does not recognize the so-called Somali passports because, as he said, it is a failed state. How does the Minister intend to facilitate the Somali delegates to do their job here when their movement is hindered because of the passport saga?

Mr. Kalonzo: Mr. Speaker, Sir, I was initially concerned with that matter. However, because of the security situation, and all of us do know the extent to which this country has suffered as a result of instability in this neighbouring country, we, as a Government, had to take that position. I am sure Dr. Ali will agree with me; even the Arab League has also unanimously issued a statement saying they also do not recognise the Somali passports. Therefore, that actually does help us because the initial reactions we were getting were that in Puntland, for instance, Kenyans were getting roughed up. I hope that this matter will now be put to rest, and that sooner than later, we will be able to get back on the conference table. We have sent out a very strong appeal to those Somali leaders who actually left the country, including preparing ourselves to take this matter to the African Union (AU) and also, subsequently, to the United Nations (UN) Security Council. But to answer Dr. Ali, specifically, we are already making arrangements to bring the genuine traditional leaders. This is already on-going. I hope the exercise will succeed. I wrote specifically to the Vice-President and Minister for Home Affairs to make a special facilitation of this exercise. I want to thank him because he moved swiftly and now we are actually receiving what we call genuine traditional leaders, who will then be able to assist the process into its final phase.

Mr. Munya: Mr. Speaker, Sir, I would like the Minister to respond to the accusation that the Ministry of Foreign Affairs, which was facilitating the talks, altered Article No.30 of the Transitional Charter of the Republic of Somalia, to read differently from the original one so as to assist one of the parties, who is the interim President, to have more delegates in the conference. This is what has brought the impasse and brought into question Kenya's neutrality in the entire affair.

Mr. Kalonzo: Mr. Speaker, Sir, quite obviously, I totally and wholeheartedly disagree with that representation. Rightly, differences arose over the interpretation of Article No.30 of the Transitional Federal Charter. It will also be recalled that the Somalia leaders, in complete jubilation and in the full glare of the international community, and witnessed by His Excellency President Mwai Kibaki, actually affixed their signatures to the harmonized position, which included the controversial Article 30. However, I want to assure the hon. Member that Kenya's image is absolutely solid; we are operating absolutely above board. Our only interest is to see peace in the neighbouring State of Somalia.

Mr. Y. Haji: Mr. Speaker, Sir, while appreciating the answers given by the Minister, could

the Government consider, on humanitarian grounds, allowing Somalis who will want to come into the country for treatment to do so? They do not have the important services in their country; for example, medical services. We also know that even when they had a government, their traditional place for treatment was Kenya.

Mr. Kalonzo: Mr. Speaker, Sir, it is obvious that destiny has put Kenya and Somalia together. There is absolutely no way we can run away from our natural neighbour. Therefore, I know that great care is actually given to those Somalis who are sick and others who are working with the international organisations, to be able to access treatment in some of our hospitals. Obviously, a hospital like Nairobi Hospital is the best in the region. Considering the sheer question of application of international humanitarian law, we have to facilitate treatment of Somalis, mainly those who are working with reputable international organisations.

Mr. Kipchumba: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: There cannot be points of information on Question Time. Now, relax, "Mr. Mganga!"

An hon. Member: That is Mr. Kipchumba!

Mr. Speaker: I am sorry to Mr. Mganga. It is Mr. Kipchumba. You look alike though.

(Laughter)

Now, Mr. Kipchumba, please, sit down, and completely relax! The problem is not my problem.

Proceed, Dr. Ali!

Dr. Ali: Mr. Speaker, Sir, the Minister said they are ready to continue with the process and finish it by the end of July. However, right now, those delegates who are in Mbagathi Technical College have not eaten for the last two weeks. Likewise, food and accommodation for those at the 680 Hotel will end tomorrow, and they will be thrown out. Those who were in Safari Park Hotel have been shifted to the 680 Hotel and they will be thrown out tomorrow too.

In addition, payment to the hotels that accommodated the delegates in Eldoret has not been made yet. The 680 Hotel is owed, at least, US\$1 million, while Mbagathi is claiming over Kshs60 million. How are these people going to continue with this work when they will not have somewhere to sleep and something to eat?

Mr. Kalonzo: Mr. Speaker, Sir, I appreciate those concerns. However, it is not true that they have not eaten for two weeks. I am informed that for approximately four days, catering at the Mbagathi Technical College was actually stopped. I am also aware of the tremendous suffering on the part of those of our people in Eldoret who facilitated this process. I am also aware that this process is running at a deficit of approximately US\$10 million. This is a huge financial burden. But it should also be appreciated that I could not have run away from my friend, Maj. Madoka, who had actually started this process. I believe that hon. Members will agree with me that the cost of peace can really be excessive, particularly, when it is so valuable to us in this country. I have even made a presentation and we are considering, as a Government, how best we can address the plight of the business people of Eldoret, perhaps through budgetary allocation. My Permanent Secretary is working along with the Treasury to see whether we can take up this matter as a Government.

Mr. Speaker: Very well! I think that is it. Everybody should help the Somalis get peace. Let us move on to the next Question by Mr. M. Kariuki.

Mr. M. Kariuki: Mr. Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) How has the donor bilateral and multilateral pool money been utilized during the current financial year ending 30th June, 2004?

(b) Is the Minister satisfied that the respective Ministries have the necessary capacity to inject the additional money to the targeted projects?

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, I apologise for coming late to answer the earlier Question.

Mr. M. Kariuki's Question asks for information scattered over many Ministries. We received the Question on Monday evening and it has not been possible to put together all the information. So, I appeal to the Chair to allow me answer it early next week.

Mr. Speaker: I think that is a reasonable request. That is not information the Minister can get in 48 hours.

Mr. M. Kariuki, which day, next week, will you prefer the Minister to answer the Question?

Mr. M. Kariuki: Mr. Speaker, Sir, Tuesday next week, if it will be okay with the Minister.

Mr. Speaker: Mr. Minister, will Tuesday or Wednesday be okay with you?

