

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 14th October, 2004

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

PRAYERS

## ORAL ANSWERS TO QUESTIONS

*Question No.709*

TOTAL DEBT PORTFOLIO FOR  
PAN AFRICAN PAPER MILLS

**Mr. Sambu** asked the Minister for Finance:-

- (a) what the amount is of International Finance Corporation (IFC) loan borrowed by Pan Paper Mills and guaranteed by the Government;
- (b) what the current total debt portfolio of Pan Paper Mills is; and,
- (c) what the role of Birla Group in Pan Paper Mills is and how much they are paid annually for their services since inception.

**The Assistant Minister for Finance** (Mr. Katuku): Mr. Speaker, Sir, that is not the first Question on the Order Paper.

**Mr. Speaker:** Sorry. I beg your pardon. I have, in fact, skipped some questions, but as you know the Standing Orders allow me to take the business of the House in the manner I deem fit.

*(Laughter)*

So, can you proceed?

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

(a) The International Finance Corporation (IFC) has provided loans amounting to US\$50 million to Pan Paper Mills Limited. After some repayments the outstanding loan currently stands at US\$26 million. The loans are secured by the company's fixed assets and are not guaranteed by the Government of Kenya.

(b) The Pan African Paper Mills Limited's total debt portfolio comprises of long and short-term loans amounting to US\$7.2 billion.

(c) The role being played by Birla Enterprise Limited of Hong Kong is that of a shareholder, having acquired the shareholding previously held by the IFC in April, 2003. Birla Enterprise Limited does not, therefore, render any services to Pan Paper which would warrant any payment to it.

**Mr. Sambu:** Mr. Speaker, Sir, I am not convinced that part "c" of the answer is correct, because it is common knowledge to those of us who come from the area which supplies Pan Paper

with the logs that Birla Group of India, not of Hong Kong, is a major shareholder. There are payments which are made to India every now and then. The top management in Pan Paper is of Indian origin and has come in through the Birla Group. What are the top managers doing there if Birla Group is not a shareholder?

**Mr. Katuku:** Mr. Speaker, Sir, they are employees.

**Mr. Manoti:** Mr. Speaker, Sir, the Assistant Minister has said that the Government is not a guarantor of this foreign loan. We know very well that before any lender gives money to a foreign loanee, the loanee's country has to be a guarantor. Could the Assistant Minister tell us how this money was given without the Ministry of Finance being involved?

**Mr. Katuku:** The information I have is that the loans are guaranteed by the assets of the company and the Government has not guaranteed any of them. If the hon. Member has contrary information I will check it. As far as I am concerned, the Government did not guarantee any of these loans.

**Mr. Serut:** Mr. Speaker, Sir, the Assistant Minister says that the Government has not guaranteed these loans. He says that the two Asians who have been mentioned are shareholders. What share does the Government hold in this particular company since we know that this is one company that has been destroying most of our forests?

**Mr. Katuku:** The total shareholding of the Kenya Government is 40 per cent.

**Dr. Godana:** Mr. Speaker, Sir, Mr. Sambu asked earlier what the Birla Group is doing in the company. The third part of the Question reads: "What is the role of Birla Group in Pan Paper and how much are they paid annually for their services?"

**Mr. Katuku:** Mr. Speaker, Sir, the Birla Group bought shares from the IFC to the tune of 24.93 per cent. The group plays the role of a shareholder. They are not being paid for anything. They are just shareholders like any other person. The rest of the people being mentioned are employed by this company. The fact of the matter is that the company owns 24.9 per cent, the Government owns directly 33.8 per cent and Oriental Paper Industries owns 29 per cent, ICDC owns 5 per cent, Development Bank of Kenya owns 1.5 per cent, Barclays Trust owns 1.5 per cent. The role of that company is that of a shareholder.

Mr. Speaker: Last question, Mr. Sambu!

**Mr. Sambu:** I am not satisfied with the answer. Nonetheless, as Pan Paper Mills continues to destroy our environment, we long for the day when the new Constitution will come into place and devolution of power will come along with it, because then, they will not stay in the North Rift.

Mr. Speaker, Sir, is it fair for them to bring Indians from India when Africans are available, even those from Western Kenya, who are capable of doing the jobs that the Indians are doing? Is it proper to discriminate against Africans, even those from Western Kenya and not necessarily from Kalenjin areas only?

**Mr. Katuku:** These are investors who have invested in this industry. We must take the interest of the investors seriously. In this case, they have recruited the best according to them, and so, we cannot dictate to the investor who to employ and who not to employ. We are encouraging all investors to take cognizance of the feelings of Kenyans and employ more Kenyans in areas where they can do what can be done by Kenyans.

**Speaker** Very well. Next Question, Mr. Masanya!

*Question No. 218*

GOVERNMENT EXPENDITURE ON  
ADULT EDUCATION TEACHERS

**Mr. Masanya** asked the Minister for Gender, Sports, Culture and Social Services:-

(a) how much money does the Government spend on adult education teachers monthly; and,

(b) whether he could confirm that the money is sufficient to carry out and promote the adult education policy.

**The Assistant Minister for Regional Development Authorities** (Mr. Odoyo): Mr. Speaker, Sir, I wish to assure the House that even though the "first eleven" Members of the Front Bench are not here today; they are attending the Somali Conference; Government Business is going on as usual.

*(Laughter)*

Mr. Speaker, Sir, I beg to reply.

(a) My Ministry spends a total of Kshs20,901,460 monthly on salaries for adult education teachers in Kenya.

(b) I concede that the money is insufficient to carry out and promote the proper adult education policy. This is so because the number of illiterate adults today is approximately 5 million. Today, we are only teaching about 500,000 adults. The problem has to do with the number of teachers who we have deployed, who are only 1,800, and part-time teachers numbering 4,000, whereas the requirement exceeds that number by about 10 times.

**Mr. Masanya:** I want to thank the Assistant Minister for his reply. I have a big volume of the written answer, and I want to thank the Assistant Minister for doing a lot of work about this Question. I can see that a lot of money is being spent on this programme, and the Assistant Minister is even asking for more money to spend on this programme.

Since in this country we have over 6,000 sub-locations, where are these programmes taking place?

*(Applause)*

**Mr. Odoyo:** It is true that we, in fact, have 6,000 sub-locations, and the adult education programmes are based at the sub-locational level. I have with me the breakdown of the distribution of adult education teachers by province, district, location and even sub-location.

Mr. Speaker, Sir, rather than read this long list, I want to take the opportunity to table this detailed analysis. The list is right here, and it is available to all members of staff.

*(Loud consultations)*

**Speaker** Order! Order! Will you table the document, please, so that I can have a look at it?

**Mr. Onyancha:** On a point of order, Mr. Speaker, Sir. The hon. Member referred to Members as "members of staff"! Is he in order to do so?

**Speaker** Order! Mr. Odoyo, are you calling hon. Members "members of staff"?

*(Several Members remained  
standing in their places)*

**Mr. Odoyo:** Mr. Speaker, Sir, may I table here a breakdown of all the teachers who are

employed by the adult education programme showing the divisions and locations where they are deployed? It is all here.

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

**Dr. Godana:** On a point of order, Mr. Speaker, Sir. This hon. "junior Minister" is taking this Question very lightly. He said that teachers are deployed at the sub-locational level. If we find out in the document that he has tabled--- I hope he knows the implication of giving a false statement to the House, because there are many of our sub-locations which do not have adult education teachers. I had put it to this Assistant Minister that the Adult Education Department is a fraud in this country.

*(Applause)*

It is a department where there are ghost workers; with people who are being paid for doing nothing on the ground. What does he have to say?

**Hon. Members:** It is a fraud!

**Mr. Odoyo:** Before the adult education programme was transferred to the Ministry of Gender, Sports, Culture and Social Services, it was under the Ministry of Labour and Human Resource Development, and I am fully in the picture as to the position of adult education. That is why the Leader of Government Business called upon me to reply to this particular Question.

It is true that even though we have 4,500 part-time teachers who we are only paying a paltry Kshs500 per month, many of them do not bother to attend those particular classes. Many of them may not be undertaking the tasks which we have apportioned to them. They get an allowance of Kshs500 because they are part-time teachers.

**Mr. Munya:** Mr. Speaker, Sir, I had occasion to talk to the Meru North District Adult Education Officer so that he could show us those schools that exist. He said that they attend classes at night, and when we visited those centres, there were no teachers nor students. Could this Question be deferred so that the Assistant Minister goes across the country and brings us a report about adult education teachers, because we are losing money when there are no adult education programmes going on in the country!

*(Applause)*

**Mr. Odoyo:** Mr. Speaker, Sir, we are in the process of bringing a Sessional Paper to this House---

**Hon. Members:** So what?

**Mr. Odoyo:** Therefore, perhaps---

**Mr. Speaker:** Order, Mr. Odoyo! I think the question is not whether adult education is necessary or not, which is a policy issue. The question is, even the few teachers that you employ; the ones that are on your payroll, do they actually teach?

**Mr. Odoyo:** Mr. Speaker, Sir, we employ 6,156 adult teachers. Out of these, 1,800 of them are full-time civil servants. They are people who are employed to teach. They earn their salaries because of teaching.

**Dr. Ali:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister, who is not even answering Questions from his Ministry, in order to tell us that in every location and sub-location, there are teachers, when I know in Wajir North Constituency, there is no single adult teacher? Can he name even one, if he is speaking the truth?

**Mr. Odoyo:** Mr. Speaker, Sir, when we started this programme of adult education, we had 3,000 teachers. At this point in time, we have a shortage of 1,200 teachers. It is very possible---

*(Loud consultations)*

**Mr. Speaker:** Order! Order, Members! I think on the Assistant Minister's own admission, the 4,000 part-time teachers are paid an allowance. It may not be much, but an allowance nevertheless, but they do not turn up to teach anywhere. I think the House would like to know whether the 1,800 fulltime teachers do actually teach.