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, I can answer the Question even on Tuesday next week.

Mr. Speaker: That is all right. The Question is deferred to Tuesday, next week.

(Question deferred)

COMPENSATION FOR MTONGWE
FERRY TRAGEDY VICTIMS

Mr. Shakombo: Mr. Speaker, Sir, I beg to ask the Minister for Transport and Communications the following Question by Private Notice.

(a) Is the Minister aware that the families of the 270 people who lost their lives have never been compensated since the 29th April, 1994 Mtongwe Ferry Tragedy?

(b) Is he further aware that as a result of this long delay in compensating the said families, many children have dropped out of school and are living in squalor?

(c) What urgent steps is the Minister taking to ensure that the families of the 270 people are compensated without any further delay?

The Assistant Minister for Transport and Communications (Mr. Ligale): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that most claims arising from the Mtongwe Ferry accident in which 257 people lost their lives have not been settled.

(b) I am aware that the failure to settle these claims may have caused suffering to the dependants and families of the victims.

(c) The House may wish to note that the delay in the settlement of these cases arose from the protracted manner and time in which the due process of the courts of law and the plaintiffs' and defendants' advocates took in negotiating for apportionment of liability to the parties involved, rather than from the Government. The courts initially froze all cases and allowed only one test case to be conducted in order to set precedence for the rest. This test case was only concluded in December, 2003, and has since been settled. The courts decided on a 30 per cent contributory negligence to the plaintiff and a 70 per cent to the defendants.

Consequently, the plaintiffs' and defendants' advocates applied and were granted leave by the court to negotiate settlements for all the other cases out of court, based on the precedent agreed in the test case. These negotiations have to date concluded 42 cases and 212 are still outstanding. Seventeen of these cases have been concluded and have been recorded in court and the others are awaiting registration. The Government, the Kenya Ports Authority and the Kenya Ferry Services have put in place, the necessary arrangements to settle the claims as they are finalized by the parties' advocates and, accordingly, registered in court.

Mr. Shakombo: Mr. Speaker, Sir, I live in Mtongwe Ward where most of the relatives of the victims reside. I make sure that every Sunday, I meet most of the people who have problems. Up to now, not a single relative has come to me and reported that he or she has been compensated. Now that the Assistant Minister has told us that one case has been finalised and settled, could he be kind enough to give us the name of the person who was compensated, the amount he or she was paid, and the date this claim was settled?

Mr. Ligale: Mr. Speaker, Sir, I did not say that all the cases have been settled. I have said that one case was settled and Kshs318,032 paid. The other cases which have been negotiated by the advocates to date are 42 and the ones which have been registered are 17, while the others are awaiting registration. The amount payable for the 17 cases will be Kshs4.2 million. The cases which are waiting to be registered in court are 24.

Mr. Wario: Bw. Spika, mbali na mkasa wa Mtongwe, mkasa kama huu ulitokea katika Mto Sabaki. Ni lini Wizara itabuni kitengo maalum cha kushughulikia mikasa kama hii?

Mr. Ligale: Bw. Spika, mambo kama haya---

Mr. Speaker: You started replying in English! So, continue in English. The hon. Member is at liberty to ask his question in Kiswahili.

Mr. Ligale: Thank you, Mr. Speaker, Sir. Obviously, cases of this nature would differ from one case to another. Because they involve litigation in court, we cannot have one formal way of handling them. But it is the wish of the Government to have those cases settled as soon as possible.

Mr. M. Haji: On a point of order, Mr. Speaker, Sir. The Assistant Minister did not understand the hon. Members's question. Mr. Wario asked: What arrangements has the Government put in place in case such a disaster occurs in future?

Mr. Ligale: Mr. Speaker, Sir, I perfectly understood his question. That is why I said you cannot handle such cases in one format in future because they involve litigation. **Mr. Wario:** Jambo la nidhamu, Bw. Spika. Je, ni vizuri Waziri Mzaidizi kulipotosha Jumba hili kwamba amefahamu swali nililomuuliza, ilhali hakulijibu? Nimeuliza: Ni lini Wizara itabuni kitengo maalum cha kushughulikia mikasa kama hii?

Mr. Speaker: Mr. Ligale, I think the hon. Member is asking about a special fund to cater for disasters.

Mr. Mwandawiro: Jambo la nidhamu, Bw. Spika.

(Laughter)

Mr. Speaker: Order! Order, hon. Members! The hon. Member is saying that this was a totally unforeseen tragedy and 257 lives were lost, and many years down the line, those claims have not been settled because no funds were set aside for their settlement. The hon. Member has asked: Because of your past experience in that disaster, have you made any arrangements to set aside a certain amount of money to compensate the dependants in an event that such a tragedy occurred again?

Mr. Ligale: I am sorry, Mr. Speaker, Sir, the truth of the matter is this. This case does not involve funds from the Ministry, but from the Kenya Ferry Services Ltd. which is a parastatal. Parastatals have insurance companies which handle such matters.

The delay in the dependants being compensated is not due to lack of funds, but due to the nature of the court litigation process. The delay has nothing to do with the lack of funds.

Mr. Khamisi: Mr. Speaker, Sir, could the Assistant Minister tell this House what safety measures have been taken to ensure that such a tragedy does not happen again? That is because those ferries are always stalling mid-way in the ocean.

Mr. Ligale: Mr. Speaker, Sir, obviously, one cannot avoid accidents. It is not our wish to have them. What we have done is to ensure that the Kenya Ferry Services does regular servicing of their ferries. They have put up a programme to ensure that they are renewed, so that we could have safe ferries that ply our waters.

Mr. Speaker: That is the end of Question Time! Mr. Raila, you wanted to give a Ministerial Statement? I think, Mr. Konchella, you too! Who is ready now!

Mr. Konchella, please, proceed!

MINISTERIAL STATEMENTS

GRADUATE NURSES

The Assistant Minister for Health (Mr. Konchella): Mr. Speaker, Sir, I rise to give a Ministerial Statement as a result of a request by the hon. Member for Bumula Constituency, Mr. Bifwoli, on the training policy, employment and scheme of service for graduate nurses.

Mr. Speaker, Sir, arising from the concern for the Ministry of Health to give its policy position on training, scheme of service and employment of graduate nurses, I wish to make the following Ministerial Statement on the matter.

The Bachelor of Science degree programme was introduced in 1992, jointly by the Ministry of Health, Ministry of Education, Science and Technology and Ministry of Planning and National Development, in collaboration with the University of Nairobi. That was for the purpose of improving nursing standards in the country. Prior to that, the Ministry of Health, and other private training institutions, offered nursing courses at diploma and certificate levels only. The certificate and diploma holders form the bulk of the nursing cadre in our health institutions.

Mr. Speaker, Sir, the underlying principle behind the introduction of the Bachelor of Science in nursing courses was to develop a liberally-educated and self-directing individual, who is prepared to provide leadership in nursing practices, and also participate in the administration, education, research and publication in chosen areas of specialisation. That has been achieved with a result of an average of 50 graduate nurses coming out of our local universities annually.

Mr. Speaker, Sir, because of the general restrictions on employment resultant from inadequate financial resources caused by the country's slow economic performance, over the past several years, it has not been possible to absorb all the nurses coming out of training institutions, including the degree holder nurses, despite a countrywide shortage of nurses in our institutions. The Ministry, however, has been able to offer employment to some of them from time to time, as the financial resources have allowed, and we shall continue to do so.

From the time the degree programme was initiated in our institutions, there have been problems affecting training and recruitment of those concerned. There is the problem of internship financing for the students. Internship is an integral part of training without which one will not be registered by the Nursing Council in order to practise. The Bachelor of Science Nursing Programme

requires that graduate nurses undergo a one-year internship in acceptable hospitals and rural health facilities before registration by the Nursing Council. The Ministry of Health has not been able to finance internship, since there has not been financial allocation for that purpose.

Mr. Speaker, Sir, the first two batches of that programme in the years 1996/97, were directly recruited as Nursing Officers I, starting several grades higher than the certificate and diploma holders. Subsequent groups, however, were not employed by the Government and, therefore, their internship programme was not paid for by the Ministry, since they were not in Government employment. As a long-term solution to the internship financing problem, the Ministry of Health recommends that the respective universities offering the degree courses, incorporate internship financing into their training programmes, so that their graduates are licensed to practise as soon as they complete the course.

The Ministry of Health has continued to address the issue affecting graduate nurses, so that they are incorporated in the entire nursing service in the country. The scheme of service for all cadres of nursing has been revised to incorporate the graduate nurses, as already mentioned. They join the service at a higher level than the diploma and certificate holders. Therefore, they will compete on merit for other progressions. In that relation, the Ministry employed 48 graduate nurses in the year 2003, and will continue to do so as resources shall allow.

Mr. Speaker, Sir, while the Government recognises the contribution of graduate nurses towards improvement of the quality of nursing, the difficult economic situation has continued to impair engagement of the cadre and other lower ones. We shall, however, periodically review our position on employment as more resources shall be availed to us.

Thank you, Mr. Speaker, Sir.

Mr. Bifwoli: Mr. Speaker, Sir, I want a clarification.

Mr. Speaker: Order! Look at the time! It is 4.00 p.m.! We will have the Ministerial Statement first.

Mr. Raila, please, proceed!

STATE OF HABASWEIN-MODOGASHE ROAD

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Speaker, Sir, Mr. Abdirahman Hassan, the Member of Parliament for Wajir South Constituency, demanded a Ministerial Statement on the Habasweni-Modogashe Road (B9).

Mr. Speaker, Sir, the Habaswein-Modogashe Road connects Garissa and Isiolo districts with Wajir District. It is the most convenient route for somebody who is travelling from Nairobi to Wajir, either through Garissa or Isiolo. During the rains, the road is usually cut off by floods at Habasweni Causeway on Ewaso-Nyiro River, just a few kilometres from Habaswein Town in Wajir District. Currently, the road has been cut off in three places at the causeway by the floods, which washed it away. Some vehicles which tried to re-tour the causeway through makeshift by-passes were stuck in the mud.

The Habaswein Causeway was built in the 70s to replace the colonial one, which was washed away. The causeway which acts as a bridge, is an old military steel structure which has limitations to the weight it can carry and, hence, the current load restriction of 7 axles with a gross weight of about 46 tonnes, beyond which would overstretch its resistance to the weight making it to collapse. In 1996, Skanska Construction Company was contracted to gravel that road under Contract No.0308 under the Drought Recovery Project, funded through the Office of the President. The repair on the bridge was estimated to cost Kshs10.5 million.

(Loud consultations)

Mr. Speaker: Order, Members! The Minister is on a point of order!

Dr. Galgallo: Mr. Speaker, Sir.

Mr. Speaker: No! You must listen to him until he finishes. You know, I have said several times that it is really disgusting to have Members refusing to hear what a Minister has to say! Let him say his bit. I will give you time to seek clarification.

Hon. Members: Mr. Konchella!

Mr. Speaker: Mr. Konchella has gone?

Hon. Members: Yes!

Mr. Speaker: Could you ask Mr. Konchella to come back? I was thinking you were stopping this one. He will be called.

(Laughter)

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Speaker, Sir, repair on the bridge was estimated to cost Kshs10.5 million. Although the instructions were given to the effect that it should be repaired, the words were omitted from the contract. The Ministry has been carrying out annual maintenance of the bridge with allocations from the Fuel Levy Funds as follows: 2001 - Kshs2 million; 2002 - Kshs5.6 million and 2003/2004 - Kshs8 million. Arrangements are under way to rehabilitate that section of the road by installing new culverts, new embankments and grading immediately the rain subsides, at an estimated cost of Kshs7.3 million, which is available in this financial year.