Secondly, since the record has been tabled, I would like to give Members an opportunity to peruse that record so that you find out whether any of the 1,800 teachers are in your constituencies; and whether, as a matter of fact, they exist. So, I will defer this Question for a week.

**Mr. Ethuro:** On a point of order, Mr. Speaker, Sir. Before you defer the Question, the Assistant Minister mentioned about "staff members", and a Member rose to question that. He has not apologised. We are not part of his "staff".

**Mr. Speaker:** Mr. Odoyo, did you refer to Members as "members of staff"?

**Mr. Odoyo:** Mr. Speaker, Sir, I have no recollection. But, maybe, my tongue slipped. In that case, may I profusely apologise.

*(Question deferred)*

*Question No.638*

HARDSHIP ALLOWANCE FOR  
MAKUYU CIVIL SERVANTS

**Mr. Mbau** asked the Minister of State, Office of the President:-

(a) whether he is aware that since Makuyu Division was designated a hardship area in 1997, only Government employees working for Teachers Service Commission (TSC) receive hardship allowance while other civil servants who work and live in the same area do not; and,

(b) what immediate measures he intends to take to correct the anomaly.

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

(a) Prior to 1997, gazetted areas and rates of payment of hardship allowance were uniform for both civil servants and teachers. However, during the review of teachers' salaries and allowances by the TSC in July, 1997, new areas were recommended and subsequently gazetted under the TSC Regulations as the additional hardship areas for teachers only.

Makuyu Division in Maragwa District was selected as one of the new hardship areas added for teachers, and gazetted by the Minister for Education, Science and Technology, vide *Legal Notice No.534 of 14th November, 1997*, for that purpose only.

(b) Arising from the recommendations contained in the Kipkulei Report on Harmonisation of Terms and Conditions of Service in the Public Service, a Task Force was appointed in July, 2002, to look into the existing disparities in the pays and hardship allowance and submit recommendations for harmonisation of the same. The Task Force has completed its work and a report was submitted in September, 2003, to the Government, which is being studied, and a decision will be made on their recommendations soon.

**Mr. Mbau:** Mr. Speaker, Sir, I want to thank the Assistant Minister. I have more light now in terms of the apparent selective treatment of civil servants, not just in my constituency, but across the country. You realise that Makuyu Division in Maragwa Constituency is a poverty pocket, and teachers have been receiving preferential treatment. I guess this is because teachers have, for a long time, been represented by their union; other civil servants in this country have for a long time not had a workers representative body. I want to thank the NARC Government that now we have---

*(Loud consultations)*

**Mr. Speaker:** Order! Order, Mr. Mbau. Order, hon. Members. Mr. Mbau, apparently, you are not pleasing the House, and I can figure out why; you are not asking a question. You are making a statement. Can you ask a question?

**Mr. Mbau:** Mr. Speaker, Sir, I was asking the question, but also thanking the NARC Government for having allowed the registration of the Kenya Civil Servants Union, and also for having appointed a Task Force to look into the harmonisation---

**Mr. Speaker:** What is your question?

**Mr. Mbau:** My simple question is, when will this Task Force's recommendations be implemented?

**Hon. Members:** In 2007!

**Mr. Shitanda:** Mr. Speaker, Sir, as I said earlier, the Government is in the process of harmonising terms and conditions of service for all public servants. This report was received in September, 2003, and part of the recommendations of the report have already been dealt with through the recent implementation of new salaries for public servants. The terms and conditions of service for civil servants, the Judiciary and State Law Officers were harmonised. The other areas are being looked into, and the harmonisation process will be completed in a matter of one year.

**Mr. Sasura:** Mr. Speaker, Sir, this Government is setting a record of implementing laws that have not been passed in this House. Civil servants who work in hardship areas have stopped receiving their hardship allowances since June, this year. This includes my very good friends, chiefs, even in Lodwar, who have confirmed to me that they are not receiving hardship allowances. Could the Assistant Minister confirm to us that part of the recommendations of the Kipkulei Report is to stop civil servants from receiving hardship allowances in this country?

**Mr. Shitanda:** Mr. Speaker, Sir, I am not aware of any civil servant who works in the hardship areas and is not being paid hardship allowance. According to the records in our office, there are 14 districts categorised as hardship areas in this country. I do not have any information to the effect that some civil servants are not being paid the hardship allowance.

**Dr. Godana:** On a point of order, Mr. Speaker, Sir. The Assistant Minister has just been told that civil servants stopped receiving their hardship allowance from June this year. I would also like to emphasise this, as an hon. Member from a hardship district, that civil servants stopped receiving hardship allowance from June this year. However, he is insisting that he is not aware. Would I be in order to ask the Chair to defer this Question to allow him to cross-check this information and come back with the correct answer?

**Mr. Speaker:** Mr. Shitanda, is your information current?

**Mr. Shitanda:** Mr. Speaker, Sir, the question of civil servants not receiving hardship allowance was not part of this Question. I have a list here showing 14 hardship areas where civil servants receive hardship allowance. It also shows 40 hardship areas where teachers receive hardship allowance.

**An hon. Member:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! I think we have to be fair to the Assistant Minister. The Question was directed at a specific area, not countrywide. It is not reasonable to expect him to get information on all areas. Let us get to the Makuyu Division bit first. Hon. Members may put a general question on those lines. I will allow them to do so and ask the Minister to answer.

**Dr. Godana:** Mr. Speaker, Sir, I agree the Question is on Makuyu Division. But it is the Assistant Minister, who in answering that specific Question on Makuyu Division gave an authoritative statement that civil servants in all hardship areas are still getting their hardship allowance, which is not the case. So, he is the one who provoked it! The country is listening and it is either he withdraws what he said, or he goes back to come back with the answer and confirm!

**Mr. Speaker:** Mr. Shitanda, what is your reaction?

**Mr. Shitanda:** Mr. Speaker, Sir, I never talked about civil servants receiving hardship allowance. I talked about civil servants in 14 hardship areas who receive the hardship allowance.

**Mr. ole Metito:** Mr. Speaker, Sir, the selective treatment of civil servants is not just in Makuyu Division; even in Kajiado District, it is only teachers who receive hardship allowance. The Assistant Minister says he has a list of hardship areas for civil servants and another one for teachers. What is the difference between teachers and other civil servants who work in the same areas?

**Mr. Shitanda:** Mr. Speaker, Sir, teachers operate under the Teachers Service Commission Act while civil servants are under the Public Service Commission Act. The categorization of hardship areas for teachers is based on different considerations from that of civil servants.

**Mr. Mbau:** Mr. Speaker, Sir, the Assistant Minister has managed to leave me more confused than I was at the beginning. Could I, with your permission, give Mr. O.K. Kihara a chance to ask the last question since he also represents that area?

**Mr. Speaker:** Very well. If you have finished, let us move on to the next Question.

*Question No.790*

DEATH GRATUITY FOR MR. MAURICE ORWA

**Dr. Oburu** asked the Minister of State, Office of the President:-

(a) if he is aware that Mr. Maurice Odundo Orwa who was working at Embakasi Administration Police Training College as Corporal, P/No.APN/PC 126206, died in a road accident in a Government vehicle registration No. GK 4624 on 17th January, 2000;

(b) if he is further aware that despite several correspondence with the Ministry, his death gratuity has not been paid to date, thus causing untold suffering to his young family; and,

(c) what steps he is taking to ensure speedy release of death gratuity to the family.

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

(a) Yes, I am aware that Mr. Maurice Odundo Orwa, formerly an Administration Police Corporal, died on 17th January, 2000, in a road accident.

(b) I am also aware that his death gratuity was paid on 11th February, 2004, to the next of kin, Merceline Atieno Odundo. The cheque amounting to Kshs176,212.75 was sent to the public trustee in Kisumu.

**Dr. Oburu:** Mr. Speaker, Sir, while I thank the Assistant Minister for the answer, you will note that this man died in January, 2000, and the cheque was only paid in February this year. That is four years after his death. The children of this man had all been sent out of school. Why did it take

the Government four years after so many correspondence and after the widow had suffered and spent a lot of money travelling to Nairobi trying to pursue the payment?

**Mr. Mungatana:** Mr. Speaker, Sir, I agree with the hon. Member that there have been a lot of inefficiencies in the past. These are structural problems that we are trying to address. I hope we will improve and serve the people of this country better.

**Mr. Weya:** Mr. Speaker, Sir, are Government vehicles insured for staff who are using those vehicles?

**Mr. Mungatana:** Mr. Speaker, Sir, ordinarily, we do not have insurance stickers on Government vehicles. I believe the hon. Member is aware of that. However, what happens is that under the terms and conditions of service in the Civil Service, if a civil servant has an accident, under any circumstances, and if he is covered, he will be adequately compensated.

**Mr. Speaker:** Hon. Members, to put the issue in correct perspective, the reason why Government vehicles never had insurance is because the Government was supposed to be solvent all the time and would pay, anyway, if a traffic offence was committed, for example, injuring or killing somebody. That was the rationale.

**Hon. Members:** And now?

**Mr. Speaker:** You can ask the Assistant Minister!

**Mr. Ethuro:** Mr. Speaker, Sir, arising from your explanation, is the Assistant Minister satisfied that Government vehicles should not be insured, and given the fact that it took them four years to release a cheque to the family of Mr. Orwa? I am sure the cheque was only released after the Question was filed sometime back.

**Mr. Mungatana:** Mr. Speaker, Sir, ordinarily, we tackle these matters of compensation through the Office of the Attorney-General. The Chair is aware that the Vote under the heading for compensation has not been sufficient. However, as I said before, we are addressing these issues and I hope they will not happen in future.

**Mr. Kimeto:** On a point of order, Mr. Speaker, Sir. Is it in order for a payment of this nature to be delayed and make the children of the deceased suffer?