While the rehabilitation of the bridge and the causeway is going to be done immediately the rains subside, there is need to solve this problem permanently. Studies carried out have recommended a structure of a box culvert the size of five metres by two metres with four openings to allow maximum discharge of water. The estimated cost which will include raising the approach is about Kshs50 million. The Ministry has also plans to improve the road to all-weather standards from Isiolo to Wajir, B9 and from Garissa to Modogashe. These two roads are under the development plans and we are soliciting funds.

Mr. Speaker, Sir, I am happy to also inform the Member that we have managed to get funding from the Saudi Arabian Government to tarmack the road from Garissa, through Modogashe to Wajir and also Isiolo to Modogashe.

Mr. Speaker: Very well. I suppose there is no clarification sought there. I will go to Mr. Konchella. Hon. Abdirahman, I think you should just stand up and say thank you!

Mr. Abdirahman: Mr. Speaker, Sir, I want to honestly say thank you very much to hon. Raila. I would say this is a sign of a responsive person. What I would want to say is that he gave us all we wanted but I only want to make a request. In the meantime, even as we wait for the rains to subside, we would like to have those vehicles passing through, so that we do not have a shortage of food in that district and even in Mandera. Could the Ministry consider giving out some small funds to be able to patch up those bits of areas that are affected, up to the interior as far as Sabuli where the river ends?

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Speaker, Sir, I have said that we are willing to do what is possible to make this road passable because we know of the inconvenience caused to motorists. I said that I have, in this financial year, Kshs7.3 million to do the work but it is impossible to do the works because the rains are still on because the road will be damaged immediately we do it when the rains are still going on.

Mr. Speaker: Very well. I will allow one point of clarification to Dr. Galgallo. It is 4.00 p.m. and that is the end of hon. Konchella's time.

Dr. Galgallo: Mr. Speaker, Sir, thank you for giving me this opportunity to seek clarification from hon. Konchella. We know that the National Hospital Insurance Fund (NHIF) is undergoing reforms, with a view to providing a comprehensive social health insurance scheme to Kenyans and that requires increased number of staffing. Actually, the requirement is about 5,000 nurses to be recruited immediately the programme goes into place as promised by the Minister beginning this July. Now, when hon. Konchella was making a Statement here, he said that they are going to engage in periodic recruitment of nurses. Now, how does "periodic" employment of staff help you to implement a scheme in which Kenyans are placing so much hope?

The Assistant Minister for Health (Mr. Konchella): Mr. Speaker, Sir, the Statement I gave was that, in accordance with the current Government practice and the budgetary process, the Government is allocated funds from the normal Government revenue. However, if you need clarification on the issue of the proposed National Social Health Insurance Scheme, this is going to actually give us the ability to go into providing nursing services to the Kenyan people with the recruitment of nurses. So, this is going to be part of it but this scheme is going to be gradual. It is going to be introduced over a period of up to eight years when it will be fully operational because we cannot implement immediately, the whole process of bringing the entire Kenyan population into social health insurance. This is something gradual which is going to take time and to solve the problems which might arise in the process.

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

Mr. Speaker: Sorry! I think we have finished now. It is 4.00 p.m. and that is the end of it.

Mr. Bifwoli: Mr. Speaker, Sir, I am the one who raised the point of order!

Mr. Speaker: What is it?

Mr. Bifwoli: Mr. Speaker, Sir, the clarification I need is: From the Ministerial Statement, we heard that these graduate nurses were being trained from 1992 and that meant that, before they wanted graduate nurses, there was a market. There was a need for the Government to have graduate nurses. So far, those who have been trained are 600 from his mathematics and, so far, he has not given us--- I want a clarification! How many have been employed out the 600?

Mr. Speaker: Order, hon. Bifwoli! That is enough! It is not an agreement and it is not Question Time!

Mr. Bifwoli: No, Mr. Speaker, Sir. I just wanted a clarification. How many were employed and why are doctors being paid while on internship and yet nurses from the same universities are not being paid anything?

Mr. Speaker: Order, hon. Bifwoli! Mr. Konchella, will you respond to that?

The Assistant Minister for Health (Mr. Konchella): Mr. Speaker, Sir, I said that the first batch of nurses who were trained in the two financial years, that is 1996 and 1997, were all recruited by the Government because they were already employed by the Ministry of Health. All there was, was to slot them into a certain Job Group and that is how the Government then through the Department of Personnel Management (DPM), agreed to slot them into Job Group "L", that is Nurse Grade 1. However, it was not possible to pay the graduate nurses while on internship because Kenyans are free to go and train. We cannot deny Kenyans the opportunity to increase their knowledge. So, most of them trained themselves on their own but they did not undertake the one year mandatory internship so that they are able to be registered by the Kenya Council of Nursing. So, that was why we were not able to employ them but, last year, we recruited 48 nurses out of what was there in the market. Of course, many of them also have been employed outside the country. So, these are Kenyans who want to increase their knowledge. The market is there for them but the

Government will employ them when opportunities arise and when we introduce the National Social Health Insurance Scheme, we are going to recruit more than we have been recruiting before.

Mr. Speaker: That is enough. The last I will hear on all this---

Hon. Members: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Members! I think there is a growing false impression that this House only meets to deal with matters other than business. In fact, we are reluctant to get to business. Now, we are already 40 minutes into business time; on matters other than business.

*(Mr. Ndolo stood up
in his place)*

Mr. Ndolo, will you, please, sit down? Let me inform you that I will not allow you to talk, so that you can relax and allow the Speaker to speak because I am the Speaker. So, please we are not going to spend all the time of this House on points of order, Ministerial Statements and Questions. There must be business in this House. Therefore, I am going to allow the last one on matters other than business, to Mr. Omingo and I want the House to understand that we must finish Question Time every day within one hour. Just one hour for Questions and that is it. Mr. Omingo, the last one!

POINT OF ORDER

PROCUREMENT OF EQUIPMENT FOR IMMIGRATION DEPARTMENT

Mr. Omingo: Thank you, Mr. Speaker, Sir. I seek guidance from the Chair regarding an issue of national importance; an issue that has now been popularly called the "Passport Deal". My Committee, two weeks ago, did request the Controller and Auditor-General to produce a report on that special issue. Two weeks lapsed on Friday but even then, the Chair did rule last week that we should not debate this matter being a matter with the Committee and there was a timetable and programme on agreement on when this issue was supposed to be on the Floor.

Mr. Speaker, Sir, I did talk to the Minister yesterday and he confirmed that he had received the report and he was to come with it today. This is a very important matter. The Minister is now here and we have not heard anything from him. The courts are gagging this House and this House should and must also not gag itself by its own procedures. We have the Minister here and if possible, let us have that report; otherwise, Kenyans will not take this House seriously.

Mr. Speaker: Mr. Omingo, how are reports coming into this?

Mr. Omingo: I am sorry, Mr. Speaker, Sir.

Mr. Speaker: You are very irrelevant. Mr. Minister, is that report ready?

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, it is true that I received a draft report yesterday. The Controller and Auditor-General, this morning, informed me that he had received answers to questions he had raised to the Permanent Secretary, Office of the Vice-President and Ministry of Home Affairs. However, he needed time to incorporate that information in the report to make it complete. That is exactly why I did not bring it here this afternoon.

Mr. Speaker: When do you expect to have it with you?

The Minister for Finance (Mr. Mwiraria): Mr. Speaker, Sir, if I get it tomorrow, then, I will bring it here tomorrow.

(Loud consultations)

Mr. Speaker: Order, Members! That is okay, but if you can do it tomorrow let us all know. This matter is not likely to escape because there is a law that governs it. The law actually sets a maximum number of days the Minister can stay with that report and it is only seven days.

If you do not bring the report in seven days, the Controller and Auditor-General is ordered to bring it to the Speaker, directly. Anyway, I hope you will bring it to the House tomorrow.

Next Order!

*(Messrs. Ndolo and Salat stood
in their places on points of order)*

No more points of order! The two of you, out! Begin with Mr. Salat and then Mr. Ndolo. Mr. Serjeant-at-arms, ensure that the two leave the precincts of Parliament!

*(Messrs. Salat and Ndolo withdrew
from the Chamber)*

BILL

Second Reading

THE GOVERNMENT FINANCIAL MANAGEMENT BILL

(The Minister for Finance on 15.4.2004)

*(Resumption of Debate interrupted
on 11.5.2004)*

Mr. Speaker: Mr. M. Kariuki was on the Floor contributing and he had eight minutes to go.

Mr. M. Kariuki: Mr. Speaker, Sir, this is the third time I am addressing the House on this Bill. I was interrupted on the 20th of April and again I was interrupted yesterday for lack of quorum. However, I have only one or two issues to raise.

Mr. Speaker, Sir, I raised the issue of the appointment of an Accounting Officer. I want to underscore the importance of getting individuals of integrity. Sometimes we create offices with security of tenure and we forget that, unless the individuals appointed are of high integrity in the first instance, even if we create mechanisms to protect that office, those individuals may not be able to deliver. It is imperative, therefore, given the onerous responsibilities the Accounting Officer has under this Bill, to ensure that the person appointed as the Accounting Officer and Receiving Officer are persons of high integrity.

Mr. Speaker, Sir, I wish to commend the Minister for introducing Section 28 of the Bill. He has made specific provisions for the Treasury to report to Parliament twice on the progress of the money disbursed through the Budget. I would like to propose that, instead of using the word, "Treasury", it is important to identify a particular office or officer who will carry out the responsibility of bringing this report to Parliament. In this regard, I would like to propose that Clause 28 be amended and instead of using the word, "Treasury", we have the word "Minister". The

Minister for Finance will then take up the responsibility of ensuring that the reports are tabled before the House twice in a year. That is the amendment I wish to propose. It is important that Parliament continues to be recognised as a body that exercises supervisory powers on the functions of the various Ministries. This is a commendable provision because it will allow Parliament to say whether it is satisfied or not with the manner in which the funds were disbursed.

Mr. Speaker, Sir, finally, I am concerned with the current inquiries going on in the country as a result of which we are getting a lot of information about monies which could have been siphoned out of the country. I think we have a major shortcoming ahead in the sense that this House has not been able to discuss an anti-money laundering Bill. Such a Bill is important when it comes to tracing the money siphoned from public coffers. We should be able to identify where the money is and what conduit was used. Again, it is important, that if we are gearing ourselves towards improving the financial management of the Government, to have a Bill that will ensure that those who deal with illegal money do not launder the money through the Government's financial systems. I do recommend very strongly that the Minister for Finance does consider the proposal of bringing an anti-money laundering legislation. At the end of all these inquiries, what Kenyans are looking forward to is the recovery of their money. We may name all the people who are involved in financial scandals but if, at the end of the day, we are not able to recover even a cent or a reasonable proportion of that money, I think it will be a great disappointment. While there is still time, I am appealing to the Minister for Finance to consider tabling before this House, an anti-money laundering Bill which will assist the Government in recovering money siphoned from public funds.

Mr. Speaker, Sir with those few remarks, I beg to support.

[Mr. Speaker left the Chair]

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

Mr. Muite: I thank you, Mr. Temporary Deputy Speaker, Sir. The first point I would like to make concerns the law. Law will never replace ethics and practice. Therefore, we really need to focus more on the implementation of the spirit and the letters of the laws that we enact. We can enact any number of statutes in this country. In fact, sometimes one worries when the first thing we embark on whenever we find ourselves in problems, is to rush to come up with a Bill and eventually an Act of Parliament. I would like to recommend to the Minister that, when we enact this Bill, he should really assume responsibility of ensuring that there is implementation of what we say here and that everybody operates within the spirit and the letter of this law. The failure of this nation has not been the law. We have enough statutes and it is enforcement and implementation that is lacking. We fall far below standards when it comes to enforcement and implementation. So, I do hope that, when we provide this new legislative statutory framework, the Minister for Finance will assume the responsibility of seeing that every civil servant, Minister and every other person operates within the spirit and letter of this law.