**Mr. Speaker:** Order, Mr. Kimeto! That is a supplementary question.

**Dr. Oburu:** Mr. Speaker, Sir, it is true that the cheque was released after this Question was asked in this House last year. However, the Assistant Minister has said that the amount which was paid to this family after the four years for loss of life was Kshs176,000. Is the life of a civil servant worth only Kshs176,000, four years after his death? The Government took four years to pay and did not pay interest. Is this what the Government considers adequate for the loss of life of a civil servant?

**Mr. Mungatana:** Mr. Speaker, Sir, ordinarily, whenever a person dies, there is a formula which we follow to pay compensation. Ordinarily, this depends on the number of years that one had served, level of income and other considerations. You cannot look at a life of a civil servant and know how much they are worth. It is graduated according to the formula that we follow, which includes earnings and other capacities. I, therefore, cannot say that is the worth of a life of a civil servant.

*Question No.496*

EXPANSION OF GURAR TOWNSHIP TUNNEL

**Dr. Ali** asked the Minister for Roads and Public Works:-

(a) whether the Ministry was aware that Gurar Township, which is one of the oldest



settlements in Wajir District, can only be accessed through a tunnel (E849); and,  
(b) what plans he has to ensure that the town is accessible by expanding the last 10 kilometres of the tunnel.

**The Assistant Minister for Roads and Public Works** (Eng. Toro): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Gurar Township can only be accessed by road E849, which passes through a gorge.

(b) The Ministry, through the District Roads Committee (DRC), is allocating Kshs5.5 million to the Constituency Development Fund this financial year. The DRC could, through its work plan, make funds available to expand the last 10 kilometres of the road. In addition to this, the Ministry has allocated Kshs2 million in the current financial year to start the work.

**Dr. Ali:** Mr. Speaker, Sir, this Assistant Minister, who happens to be my friend, is messing around with me. I took drawings to him over six months ago. The Kshs5.5 million we were allocated could do nothing. Why can the Assistant Minister not tell me that he is not ready to give me anything, instead of taking me round in circles?

Let the Assistant Minister know that Kshs5.5 million is the money we had been allocated earlier. We could do nothing with it. Could he give me some more money, please? That was not good enough!

**Eng. Toro:** Mr. Speaker, Sir, Dr. Ali is saying that I have given him nothing. I have said that Kshs2 million has been allocated this financial year. The estimate we gave was Kshs6 million, which is on the higher side. I am proposing to the hon. Member that, if this is a very important road, then he should indicate how much money he intends to provide from the DRC Fund. This road is under the DRC. It is not fair for Dr. Ali to say that we have not allocated even a shilling towards its expansion, and expect the Ministry to give him all the money needed for it. I am requesting that he also provides some money from the DRC Fund. Let us see how much money he can provide. I have already said that we will provide an extra Kshs2 million. After that, we shall know how much more money will be required.

**Mr. Speaker:** Captain Nakitare!

**Hon. Members:** No! No!

**Mr. Speaker:** He is an hon. Member!

**Capt. Nakitare:** Mr. Speaker, Sir, you have heard what the Assistant Minister has said. I would like to know if he is in order to tell this House that the gorge will cost Kshs10 million, yet there is a difference between a gorge and a tunnel. Could he clarify the difference between a gorge and a tunnel?

*(Applause)*

**Eng. Toro:** Mr. Speaker, Sir, we are talking about the gorge that exists in Dr. Ali's constituency and not a tunnel.

**Mr. Speaker:** Very well!

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

**Hon. Members:** Mr. Billow!

**Mr. Billow:** Mr. Speaker, Sir, we were away for only two months and you have forgotten our names!

**Mr. Speaker:** Should you worry about that? I have given you the microphone!

**Mr. Billow:** Mr. Speaker, Sir, thank you.

The hon. Member has said that the whole town is accessible through a tunnel. He has asked the Ministry for funds so that the area can be accessible. The Kshs5.5 million is supposed to be for four constituencies. Even if he got his portion and decided to use it, it would not construct a 10-kilometre road. Could the Ministry, for heaven's sake, consider that this is an area that has been neglected and marginalised for 40 years and allocate it money?

His Excellency the President has come here many times and told us that we must apply affirmative action in such areas.

**Eng. Toro:** Mr. Speaker, Sir, I do not know why the hon. Member is saying that Kshs2 million is not money. What is money? I have already said that Kshs2 million has been allocated to start the work. I would like the hon. Member, whom I had discussed with many times about this issue, to show goodwill by utilising his constituency fund. He should provide some money, so that we start working.

**Dr. Ali:** Mr. Speaker, Sir, I had brought two copies of drawings from the District Roads Engineer (DRE). One indicated that the DRE was ready to use machines. That one would cost over Kshs8 million. When I took it to the Assistant Minister, he told me to reduce the amount. I went back and told the engineer to reduce the money because some people could even work for free. He reduced the amount to Kshs6 million. This was a hill. The gorge was curved out by the British in 1900. The Kenya Government has never done anything about it. Could the Assistant Minister give me some more Kshs2 million and I will look for the rest of the money from other sources? could he give me another Kshs2 million, so that I have Kshs4 million?

**Eng. Toro:** Mr. Speaker, Sir, before he uses Kshs4 million, he will have used Kshs2 million. Could he use the Kshs2 million first, then we can talk about the extra Kshs2 million?

*(Dr. Ali stood up in his place)*

**Mr. Speaker:** Yes, what is it, Dr. Ali?

**Dr. Ali:** Mr. Speaker, Sir, the DRE has told me that he cannot use only Kshs2 million. The minimum amount he can use to do any work is Kshs4 million.

**Mr. Speaker:** He must have Kshs4 million before he begins the work?

**Dr. Ali:** Yes, Mr. Speaker, Sir. So, could he give me Kshs4 million?

**Mr. Speaker:** Is that correct, Mr. Assistant Minister?

**Eng. Toro:** Mr. Speaker, Sir, that is not correct. Before one spends Kshs4 million, he will have spent Kshs100,000, Kshs200,000, Kshs500,000, Kshs1 million and even Kshs2 million.

*(Loud consultations)*

**Mr. Speaker:** Order, Order, hon. Members!

**Dr. Ali:** On a point of order, Mr. Speaker, Sir. If the gorge is left halfway done, we will not move. If a vehicle is coming from one end, it would have to wait for the one on the other end to pass. This Assistant Minister is joking! What is Kshs2 million?

**Mr. Speaker:** Order! Relax, Dr. Ali. Relax! Mr. Assistant Minister, you should appreciate the predicament of Dr. Ali. If you interfere with any part of this gorge, you will make it completely impassable. So, you have to finish the work!

**Eng. Toro:** Mr. Speaker, Sir, I understand what Dr. Ali is saying. I started by saying that we are providing Kshs2 million this financial year. The work will start as soon as the funds are made available. However, while we provide the Kshs2 million, Dr. Ali should also be telling the

Ministry that he will provide half-a-million or Kshs200,000 from the DRC Fund, so that we can know how much he is committing to the project. If this road is that important to him, then he should give it priority in the work plan of the DRC Fund.

**Mr. Speaker:** I suppose I will encourage dialogue between Dr. Ali and Eng. Toro.

Proceed! Mr. O.K. Mwangi.

*Question No.808*

TARMACKING OF SABA  
SABA-MAREIRA ROAD

**Mr. O.K. Mwangi** asked the Minister for Roads and Public Works:-

(a) whether he is aware that the Saba Saba-Mugumoini-Turu-Turu-Mareira Road serves about 50 per cent of the population of Kigumo Constituency;

(b) whether he is further aware that the road is impassable during the rainy season; and,

(c) if the answers to "a" and "b" above, are in the affirmative, when the Ministry will tarmac the road.

**The Assistant Minister for Roads and Public Works** (Eng. Toro): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Saba Saba-Mugumoini-Turu-Turu-Mareira Road serves a big proportion of the population of Kigumo Constituency.

(b) I am also aware that during the rainy season, the road becomes impassable.

(c) My Ministry has no plans to tarmac the above road. However, routine maintenance work will be done to make the road motorable.

**Mr. O.K. Mwangi:** Mr. Speaker, Sir, while I appreciate the answer given by the Assistant Minister, I also lament that I have not received a written answer. If the Assistant Minister accepts that the road is impassable during the rainy season, and he knows it because he is my neighbour who lives next to this road, what is he going to do to make it passable during the rainy season when all our economic activities are halted?

**Eng. Toro:** Mr. Speaker, Sir, this road is 31.5 kilometres which is not a short distance. The Ministry has been trying its best to do proper grading and drainage and this financial year, the section between Githimaine, Turu-Turu and Gukuu has been allocated by the District Roads Committee (DRC) Kshs738,000 which will be spent on grading, drainage and spot patching those areas which are prone to impassability when it rains. The Saba Saba-Mugumoini section has been allocated Kshs740,000 which will also be spent on drainage works, grading and spot patching. This general improvement, although it is not a solution during rainy weather, goes a long way in making the road passable because due to the proper drainage of the road, it dries up immediately after it has rained.

**Mr. Bahari:** Mr. Speaker, Sir, 50 per cent of a population of a constituency is not a small number and I do not think the Assistant Minister is taking this Question seriously because the hon. Member has said that come rainy season, then 50 per cent of the constituents will not have access to the rest of Kenya. Could the Assistant Minister tell us when the work is going to begin because allocations in the estimates can sometimes take even up to mid next year?

**Eng. Toro:** Mr. Speaker, Sir, this money that I have said has been given to the District Works Officer is in the proposals for work plans for this financial year. Already Kshs2 million has been sent to the District Works Officer, Maragwa District, which he will start using on this road.