Mr. Temporary Deputy Speaker, Sir, coming to the specifics of this Bill--- I do notice that the Minister for Finance is consulting with a member of staff. However, the point I want to mention here is very important. It regards Clause 3 and it says that: "The Minister shall manage the Consolidated Fund". It is standard procedure that whenever the word, "Minister" is used in a Bill or in an Act of Parliament, the "Minister" is always defined. You do not simply talk of the "Minister" as it is in Clause 3. You should go back to Clause 2 and define the word "Minister" by saying that it means the Minister for the time being responsible for financial matters. The term "Minister" is not

defined in Clause 2 although it is used in Clause 3. Tomorrow you could have someone arguing that he is the Minister. For that reason, I recommend that in the Committee Stage, Clause 2 be amended so that we have the definition of the word "Minister" as the Minister for the time being, responsible for financial matters.

Mr. Temporary Deputy Speaker, Sir, Clause 4(d) talks about the preparation and submission of accounts for each financial year under the Public Audit Act, 2003 for audit by the Controller and Auditor-General. I would like to repeat that if the Government is to be effective in the supervision of public finance, then, there is urgent need to separate the functions of the Auditor-General from those of the Controller.

Mr. Temporary Deputy Speaker, Sir, I would like to repeat that if we, as a nation, are going to be effective in the supervision of public finances, then there is an urgent need to separate the functions of the Controller and that of the Internal Auditor. The Controller should be looking at these accounts regularly, while the Auditor-General should be responsible for auditing. When you examine the practices and procedures in very many other countries, for example, when we went to visit the State of New York's Legislature, we found out that they have separated these two functions. They have an Auditor-General whose functions are to audit the accounts, and they also have a Controller-General who is in the position of an Internal Auditor, and who keeps his fingers on the taps on a daily basis. So, let us move towards a situation where we shall separate the functions of the Auditor-General; who shall be charged with the responsibility of audit, and let us introduce another office of the Controller, whose responsibility will be to keep an eye on Government finances, accounts, expenditures and withdrawals practically on a daily basis.

Mr. Temporary Deputy Speaker, Sir, I do know that the Institute of Public Accountants of Kenya (ICPAK) had actually pointed out that there is, first of all, a contradiction in Clause 8 regarding the Director of the National Budget and Internal Auditor when they gave their views on the Bill. The contradiction is on how the Director-General of the Budget will relate to the Controller of Budget as proposed in the new Constitution which, of course, we all expect will come into force in the foreseeable future. So, there is a need to harmonize the proposed creation of the Director of the National Budget with the Controller of the Budget in the envisaged new Constitution. If I may now move on to Clause 8(c) which is also talking about the Internal Auditor-General, and as I said earlier, this also needs to be separated.

Mr. Temporary Deputy Speaker, Sir, Clause 9 of the Bill indicates that:-

"There shall be an account to be called the Exchequer Account to hold the Consolidated Fund. The Exchequer Account shall be kept at such bank or banks as the Treasury may determine".

When one hon. Member was contributing, he drew attention to the fact that the Treasury is also not defined. The term "Treasury" is a bit amorphous. So, when you use the term "Treasury" in Clause 4 without defining it, you are introducing uncertainties in the law. What do you precisely mean by "Treasury"? Clause 4 indicates that:-

"The Treasury shall establish procedures for proper and effective management of Government money".

Well, the Treasury is not a biological person. In fact, the Treasury is not a legal entity. So, we cannot enact a law with these sorts of generalities. We need to know whether by the term "Treasury", you mean the Permanent Secretary to the Treasury or the Minister for Finance. So, you cannot talk about the Treasury, you should instead, amend the clause and replace the term "Treasury" with the terms "Permanent Secretary for Finance", or with the "Minister for Finance", or with a known individual or with a legal entity. For example, the Central Bank is a legal entity because it is created by an Act of Parliament, and it has powers to do certain things. But the

Treasury is not a legal entity as it has not been created by any law. So, there is need to amend that clause.

But, Mr. Temporary Deputy Speaker, Sir, the more substantive point that I wanted to make is about Clause 9(2) which indicates that:-

"The Exchequer Account shall be kept at such bank or banks as the Treasury may determine".

This is quite apart from the requirement to define what you mean by the term "Treasury". These accounts can be a loophole and I recommend that the accounts be established with the approval of Parliament, and the Minister should be required to file the details of such accounts with Parliament for approval prior to opening those accounts. This is what happens when even an ordinary limited liability company wishes to open a bank account. They must have a resolution of the board of directors to the effect that an account will be opened, for example, with National Bank of Kenya, Kenya Commercial Bank, Barclays Bank or whichever bank, and the branch must also be specified. This is not a matter that should be left first of all to one individual or even to the Treasury. So, I am asking that the term "Treasury" be defined and that Clause 9 be further amended so as to require the approval of Parliament. It does not take too long for the Minister to table the papers here and we will give him the approval. What we want is transparency. We are accountable as an institution for public funds. But how can we be accountable when we do not know the accounts which are being opened? Since it is the Consolidated Fund, it relates to public money, therefore, we need to know which banks are involved and how many such accounts exist. Without this, it will make us impotent in terms of being a watch-dog for public money. So, we want the approval of Parliament to be introduced in this Clause.

Mr. Temporary Deputy Speaker, Sir, Clause 10 says that the bank at which the Exchequer Account is kept shall not allow the account to be overdrawn. Again, as a lawyer and a law-maker, I think it is not enough to say that the bank will not permit, because what is the Minister going to do if, indeed, the bank permits the account to be overdrawn? It is a serious omission. The coercive powers of law are the ones which make laws work. Therefore, when you say that the bank at which the Exchequer Account is kept will not allow the account to be overdrawn, the Minister must go further and provide for penalties for any bank that allows the account to be overdrawn. Otherwise, this is a dead letter in law, because there is no punishment and there are no consequences. So, my recommendation is that Clause 10 be similarly amended so as to say that the excess amount or any amount overdrawn is irrecoverable, so that any bank that permits the account to be overdrawn will know that it cannot recover that money from anybody. So, some form of coercive power or consequences for allowing the account to be overdrawn require to be introduced in this clause.