**Mr. O.K. Mwangi:** Mr. Speaker, Sir, the Kshs740,000 the Assistant Minister is talking about is from the DRC but it cannot even do ten kilometres and you will realise that this road is over 30 kilometres and it serves more than 50 per cent of the population of the constituency. What plans does the Assistant Minister have to allocate enough funds to rehabilitate this road even if he is not going to tarmac the road in the near future?

**Eng. Toro:** Mr. Speaker, Sir, the solution to this road is that when the Roads 2000 Programme starts for Maragwa District, the hon. Member can view this road as a priority so that it can be gravelled to make it motorable all the year round.

**Mr. O.K. Mwangi:** On a point of order, Mr. Speaker, Sir. The Assistant Minister has talked about the Roads 2000 Programme. When will it start or is it indefinite?

**Mr. Speaker:** Roads 2000 Programme is over. Is it not?

**Eng. Toro:** Mr. Speaker, Sir, that is the name that we are using for the programme. The consultant has already been commissioned and we expect him to finish his consultancy services in December this year so that AFD can be able to allocate funds for the Road 2000 Programme.

**Mr. Speaker:** Very well. Next Question by Mr. Ethuro!

*Question No.650*

REDISTRIBUTION OF ASSETS BETWEEN  
LODWAR/TURKANA LOCAL AUTHORITIES

**Mr. Ethuro** asked the Minister for Local Government:-

- (a) whether he could inform the House why redistribution of assets between the Municipal Council of Lodwar, the County Council of Turkana and the Central Government has not been undertaken; and,
- (b) how much money the county council of Turkana owes the National Housing Corporation.

**The Assistant Minister for Local Government** (Mr. Tarus): Mr. Speaker, Sir, I beg to reply.

(a) The redistribution of assets and liabilities has not been done because the expenses to be incurred by the committees that deal with arbitration and the division of assets and liabilities are met by the councils concerned. This can only be done after the approval of the budget by the Ministry. I have approved the budgets for the two councils and I am sending a committee to Turkana on 7th November, 2004 for distribution of assets and liabilities between the two councils.

(b) The County Council of Turkana owes the National Housing Corporation Kshs891,000.

**Mr. Ethuro:** Mr. Speaker, Sir, I want to thank the Assistant Minister for giving me the date on which his officers will come and sort out this mess. How much money does it cost in order for this committee to do its work? Could the Assistant Minister inform the House why it was not done? The budget he is talking about is of the current financial year. I am sure he has been approving budgets for the last ten years. Why did they not take any action?

**Mr. Tarus:** Mr. Speaker, Sir, I appreciate the concern of the hon. Member but I would like to say that the people who are members of the committee are not more than five. So, the hon. Member should not worry so much about the cost. Secondly, yes, it took quite some time but we have fixed the date for them to go and do that distribution of the assets and liabilities. So, may I ask the hon. Member to bear with us.

**Mr. Salat:** Mr. Speaker, Sir, just the other day, the Assistant Minister came to Kericho to redistribute the assets there. He has just said that there is a budget that is allocated for this kind of

exercise. How much money was spent to redistribute the assets within the greater Kericho districts?

**Mr. Tarus:** Mr. Speaker, Sir, the question is good but it is not related to this issue.

**Mr. Speaker:** Mr Ethuro, are you happy?

**Mr. Ethuro:** Mr. Speaker, Sir, I am happy that they are coming. However, he is talking about five people; he has to consider personnel as well as the financial out lay. My question is: How much money will the arbitration committee spend? Who will bear that cost? Is it the council or the Ministry?

**Mr. Tarus:** Mr. Speaker, Sir, if the hon. Member was paying attention, he should have heard me say that the reason why we have not been able to re-distribute the assets is because we were waiting for the approval of the budget of that particular council. Therefore, the costs will be borne by that particular council.

**Mr. Speaker:** Very well.

Next Question by Mr. Ngozi.

*Question No.696*

PROVISION OF STD SERVICES  
TO LUNGA LUNGA

**Mr. Rai,** on behalf of **Mr. Ngozi,** asked the Minister for Information and Communications when Lunga Lunga Division in Msambweni Constituency will be provided with a Subscriber Trunk Dialling (STD) system.

**The Assistant Minister for Information and Communications** (Mr. Were): Mr. Speaker, Sir, I beg to reply.

The automation of the telephone exchange in Lunga Lunga Division by provision of a Subscriber Trunk Dialling system will be considered under the on-going 2004/2007 Rural Telecommunication Automation Programme (RTAP). Telkom Kenya Limited is currently undertaking the programme as part of its 2000/2010 telecommunication development plan aimed at replacing all manual telephone exchanges with automatic Subscriber Trunk Dialling systems in 159 centres or divisions throughout the country. Lunga Lunga Division is included in this plan.

I wish to inform the House that the Government is currently negotiating with various development partners for funds for the implementation of the RTAP that will use the wireless technology. This will reduce the cost of automation as well as improve rural telecommunication infrastructure. Please, note, therefore, that the implementation period of the project will also be drastically reduced.

**Mr. Rai:** Mr. Speaker, Sir, I wish to thank the Assistant Minister for that encouraging answer. However, Lunga Lunga Division is important in the sense that it is both an entry and exit point for this country. As a result, there is need to equip it with modern and efficient communication equipment. Could the Assistant Minister assure this House that Lunga Lunga Division will be given priority when this project is undertaken because the lack of this equipment affects security and trade?

**Mr. Were:** Mr. Speaker, Sir, my Ministry will do that.

**Dr. Godana:** Mr. Speaker, Sir, despite the promise the Assistant Minister made, our own contacts with the senior management of Telkom Kenya Limited had indicated that pending privatisation, they are unlikely to incur new capital expenditure. Would I be in order to request the Assistant Minister to table before the House now, or at a convenient time, the list of the 159 divisions which will be automated?

**Mr. Were:** Mr. Speaker, Sir, I do not have the list right now with me, but I will avail it in a week's time.

**Mr. Speaker:** Very well.  
Next Question.

*Question No.822*

SUPPLY OF ELECTRICITY  
TO URIRI CONSTITUENCY

**Mr. Omamba** asked the Minister for Energy:-

- (a) if he is aware that Othoro Health Centre and Change Secondary School in Uriri Constituency had been approved to be supplied with electricity under the Rural Electrification Programme (REP) from Gogo Hydro-electric power Plant, and that designs and plans were completed over two years ago;
- (b) given that the said designs and plans for the above implementation are in place, when the Kenya Power and Lighting Company (KPLC) will install the poles and wires; and,
- (c) when the owners of the land on which these poles are placed will be compensated.

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

(a) Yes, I am aware that the supply of electricity to Othoro Health Centre was approved for implementation under the REP in October, 2003 at a cost of Kshs2.75 million. However, the said approval did not include Change Secondary School, which is about 1.8 kilometres from the health centre, and also does not specify that Gogo Hydro-electric power Plant will be the source. Therefore, power supply to Othoro Health Centre will come from the national grid.

(b) The electrification of Othoro Health Centre is scheduled to commence in December, 2004. However, the Ministry of Energy cannot commit itself to the implementation of Change Secondary School Project as requested by the hon. Member. This is because implementation of projects, under the REP is based on the priority ranking by the respective district development committees, which, in this case, is the Migori District Development Committee (MDDC), and on the availability of funds. I would, therefore, like to request the hon. Member to liaise with the Migori DDC on the issue of having Change Secondary School Project merit a higher position on the ranking list than the five top projects. The ranking list is still being awaited by the Ministry.

(c) Owners of the land on which poles are placed are usually not compensated as they are usually requested to provide the area free of charge.

**Mr. Omamba:** Mr. Speaker, Sir, the answer the Assistant Minister has given indicates the delaying tactics of the Ministry. I am aware that supply of electricity from Gogo Hydro-electric Power Plant first goes to Kisii, to a central centre where it gets more watts for distribution, then it goes to other places. This work started early January. It went on for several weeks and then halted. Why was the work halted?

**Mr. Kiunjuri:** Mr. Speaker, Sir, our work is done in phases. The people the hon. Member saw on the ground were carrying out tasks for the first phase for the designers to identify the actual areas. That was done and completed mid this year. Construction work for the project has already been tendered, and the contractor has already accepted the offer. The contract was signed on 29th September, 2004. The contractor will be Electricom Systems. That work will commence in December. In short, the work is already contracted out. I would urge the hon. Member to wait for

the contractor to go on the ground. I will be very happy to go for the ground breaking ceremony.

**Mr. Sungu:** Mr. Speaker, Sir, I would like to appeal through the Chair to the Assistant Minister to respect age. The hon. Member has asked this Question over and over again since the last Parliament, and the Assistant Minister is aware of this. What is the rationale of taking power from one locality all the way to Kisii and leaving institutions in the area without it? In the Sessional Paper on energy, the Assistant Minister indicated that priority would be given to institutions such as secondary schools, which the Ministry is now ignoring. Could he now tell this House that his Ministry will give priority to this school?

**Mr. Kiunjuri:** Mr. Speaker, Sir, it is true that I respect age. I was very polite to the hon. Member. This Ministry did not put up the line which by-passed those institutions. However, the Chair will agree with me that we have many constituencies and many demands from hon. Members. The hon. Member is very lucky that we are implementing that programme.

Secondly, Chungu Secondary School requires Kshs3 million for supply of power. We have given the hon. Member the go ahead to prioritise supply to the school, and we shall provide it during the next financial year.

**Mr. Speaker:** I must make progress now!

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

**Mr. Speaker:** What is the matter?

**Mr. Omamba:** Mr. Speaker, Sir, I was to ask the last question!

**Mr. Speaker:** Go ahead!

**Mr. Omamba:** Mr. Speaker, Sir, could the Assistant Minister consider the area around Gogo Hydro-electric Power Plant? There is not a single institution with electricity. Residents of that area only see electric light 20 kilometres away, on the upper part of Uriri Constituency. This school requires only some two poles for electricity to be supplied to it. The officers from the KPLC who went there told us they were waiting for a transformer. Could the Assistant go to the ground to see for himself that residents of that area are still living in the dark ages?

**Mr. Kiunjuri:** Mr. Speaker, Sir, we require Kshs3 million for that project. However, I would like to remind hon. Members that whenever we have a transformer, we have introduced customer creation, whereby you can apply for electricity and only pay between Ksh20,000 and Kshs25,000.

Secondly, I have assured hon. Members that we are carrying out a comprehensive policy through which members of the public will access power easily. We ask them to give us at least two months so that we can have the relevant paper, discuss it with the KPLC and then renew contracts.

**Mr. Speaker:** Very well

Next Question!

### *Question No.712*

#### CONSTRUCTION OF LBDA HEADQUARTERS

**Mr. Sungu,** on behalf of **Mr. Nyagudi,** asked the Minister for Regional Development Authorities:-

(a) whether he is aware that the contract to construct the Lake Basin Development Authority (LBDA) headquarters in Kisumu worth Kshs396 million was awarded through single sourcing in 1990;

(b) whether he is further aware that the construction of the 12-storey headquarters is only at the foundation level and that the contractor is now claiming Kshs300 million;

and,

(c) what action he is taking on the matter and when the construction will be completed.

**The Assistant Minister for Regional Development Authorities** (Mr. Odoyo): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the contract worth Kshs396 million for construction of the LBDA Headquarters and staff housing was awarded to M/s N.K. Brothers in October, 1990 through a negotiated tender between M/s N.K. Brothers and the Ministry of Roads and Public Works.

(b) It is true that the construction of the 12-storey headquarters office block is only at the foundation level. The project stalled in 1992 due to unavailability of funds. In March, 2003, the contractor claimed Kshs300 million from the Government. My Ministry forwarded this claim to the Ministry of Roads and Public Works. The bills were to be studied. Subsequently, the Ministry of Roads and Public Works reduced the bill to Kshs163 million, but we have not paid. We are still raising one or two other issues.

(c) We have included this project in our Estimates for the next financial year among projects to be completed by the Government.

**Mr. Sungu:** Mr. Speaker, Sir, the Assistant Minister admits that the project was awarded on single sourcing basis. I believe that this Government is committed to correct the ills of the past. I want to know how much money has so far been paid for no work done. The said project is near my home. The contractors only laid the foundation, and yet they are claiming so much money. How much money has been paid to these contractors and who was responsible for their single sourcing? Has the Government taken them to court?

**Mr. Odoyo:** Mr. Speaker, Sir, it is true that under the National Rainbow Coalition (NARC) Government, single sourcing is not a way of doing business.

**Hon. Members:** Anglo Leasing! Anglo Leasing!

**Mr. Odoyo:** Mr. Speaker, Sir, this particular contract was awarded in 1990. That was a very unfortunate situation. So far, Kshs35 million has already been paid to the contractors.

**Hon. Members:** For what?

**Mr. Odoyo:** Mr. Speaker, Sir, the money was paid to the contractor under the normal terms of the contract. You know that work has been done to foundation level. So, the contractors had already done some work. I have a breakdown of payments made to the contractors, which I will table for the hon. Member to study.

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

**Mr. Midiwo:** Mr. Speaker, Sir, the LBDA has a lot of moribund projects. The headquarters project is just one of them. This is just a tip of the iceberg. What is going on at the LBDA even today is despicable. Could the Assistant Minister assure this House that this contractor, whom I believe should be black-listed, will not be paid any more money until construction of the building is complete and ready for occupation?

**Mr. Odoyo:** Mr. Speaker, Sir, as you know, public works are normally undertaken by the Ministry of Roads and Public Works. From our pedestal, we are relying heavily on the Ministry of Public Works to advise us on the technical details as to the next step. However, I wish to state that even the Kshs163 million approved by the Ministry of Roads and Public Works is currently being scrutinised by a joint team from the Office of the President and the Efficiency Monitoring Unit (EMU), which is right now in Kisumu looking into this problem.

**Mr. Sungu:** Mr. Speaker, Sir, the Assistant Minister admitted that the project was



abandoned because of lack of funds. Before they started the project in 1990, they must have planned for it. Could he identify those responsible, so that they can be surcharged? The Kenyan taxpayer should not be made to pay just because somebody failed to plan properly. Could he name those responsible, so that action can be taken against them?

**Mr. Odoyo:** Mr. Speaker, Sir, this project is not the only one which has suffered this kind of problem. The Government set up a committee to look into the issue of pending bills. Among the pending bills that were reviewed were for this project. The question as to the accountability, those who allowed this project to stall, exceed their budget and overdraw, are being looked into. I wish to assure the hon. Member that the Government takes seriously those public servants who may, by an act of omission or commission, cause loss to the Government of Kenya.

**Mr. Speaker:** Very well! Questions by Private Notice!

### QUESTIONS BY PRIVATE NOTICE

#### IMPOSITION OF VAT ON SUGAR-CANE TRANSPORTATION

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

(a) Is the Minister aware that sugar-cane farmers in Mumias zone are being charged 18 per cent VAT on transportation of their cane to factories?

(b) What is he doing to stop this illegal tax being collected by Mumias Sugar Company?

(c) Could he order a refund to those already deducted this amount?

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

(a) I am not aware that sugar-cane farmers in Mumias zone are being charged 18 per cent VAT on transportation of their cane to factories. What I am aware of is that in January, 2002, the Commissioner of VAT demanded Kshs145,835,463, being the amount of VAT that Mumias Sugar Company had failed to charge the outgrower farmers for transportation of raw sugar-cane between 1st January, 2001 and 30th November, 2001. However, Mumias Sugar Company appealed against this assessment to the Western Region VAT Tribunal on the grounds that transportation of sugar-cane was an agricultural service, which was exempted from VAT under the Third Schedule of the VAT Act. Subsequently, when the tribunal sat at Kisumu, it deliberated on this matter and ruled that on 30th August, the transportation of sugar-cane from farm to factory was an agricultural service within the meaning of Paragraph Six of the Third Schedule of the VAT Act and, therefore, was exempted from VAT. However, the tribunal further ruled that in the period 1st January, 2001 to 31st August, 2001, the Third Schedule of the Act did not include agricultural services as exempted from VAT. So, in that period, Mumias Sugar Company provided a taxable service and was, therefore, under obligation to account for that tax. Both Mumias Sugar Company and the Commissioner of Value Added Tax (VAT) accepted that ruling during the tribunal. Consequently, the Commissioner took the following action. Letters were written to the sugar factories to stop charging VAT. They reviewed the assessment and, consequently, Mumias Sugar Company paid the principal amount which was approximately Kshs90 million, and requested Treasury for the waiver of the additional tax between August and November. That was accepted. We have now confirmed that Mumias Sugar Company stopped charging VAT on transportation of Sugar-cane in September, 2002. The VAT that the farmers are complaining about was charged on the Kshs90 million which was agreed by the tribunal, and which was taxable at that time.

**Mr. Osundwa:** Mr. Speaker, Sir, I beg the indulgence of the Chair to give a little bit more

time on this Question because of its weighty nature.

**Mr. Speaker:** How?

**Mr. Osundwa:** Mr. Speaker, Sir, I know that the Chair is a pastoralist. When you take your cattle to the market, you do not pay VAT on transport.

**Mr. Speaker:** Order! Mr. Osundwa, you are among a few group of hon. Members who take liberty on the Chair. You have taken liberty on the Chair and you must now leave the Chamber. You must leave now and the Question will not be renewed!

*(Mr. Osundwa withdrew from the Chamber)*

Order, hon. Members! I think Members must be serious and respect the Chair. The Chair will not allow any jibes at it. I think that must come to an end. Those few groups of hon. Members who think it is heroism to attack the Chair, should know that they are actually frivolous and have no capacity to challenge the Chair.

**Mr. Obwocha:** Mr. Speaker, Sir---

**Mr. Speaker:** You cannot answer! He is gone! Order, Mr. Obwocha, you must relax now, unless it is on a different issue.

**Mr. Weya:** On a point of order, Mr. Speaker, Sir. This is a Question that is important and affects the whole country. It belongs to the House.

**An hon. Member:** Out!

**Mr. Speaker:** Order! He will not go out. He has not been disrespectful to the Chair. I think you are right in a way. The Question having been asked, belongs to the House. I think you can ask supplementary questions. Do you have anything to ask?

**Mr. Weya:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Go ahead.

**Mr. Weya:** Mr. Speaker, Sir, could I ask the Assistant Minister whether sugar-cane could be given priorities like coffee, which has been given subsidiary taxes?

**Mr. Obwocha:** Mr. Speaker, Sir, I do not think this House agrees with those who are calling the Chair a pastoralist. I think it is disrespectful.

*(Loud consultations)*

**Mr. Speaker:** Order! Are you joining hands with him?

**Mr. Obwocha:** No, Mr. Speaker, Sir. I would like to say that farmers can approach any qualified auditors or accountants to make an appeal to the Commissioner under the Act, for the Minister to re-imburse that for the benefit of the farmers.

**Mr. Speaker:** I must come to this side now. I recognise Prof. Olweny.

**Prof. Olweny:** Mr. Speaker, Sir, I beg to apologise for my little knowledge in English. VAT means Value Added Tax. If you transport sugar-cane from the farm to the mill, is it value added or is it a service? If it is a service, do we not have something like service tax? Could the Assistant Minister tell us what kind of tax is paid when sugar-cane is transported? To me, there is no value added to raw sugar-cane. It is still sugar-cane because it has not been milled. Could he clarify that to us because it is giving us problems with our farmers?

**Mr. Obwocha:** Mr. Speaker, Sir, VAT is imposed on goods and services. But that particular one has now been exempted. Agricultural services have been exempted from the Third Schedule. Farmers do not pay tax on it.