Mr. Temporary Deputy Speaker, Sir, again Clause 12(3) contains the term "authority":-

"Notwithstanding Sub-section 1, the Treasury may allow an authority---

Mr. Manoti: On a point of order, Mr. Temporary Deputy Speaker, Sir.

Mr. Wamwere: Do not do that! There is a lot of order in the House, please.

Mr. Manoti: I do not want to interrupt my friend, hon. Muite---

The Temporary Deputy Speaker (Mr. Khamasi): Who has given you permission, Mr. Manoti?

Order, Mr. Wamwere! There is only one presiding officer in this House!

Mr. Wamwere: I concede, Mr. Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Khamasi): Continue, Mr. Muite!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I am very happy that the Minister is present because I was trying to draw his attention to Clause 12(3), which states that:-

"Notwithstanding Sub-section 1, the Treasury may allow an authority---

I have already drawn the Minister's attention to the danger of using the term "Treasury" without defining it clearly.

Mr. Temporary Deputy Speaker, Sir, you will find the same weakness with the same authority. The word "authority" is not defined. Here we are saying that the Treasury may allow an authority to retain revenue. Which authority? I would suggest that the word "authority" be deleted and be replaced with the term "an agency acting on behalf of the Government", so that if it is a local authority or some other body which is acting on behalf of the Government, then you may permit it to retain some money to defray the expenses of the authority. The term "authority" is vague and, therefore, introduces loopholes. I hope that the Minister will address that issue when we come to the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, Clause 15(2) states:-

"A withdrawal for an investment described in Sub-section (1) is authorised only if the Minister has personally authorised the investment".

Mr. Temporary Deputy Speaker, Sir, I wish to urge the Minister for Finance to reconsider this particular clause. The Minister is a very busy person and this is going to be very onerous. The Minister should be concerned with policy issues and not with issues of withdrawals. I would recommend that the Minister considers making regulations, so that the discretion can be given. He can do some draft regulations for approval to govern the investment of money rather than him assuming the personal responsibility of authorising an investment. This is not going to be workable. The Minister should think about enacting or promulgating regulations to govern the investments.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! Let us listen to Mr. Muite, please.

Mr. Muite: Thank you, Mr. Temporary Deputy Speaker, Sir. Let me now move to Clause 17(2)(a) to (g). This is clarion. It states:-

"In carrying out his responsibilities under Sub-section (1), an Accounting Officer shall do the following in relation to his Ministry, department or commission---"

These are all set out there. Again, there is no penalty which is provided for failure by the Accounting Officer to adhere to any of these requirements. It is my recommendation to the Minister that he should consider introducing in Clause 17, some sort of consequence that will flow if the Accounting Officer fails to observe any of those requirements. It is much the same point when it comes to Clause 19, which states:-

"If the Treasury becomes aware that an Accounting Officer has done something improper, within the meaning of Subsection (2), the Treasury shall -

- (a) take the appropriate steps with respect to the Accounting Officer's appointment as an Accounting Officer, which may include revoking that appointment; and
- (b) report the Accounting Officer to a person who has authority to discipline the Accounting Officer".

Mr. Temporary Deputy Speaker, Sir, I would like to suggest that this is not enough to make the Accounting Officers live up to their responsibilities. It is not enough to merely discipline or sack them. They must be held personally responsible for any loss which may accrue from failure to adhere to any of these provisions. That is what will make them adhere to these provisions.

Mr. Temporary Deputy Speaker, Sir, it is not enough to discipline, or even to sack them. They should be made responsible for any financial or any other loss which may arise from failure to

carry out the functions imposed on them by that particular clause.

Mr. Temporary Deputy Speaker, Sir, Clause 22 talks about the receipt of revenue by Government officers. It states:-

"A Government officer who receives Government revenue, but who is not a person authorised to collect it within the meaning of Sub-Section (2), shall give the revenue to such an authorised person within seven day after receiving the revenue".

This is a peculiar clause. It is very unhappily worded. If you have no authority to receive money, how can you receive it? In fact, in addition to being required to give it within seven days, basically what you are doing is authorising illegal possession of Government money by a person who does not have the authority to do so. You are making it purely civil that this officer's only obligation is to hand the money over after seven days. Do you realise how much money you can make with overnight lending in banks if you have received Kshs1 billion? Such an officer will lend the money overnight for seven days and earn more. After that, he will surrender it. He is protected by this clause.

Mr. Temporary Deputy Speaker, Sir, it should be an offence for a person who is not authorised to receive money to receive it. Then you can reword it that in addition to the punishment, he must surrender that money within seven days. What will you do if he does not surrender it within the seven days? There is a weakness in the wording of this Bill. It makes provisions, but does not have provisos for consequences or punishment of results that will arise from failure. The Bill says that the officer must surrender the money within seven days. What happens if he does not surrender it? He should not receive the money in the first place.

Mr. Temporary Deputy Speaker, Sir, it should be an offence for him to receive it in the first place. If he receives the money, then he must surrender it within seven days. If he does not surrender it within seven days, there has to be some consequence, like charging him interest on that money, for example, 2 per cent per month until he returns the money. That will make these individuals, who receive money when they are not authorised to do so, to stop.

Mr. Temporary Deputy Speaker, Sir, let me move on to Clause 28. It provides that:-
"For each financial year, the Treasury shall prepare two reports on budgetary performance, the first report covering the first half of the financial year and the second report covering the entire financial year".

You will continue to see the weakness of using the term "Treasury". Whom will we punish if we use the general term "Treasury". The Minister should remove the term "Treasury" here and specifically talk about the Permanent Secretary, Ministry of Finance or the Minister for Finance. Let us know the individual on whose shoulders the responsibility lies.