**Mr. Speaker:** Next Question! It is 4.00 p.m., hon. Members. Mr. Bahari!

## REPAIR OF GARBA-TULLA BRIDGE

**Mr. Bahari:** Mr. Speaker, Sir, I beg to ask the Minister for Roads and Public Works the following Question by Private Notice.

(a) Is the Minister aware that the only link bridge in Garba-Tulla Township is about to collapse?

(b) What urgent measures is the Minister going to take to alleviate that grave situation?

**The Assistant Minister for Roads and Public Works (Eng. Toro):** Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the only link bridge in Garba-Tulla Township is about to collapse. But I am aware that the drift and not the bridge has cracks and requires repairs at an estimated cost of Kshs1 million.

(b) The Ministry will repair the drift using District Roads Committee (DRC) funds for this financial year.

**Mr. Bahari:** Mr. Speaker, Sir, this is a very serious matter! That is because I am a member of that Committee and I am not aware that the repair of that drift is one of its priorities this financial year. So, why is the Assistant Minister misleading the House?

**Eng. Toro:** Mr. Speaker, Sir, I am not misleading the House. When the work plans were being made by Isiolo District, and especially in his constituency, they never prioritised that particular drift, which was constructed in 1970 for repairs, despite the fact that, it is showing cracks of failure. However, notwithstanding the failures of the DRC to prioritise the repair of the drift, the Ministry will undertake to repair the drift using some emergency funds.

**Mr. Abdirahman:** Mr. Speaker, Sir, just this afternoon alone, we have had two Questions related to this Ministry. The responses we get are: "Go back to the DRC funds." I, personally, think that the problem is structural. There is rigidity in the Ministry of Roads and Public Works. The other day, we asked the Minister not only to allow us to privatise, but to also help him in the allocation of funds for major projects. As much as we agree with you that some of the units are based at the headquarters, could you devolve some of them from the headquarters to the provincial level, so that they can tackle our problems?

**Eng. Toro:** Mr. Speaker, Sir, I do not understand why the hon. Member would like the Bridges Section to be devolved to the provincial level when, even the repair of a simple drift, has not been tackled at the district level. That repair does not require the headquarters. All that was required was for the district and the constituency to prioritise the repair of that drift. They could have been allocated some money this financial year. In any case, Road E802 falls under the DRC. Therefore, we are asking the DRCs to prioritise repairs for certain roads under classes D and E, instead of asking questions. They say that those repairs are priorities when, in their proposals, they do not put them as priorities. If they do not prioritise them, the Ministry cannot repair them. When we talk about allocating funds, the seriousness must come from the district. That way, the Ministry will know which roads are prioritised and require special attention.

**Mr. Sasura:** Mr. Speaker, Sir, the Assistant Minister has accepted that he will use the emergency funds to repair the bridge. When will he send the funds because the rains are coming in October?

**Eng. Toro:** Mr. Speaker, Sir, we are already in October and the rains have not yet come. We will send the money before the end of October.

**Mr. Owidi:** Mr. Speaker, Sir, I believe that the Assistant Minister is an engineer by profession. Signs of failure of a structure include the cracks. The Assistant Minister has said that

cracks are not an indication of failure of a structure, which is not true. Could he assure this House that he will take urgent measures before a disaster occurs?

**Eng. Toro:** Mr. Speaker, Sir, Mr. Owidi did not listen to what I said. I said that the structure has failed and that is why there are cracks and we need to repair them. The long-term solution to the 60-metre wide drift is to construct a bridge across it. Once funds are available, a bridge will be designed as a long-term solution to this problem. The structure is temporary and since it has started showing signs of failure, it cannot last long.

**Mr. Bahari:** Mr. Speaker, Sir, I want to correct the impression created by the Assistant Minister that the District Roads Committee (DRC) in Isiolo failed to prioritise this project. I want to inform him that this incident happened after we had prioritised our projects. There are similar drifts in the constituency and in other places. What measures will the Assistant Minister undertake to ensure that there will be routine maintenance? This bridge cracked as a result of the Ministry's failure to carry out planned routine maintenance on those drifts.

**Eng. Toro:** Mr. Speaker, Sir, I request the hon. Member to ask the District Roads Engineer to carry out a technical appraisal in all the drifts that are in the district and send them to the Chief Engineer in the Ministry of Roads and Public Works. This will enable us to see what needs attention.

**Mr. Speaker:** Order, Mr. Assistant Minister! I beg your pardon. The District Roads Engineer does not work for the hon. Member. He works for you! So, it is for you to instruct him and not the hon. Member.

**Eng. Toro:** Mr. Speaker, Sir, these are the issues that are discussed at the DRC level. During the DRC's meetings, hon. Members raise issues with the District Roads Engineer.

**Mr. Speaker:** Order, Mr. Assistant Minister! It is not that simple. Are you abdicating your role as an Assistant Minister, so that he can take over?

**Mr. Bahari:** He is joking!

**Eng. Toro:** Mr. Speaker, Sir, I am not joking as the hon. Member is saying. I have kept on saying in this House that we also require the help of the hon. Members, so that we can know what is happening on the ground. There is information that we might not receive at the headquarters. We would like to have the assistance of the hon. Members, so that we can have the work done.

#### SUSPENSION OF KPC MANAGING DIRECTOR

**Dr. Khalwale:** Mr. Speaker, Sir, I beg to ask the Minister for Energy the following Question by Private Notice.

Why was the Managing Director of the Kenya Pipeline Company sent on compulsory leave in August, 2004?

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

Dr. Shem Ochuodho was sent on compulsory leave to pave way for investigations by the Inspector-General, Corporations, into the alleged financial impropriety relating to the borrowing by the Kenya Pipeline Company from Triple A Capital Ltd, to settle certain outstanding obligations.

**Dr. Khalwale:** Mr. Speaker, Sir, I would not wish to use the Floor of this House to support financial impropriety. However, the intention of this Question is to interrogate the trend set by the NARC Government. It looks like the NARC Government is at war with the professionals who work for this country. First, it was the procurement officers, the Chief Justice and then magistrates. Dr. Ochuodho was sent on compulsory leave after he had turned around the financial performance of the KPC and, in fact, negotiated for an expansion of business from Kenya to Uganda Pipeline. The real reason why he had to go home was the tendering process which was going to attract US\$120

million, because interested groups wanted him to create way for them to take the tender.

**Mr. Kiunjuri:** Mr. Speaker, Sir, hon. Members should be serious on these issues. I have indicated clearly that we are investigating into the alleged financial impropriety. Do Hon. Members want to tell us that as the Assistant Minister for Energy, I am allowed to commit any offence, especially on issues that affect the company simply because I am performing?

**Mr. Speaker:** Just for the refreshment of the House, I think the question of Triple A was here and I believe it took quite a bit of time and attracted a lot of emotions. So, those hon. Members who are asking the Assistant Minister questions, could you recollect what you said last time?

**Dr. Godana:** Mr. Speaker, Sir, it is very interesting that the Assistant Minister is now saying that when allegations are made against a public officer, he has to be sent on leave. What surprises us are the double standards that this Government is practising. We are aware of many other serious allegations which have been made and they have been saying that they cannot dismiss people on the basis of allegations alone. Be that as it may, how come in a matter of this nature, only one official was sent on leave? How come other senior officers including those in the Finance Department have not been affected?

**Mr. Kiunjuri:** Mr. Speaker, Sir, first of all, the Government is made up of several Ministries. Hon. Members should first of all congratulate and commend us for taking a quick action. Immediately this was noted, and it was provoked by this House, we took immediate action and we sent Dr. Ochuodho on leave. It is not true that we sent Dr. Ochuodho on leave alone. The Finance Manager, Mr. Orata, and the Chairman of the Board were also sent on leave. It would be the saddest day for this country if hon. Members are questioning the Government for taking action against people who have committed financial impropriety.

**Mr. Maore:** Mr. Speaker, Sir, when I tabled the papers on the KPC versus Triple A, I did not know about the issues that Dr. Khalwale has raised about the good things that Dr. Ochuodho had done and the tender. Maybe, he could enlighten us and the country on them. However, could the Assistant Minister tell the House when he will table the report of the investigations into the transactions of Triple A and KPC, which has already been completed?

**Mr. Kiunjuri:** Mr. Speaker, Sir, first of all, let me simplify this even further. Somebody indicated that he smelt a rat and that there was a thief somewhere. We are now getting to the thief. It is also very important that sometimes hon. Members declare their interests when they ask Questions which are very clear. As I said, the investigations are being carried out. In fact, they are in their final stages. By next week, we shall let the whole nation know the outcome of the investigations.

**Dr. Khalwale:** Mr. Speaker, Sir, this problem is so obvious that the Assistant Minister cannot hide behind that answer. According to a board meeting, when the board took the decision to involve Triple A Capital Limited, the Minister for Energy had approved it. It was referred to the Treasury and the Minister for Finance approved it too. Why did Government not send the Minister for Energy and Minister for Finance out of the office for them to carry out more thorough investigations?

**Mr. Kiunjuri:** Mr. Speaker, Sir, we are investigating a serious irregularity committed. Secondly, there are acts of omission and commission which we are now investigating. Once we get the report, we will be able to tell Kenyans what was omitted and the irregularities committed. At this juncture, I will request the hon. Member to ask another Question and he will be answered.

**Mr. Speaker:** Very well. Next Question by Mr. Gachagua!

**Mr. Gachagua:** Mr. Speaker, Sir, I beg to ask the Minister for Lands and Settlement the following Question by Private Notice.

(a) Is the Minister aware that there are over 3,000 families who have been rendered homeless after their eviction from Hombe and Ragati forests in Mathira Constituency?

(b) What urgent measures is the Minister taking to ensure the resettlement of these families?

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

(a) I am aware that several families were rendered homeless in Mathira Constituency after being evicted from Hombe and Ragati forests.

(b) I have plans to acquire land for the resettlement of the affected families as well as others living in equal conditions elsewhere in the country.

**Mr. Gachagua:** Mr. Speaker, Sir, I am happy that this matter is finally coming to an end because I have been at it for the last two years. However, I would like the Assistant Minister to clarify to this House how much money has been set aside because I believe he has money to buy land for these people. Secondly, once the funds are set aside, could I go ahead in the constituency and identify the land, so that this matter comes to an end?

**Mr. Ojode:** Mr. Speaker, Sir, I do sympathise with the pathetic conditions in which these people are living. In fact, we have set aside Kshs90 million to buy land and resettle all these people.

**Dr. Galgalo:** Mr. Speaker, Sir, forceful eviction of Kenyans from their homesteads wherever they are; whether they occupy the land legally or illegally, is a breach of human rights. What is happening to those people now? What is the Government doing to help them cope with this horrible situation?

**Mr. Ojode:** Mr. Speaker, Sir, as I mentioned, the Government has taken quick action to settle all these homeless people. They were evicted from Hombe and Ragati forests and that is why we ended up with the squatter issue. But, as I have confirmed, we will resettle them as soon as we get land.

**Mr. Speaker:** Last question on this, Mr. Gachagua!

**Mr. Gachagua:** Mr. Speaker, Sir, I can only thank the Assistant Minister because he has set aside Kshs90 million. I would like to give him a notice that, within two weeks, land will be available and he should be ready to purchase it.

*(Loud consultations)*

**Mr. Speaker:** Order, hon. Members! That is the end of Question Time! May I take this opportunity to congratulate the Front Bench because not a single Question today went unanswered. Congratulations!

*(Applause)*

Next Order!

## MOTION

ADOPTION OF PAC SPECIAL REPORT ON  
PROCUREMENT OF PASSPORT  
ISSUING EQUIPMENT

THAT, this House adopts the Report of the Public Accounts Committee on Special Audit Report on Procurement of Passport Issuing Equipment by the Department of Immigration, Office of the Vice-President and Ministry of Home Affairs, laid on the Table of the House on Tuesday 6th July, 2004.

*(Mr. Omingo on 4.8.2004)*

*(Resumption of Debate  
interrupted on 7.8.2004)*

**Mr. Speaker:** Who was on the Floor? Mr. M. Kariuki had 15 minutes to contribute.

**An hon. Member:** Mr. M. Kariuki is not here!

**Mr. Speaker:** If he is not here, he is deemed to have forfeited his chance. Any other interested hon. Member?

*(Silence)*

There being no interest, I will now call upon the Minister to reply.

*(Loud consultations)*

Order! Has there been a response from the Minister?

**The Assistant Minister for Finance** (Mr. Katuku): Mr. Speaker, Sir, even before then, there was an amendment which was moved by Ms. Karua which needs to be disposed of before I can comment.

**Mr. Speaker:** I see! Just a moment!

*(Mr. Speaker consulted with  
the Clerk-at-the-Table)*

Yes, I understand there was an amendment.

**Mr. Omingo:** On a point of order, Mr. Speaker, Sir. An amendment was moved and the Seconder was on the Floor, but he did not second it. So, I believe the amendment was not legitimately on the Floor.

**Mr. Speaker:** Well, I was not really in the Chair when this matter was going on!

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

**Mr. Speaker:** Just a moment, Mr. Omingo! You know, I have better explainers in the name of the HANSARD. I can assure you that, you are no better than the HANSARD. So I will look at it. For me to be able to come to a good decision on this issue, I think we will go to the next Motion. This Motion will come next week.

Next Order!

*(Motion deferred)*

**Mr. Omingo:** On a point of order, Mr. Speaker, Sir. I am not just about to challenge the Chair lest I face its wrath. But this Motion has actually been given less importance in the House in

that, somebody moved an amendment and lacked a Secunder. Could the Chair decide on the way forward because---

**Mr. Speaker:** I have already made my decision! I have to study the HANSARD which has just been given to me. This matter will get my decision made on Tuesday. So, we will move on to Order No.8.

Who is moving the Motion?

**An hon. Member:** Mr. Wanjala.

**Mr. Speaker:** Mr. Wanjala, are you the one moving the Motion?

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

Order, hon. Members! Can we get this right? Just take your seats, hon. Members! I understand that hon. Wanjala is the only surviving member of that particular Committee. For that reason, every other member of the Public Accounts Committee (PAC) was not sitting for that Report. For that reason, the Member who was in that Committee, and who is still there, is allowed by the Chair to move that Motion. Mr. Wanjala is the only surviving member of that Committee!

**Mr. Muite:** On a point of order, Mr. Speaker, Sir. Could we have your guidance? Is Mr. Wanjala the only "remaining" or the only "surviving"?

*(Laughter)*

**Mr. Speaker:** "Surviving"! By "remaining" we mean they remain in the House, but they do not survive in the Committee. So, he is the only surviving member!

Proceed, Mr. Wanjala!

**Mr. Omingo:** On a point of order, Mr. Speaker, Sir. If you talk about survival in the House, His Excellency the President of the Republic of Kenya was also a member, unless you want to correct that.

**Mr. Speaker:** I am saying "surviving" in the Committee!

*(Dr. Godana stood up in his place)*

Order, hon. Members! Dr. Godana, do you want to join in the fray? Go ahead!

**Dr. Godana:** Thank you, Mr. Speaker, Sir. I presume that any Member who was a member of that Committee at the time the report before the House was adopted, whether he is now a member of the PAC or not, should be competent to move the Motion.

**Mr. Speaker:** Very well! That is what we are saying in different words. Mr. Wanjala, are you ready to proceed?

**Mr. Wanjala:** Can I come there, Mr. Speaker, Sir?

**Mr. Speaker:** Where?

**Mr. Wanjala:** To the Dispatch Box!

**Mr. Speaker:** Mr. Wanjala, you will move it from where you are!

*(Laughter)*

**Mr. Wanjala:** Mr. Speaker, Sir, I thought that, today, I was going to have the privilege of



using the Dispatch Box!

## MOTION

### ADOPTION OF 1997/1998 PAC REPORT

**Mr. Wanjala:** Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Public Accounts Committee for the year 1997/1998, laid on the Table of the House on Thursday 3rd June, 2004.

Mr. Speaker, Sir, on behalf of the members of the Public Accounts Committee (PAC), and pursuant to the provisions of Standing Order No.147, it is my great pleasure and privilege to present to the House the Report and recommendations thereon, of the Committee on the 1997/98 year of expenditure.

*[Mr. Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, the Committee held 62 sittings at which all the Accounting Officers appointed by the Treasury to look into the management and accountability of financial matters in every Ministry or department appeared to explain and respond to queries and matters in every Ministry, which had been raised by the Controller and Auditor-General in his Report. All witnesses were subjected to thorough scrutiny by Members of the Committee, who analysed both oral and written submissions critically. In most of the cases, witnesses gave the required information.

Mr. Temporary Deputy Speaker, Sir, for the benefit of the House, the following were members of the Committee at that time. Mr. Mwai Kibaki, Member of Parliament for Othaya and Leader of the Official Opposition at that time, was the Chairman. He is now the President. Mr. David Mwiraria, now the Minister for Finance, was a member of that Committee. Others were Mr. Eric Morogo, Mr. Raphael Wanjala, Mrs. Beth Mugo, who is now an Assistant Minister, Ministry of Education, Science and Technology, Mr. Raphael Kitur, former Member of Parliament, Mr. James C. Koskei, former Member of Parliament, Mr. Tom Onyango, now deceased - may God rest his soul in peace, Dr. Amukowa Anangwe, former Member of Parliament, Mr. Sephania Nyang'wara, former Member of Parliament and Mr. Mohammed Weyra, a former Member of Parliament.

Mr. Temporary Deputy Speaker, Sir, for the benefit of the House, Mr. Mohammed Noor, Mr. Samuel Poghisi, Mr. Joshua Ojode and Col. J. Kiluta, ceased to be members of the Committee upon being appointed Assistant Ministers. You remember that, at that time, any Member of Parliament who was vocal, was always appointed an Assistant Minister. That was especially for those who were in KANU. It was meant to silence them. The ones I have mentioned were all elevated to Assistant Ministers to come and answer Questions in the House. Capt. Ntwiga also ceased to be a member.

Mr. Temporary Deputy Speaker, Sir, along with taking evidence, the Committee visited various areas. It visited the Numerical Machining Complex, Milimani Commercial Courts - formally Uajiri House, site for the proposed National Council for Population and Development Headquarters. The Committee also visited Soya Oil and Food Industries premises in Mombasa and

the Department of Defence (DOD) Machine Room. The above tours were undertaken in order for the Committee to ascertain for itself whether the evidence adduced was in tandem with the situation on the ground. The Committee's observations were under specific audit queries in various Ministries and departments.

Mr. Temporary Deputy Speaker, Sir, it is worth noting that all the recommendations contained in this Report were arrived at by consensus, and after exhaustive and constructive deliberations, especially under the able chairmanship of the current President. He took due regard to ensure that there was adequate machinery within the Public Service to implement those recommendations. A summary of the Committee's observations and recommendations on some of the salient and critical queries raised in the report of the Controller and Auditor-General are indicated in the Report. There was lack of adequate preparation by Accounting Officers.

The Committee noted with dismay that some Accounting Officers were not adequately prepared for the PAC and, sometimes, they used to submit reports to the Committee during the sessions, instead of giving Members of the Committee at least three days prior to sittings as requested by the Committee. In other cases, the responses were quite vague and not accompanied by supporting documents, thus making the work of the Committee very difficult.