Mr. Sambu: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Sambu, I have not even allowed you to stand on a point of order.

So, you are out of order! Will you, please, sit down, Mr. Sambu!

Proceed, Mr. Muite!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I was saying that the term "Treasury" should be replaced.

Mr. Sambu: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, that is total defiance. Where is the Serjeant-At-Arms? He should be thrown out!

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Sambu!

Mr. Sambu: There is no quorum!

Mr. Muite: I would recommend that this be done quarterly so that we do it every three months, so that we can have the issue of public money properly dealt with by Parliament.

Mr. Temporary Deputy Speaker, Sir, Clause 29, Sub-clause 3 states:-

"No bank shall allow a bank account for Government purposes to be overdrawn".

Again there are no consequences. My recommendation is that there has to be consequences. The amount overdrawn should be recoverable or provide some other punishment. There should be some coercive power. Some consequence for breach.

There is a very small point which the Minister has thought out in Clause 30, Sub-clause 4 and it states:-

"If a Government officer fails to account for the use of a cash advance or fails to surrender it when required, the following applies:"

I think it is a very small point, but I would like to point out to the Minister that the word "shall" should be inserted immediately after the word "following". So that it would read:-

"If a Government officer fails to account for the use of a cash advance or fails to surrender it when required, the following shall apply".

So the word "shall" is omitted, and I think it should be inserted.

Mr. Temporary Deputy Speaker, Sir, with those remarks---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Muite! Before you conclude, perhaps, you would like to know that the House has been debating this Bill without the report of the relevant Departmental Committee of the House. My understanding of your contribution is that you have read that Bill very well, and perhaps it would be in the interest of the House, at the Committee Stage, if you can be able to move those amendments. Because we do not know what the Committee is going to do, because their report is not before the House---

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I will be more than happy to do it, and I will consult with the Minister, because some of them should not be a matter of contention if the Minister agrees. I will be more than happy to do that.

I support the Bill.

Mr. Wamwere: Shukrani tele kwa Bw. Naibu Spika wa Muda, kwa kunipa nafasi hii ili niweze kuchangia Mswada huu juu ya usimamizi wa pesa za Serikali. Ningependa kusema kwamba, ingawa Mswada unaonyesha kana kwamba wasimamizi wakuu wa pesa za Serikali ni Makatibu wa Kudumu, ni maoni yangu ya kwamba, wenye jukumu la kwanza kuhakikisha ya kwamba pesa za Serikali zinatumiwa vilivyo ni Rais, Mawaziri wake na Bunge. Hawa ndio viongozi waliopewa jukumu la kwanza la kulinda mali ya umma na wanachaguliwa kwa sababu hiyo. Wenye jukumu la pili ni Makatibu wa Kudumu ambao ni wafanyakazi wa Serikali. Lakini wajibu wa kwanza, ni wa viongozi waliochaguliwa.

Bw. Naibu Spika wa Muda, ili wafanyakazi wa Serikali waweze kusimamia pesa za Serikali au za umma, wanapopewa kazi hiyo, inafaa kwanza wahakikishwe ya kwamba wana elimu na ujuzi unaohitajika. Lakini sifa hizo mbili peke yake hazitoshi. Ni muhimu sana wafanyakazi wa Serikali wanaopewa jukumu la kusimamia pesa za Serikali wawe na sifa ya maadili mema. Swala la maadili ni muhimu sana kwa sababu, katika nchi hii tumekuwa tukifikiria ya kwamba kuwa na elimu na ujuzi peke yake zinatoshwa kwa mtu kuchaguliwa kama Katibu Mkuu. Juzi nilitazama uchunguzi unaoendelea wa Goldenberg, na nikashangaa sana niliposikia mmojawapo wa waliokuwa Makatibu wa Kudumu, akiiambia Tume ya kwamba alipopewa kazi ya kusimamia Hazina ya Serikali hakuelewa wajibu wake katika kazi hiyo. Lakini hata kama alikosa elimu na ujuzi, kwa maoni yangu, kile kitu muhimu alichokosa na ambacho ni muhimu kwa yote, ni maadili. Mtu anapewa jukumu ilhali hana uaminifu unaohitajika ili kuchunga pesa. Kufanya hivyo ni kama kupatia fisi kondoo amchunge. Na ukimpa fisi kondoo awachunge, bila shaka atawala. Na jambo hili ndilo limekuwa likifanyika.

Ukiangalia historia yetu, ninakumbuka kuna wakati ambapo, ili mtu awe na sifa---

Mr. Sambu: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise on a point of order---

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order! When you want to stand on a point of order, please, wait for permission. Will you, please, sit down, Mr. Sambu!

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, under Standing Order Number---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Sambu! Let us obey the rules of the House. You stood on a point of order, and you expect the Chair to give you allowance to do that. You do not just stand on a point of order and move on to the microphone. So, what is it Mr. Sambu?

QUORUM

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, as you can see, if you can see, there is no quorum in the House!

The Temporary Deputy Speaker (Mr. Khamasi): Yes, I can see---

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Muite! He has risen on a point of order, so let the Speaker be---

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, he is abusing the Chair!

The Temporary Deputy Speaker (Mr. Khamasi): Sorry, what did you say?

*(Messrs. Muite and Kenneth stood
up in their places)*

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to ask the Chair if the Chair is---

The Temporary Deputy Speaker (Mr. Khamasi): Order! I cannot have two hon. Members standing in the same place! What is it, Mr. Muite!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, is it in order for Mr. Sambu to suggest that the Chair cannot see? He stood up and said: "As you can see, if you can see---" Is it permitted to be rude to the Chair?

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Muite, I have already addressed Mr. Sambu on that point. He has risen, I have given him the permission to raise his point of order. He has raised his point of order that there is no quorum in the House, and, indeed, I can see there is no quorum in the House. Can you ring the Division Bell?

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! Since we cannot raise the quorum, it is now time for the interruption of business. The House is, therefore, adjourned until Thursday, 13th May, at 2.30 p.m.

The House rose at 5.00 p.m.