Mr. Temporary Deputy Speaker, Sir, you remember that, at that time, the Government was not willing to give evidence to the Committee. It was always interested in concealing information from the Committee. There was an overall improvement in the position of excess expenditure incurred without the authority of Parliament during the year under review. Compared to K£76,035,660 in the 1996/97 Financial Year, the excess expenditure in 1997/98 was K£17,979,137.

Mr. Temporary Deputy Speaker, Sir, excess Votes were incurred by various Ministries. The Office of the President, at that time, wielded so much power and most Government departments, especially those that were in a position to raise money, were transferred to it. You remember how much we fought to have the National Aids Control Council (NACC) to be removed from the same office, but it was very difficult. Various Government departments were put under the Office of the President.

Other Ministries and departments that incurred excess Votes included the Ministry of Foreign Affairs, the Ministry of Home Affairs, Ministry of Public Works, the Attorney-General's Office, the Judiciary, Department of Defence, Ministry of Culture and Social Services, and the Ministry of Industrial Development. However, the Committee was concerned that some of the Accounting Officers failed to adequately explain the causes of the excess Vote. So, recommendations on the excess Votes were made to individual Ministries.

Mr. Temporary Deputy Speaker, Sir, as has been the case in the past, the bills which ought to have been paid during the year under review were carried forward to the 1998/99 Financial Year. These were the notorious pending bills. The pending bills during the year under review amounted to K£337,620,439. However, had these bills been paid, the total expenditure incurred without authority of Parliament during the year would have been K£262,966,438. The Committee was concerned at the apparent lack of adequate budgetary provisions by the Treasury to various Ministries and departments because most of them were unable to pay water bills to the Ministry of Water Resources. If you visited Government offices then, you would have realised that they were smelling. Today, those offices are very clean. The Government then was not even able to pay telephone bills. I, however, want to appreciate that, today, the bills have been paid.

Mr. Temporary Deputy Speaker, Sir, the Committee, therefore, recommended the following---

**Mr. Poghiso:** On a point of order, Mr. Temporary Deputy Speaker, Sir. It has caught my attention that hon. Wanjala may not be in order to present a Report of a Committee and to read out a

catalogue of what the previous Government had done and what the present Government has done. He has even gone ahead to say that Government offices were smelling. Is he really in order?

**Mr. Wanjala:** Mr. Temporary Deputy Speaker, Sir, Mr. Poghisio happened to have been an Assistant Minister. I went to his office and I could not use the toilets there. So, he knows that I know what I am talking about!

**Mr. Poghisio:** On a point of order, Mr. Temporary Deputy Speaker, Sir. You know Mr. Wanjala well. What he says needs to be controlled. He is now misleading the House that he came to my office. He never came to my office! Secondly, he is misleading the House because my office did not have a toilet. How do you allow an hon. Member to get away with that? Is he in order to mislead the House?

**Mr. Wanjala:** Mr. Temporary Deputy Speaker, Sir, I am only being---

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Wanjala! You are responsible for all your statements and they must be accurate. If you are challenged, the onus is upon you to substantiate what you say. You must be sure that whatever you say here is accurate. You are being told that what you are saying is not true.

**Mr. Wanjala:** Mr. Temporary Deputy Speaker, Sir, I am only being modest by using the word "smelling". I could replace it with the word "stinking". However, what makes the matter worse---

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Wanjala! Do not be irrelevant! If an issue has been raised, you must address it. We did not talk about the language you used. All we are saying is that your statements are inaccurate and false. So, hon. Poghisio is challenging you to substantiate what you have just said. He has said that what you said is untrue.

**Mr. Wanjala:** Mr. Temporary Deputy Speaker, Sir, you know very well that an Assistant Minister's office has a toilet even if it is not situated in the office. He definitely had a toilet to use whether it was a pool toilet or not. That is what he was using and that is what was in his office. The office is still there today and it can be proved whether there was a toilet. It does not matter whether it was a pool toilet or not. That is all I was saying. Furthermore, his office was a public office and I want to confirm to you that I went to his office several times. One time when I wanted to use the toilet, I could not use it. So, when I went back to his office, I never sought to use his toilet.

**Mr. Poghisio:** Mr. Temporary Deputy Speaker, Sir, it is all about decorum and simply being an honourable Member of Parliament. The privilege that the hon. Member has to move this Report does not allow him to be irrelevant. Actually, you should control this man so that he keeps to the contents of the Report. It is true that I was a Member of the Committee, but I never heard any of us talk about toilets in that Report.

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Poghisio! You are now on the Chair. The Chair is capable of judging whether somebody is doing his job or not. What we have asked hon. Wanjala is to substantiate what he has said. In my opinion, he has not done that. He is just being general. The only way out for you, Mr. Wanjala, is to steer off those remarks by withdrawing them. I think you should really be serious because this is a very important document.

**Mr. Wanjala:** Mr. Temporary Deputy Speaker, Sir, it is common knowledge that Ministries then were not able to pay bills to the Ministry of Water Resources. The Ministry then cut supply of water. As a result, the offices were stinking. Sometimes they could not even wash the carpets because there was no water.

The Committee, therefore, recommended that all genuine pending bills be paid by 31st December, 2001 without any further delay.

**Mr. Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Wanjala! I think I would like to end this exchange. What is it Mr. Poghisio?

**Mr. Poghiso:** Mr. Temporary Deputy Speaker, Sir, it is no longer an exchange between me and hon. Wanjala. You asked him to withdraw, but he did not do so. That is the issue I am raising.

**Mr. Wanjala:** Mr. Temporary Deputy Speaker, Sir, what am I supposed to withdraw and, yet it is here in our Report? The Report says that the Government was unable to pay the water and telephone bills. If there is no water in your house, it smells! So, what should I withdraw? Do you want me to withdraw the word "smell"? What do you want me to withdraw?

The Committee recommends that public officers and private entrepreneurs involved in submitting fraudulent claims should be prosecuted. This recommendation was made because some bills were exaggerated. Indeed, the current Government should go a step further and prosecute those people. The Committee also recommends that the Treasury should find a lasting solution to the perennial problem of pending bills by reviewing the ceilings and providing adequate funding for these utilities.

On the issue of pending court cases, the Committee was appalled to learn that cases related to the Goldenberg scandal were all pending in court. Therefore, it was *sub judice* for the Committee to discuss them. In particular, the Committee was concerned that the amount of Kshs5.8 billion allegedly paid to Goldenberg International Ltd was paid into following banks; the Trans-National Bank, Postbank Credit, National Bank of Kenya (NBK) and Exchange Bank Ltd. The Committee was keen to know into whose accounts some of those monies were paid, but the *sub judice* rule made it difficult for the Committee to delve into the issue. That is why the Committee recommended that the Attorney-General should move in and ensure that the cases are concluded very quickly. The Committee, therefore, urged the Attorney-General to ensure a final conclusion of all Goldenberg International Ltd. related cases without any further delay.

Mr. Temporary Deputy Speaker, Sir, the Probe Report of the Fourth All African Games, has been pending before the Committee since the 1986/87 Financial Year. During that year, the Committee recommended that the Committee be provided with the evidence given by the Accounting Officers responsible at the time. While noting with appreciation the success of the Fourth All African Games, the Committee was deeply concerned over several irregularities, namely lack of planning and total financial mismanagement during the games. In view of the issues raised from paragraphs 236 to 259, the Committee recommends that Parliament disallows the Excess Vote until a full inquiry is made by a special committee appointed by the Government to probe into all aspects of expenditure incurred during the Fourth All African Games. The Committee also recommends that the Report of the Probe Committee be made available to it. In making this recommendation, the Committee took into consideration the fact that it did not receive adequate information on all aspects of the expenditures incurred. The Committee has reiterated the same recommendations ever since. Therefore, it is important to note that during the 1986/87 Financial Year, the Excess Vote under the former Ministry of Culture and Social Services was K£10,198,897. To the Committee's surprise, the Report of the Probe Committee has never been submitted until today. When the Committee raised the matter with the Attorney-General, on two occasions, his reply was that the chairman of that committee died before submitting the report. However, a letter addressed to the Attorney-General was availed to the Committee. The letter was written by Prof. Philip Mbithi, who was the then Permanent Secretary, Secretary to the Cabinet and Head of the Public Service. The letter was written in 1993. Its reference number was OP.1/75/1A of 14th October, 1993. The letter stated in part as follows:-

"That the draft report of this committee was submitted to this office on 30th June, 1988. It would appear from the records held here that there has been no follow-up or action on this report. I am, therefore, forwarding herewith a copy of the draft report for your scrutiny and legal advice."

From the foregoing, it is obvious that there was a report. According to what was captured by the Committee in that letter, that alone revealed that there was a report, but the Government was not willing to submit it to the Committee. I said earlier on that Government officers were sometimes not willing to give the evidence the Committee required. The Committee, therefore, recommends that all pending bills relating to the Fourth All African Games should not be paid until that report is submitted.

On payment of honoraria by Ministries and Departments, during the year under review, a number of audit queries were raised under individual Ministries and Departments on the abuse of honoraria. The Committee has made its recommendation under the respective Ministries. It was, however, concerned that due to the reported misuse of honoraria, the Government decided to abolish the payment without establishing another form of compensating the officers who work after office hours or those engaged in special assignments. The Committee, therefore, strongly recommended that in order to enhance the morale of civil servants, a payment similar to honoraria be established and be properly controlled in order to rule out any misuse. This is because there are some public officers who volunteer and work until late hours.

Mr. Temporary Deputy Speaker, Sir, on the adoption of the Treasury Memorandum, the Committee discussed that memorandum on the PAC Reports for the following years at length. The Reports are from the 1976/77, 1977/78, 1978/79, 1979/80, 1980/1981, 1981/82, 1982/83, 1983/84, 1984/85, 1985/86, 1986/87, 1987/88, 1988/89, 1989/90, 1990/91, 1991/92, 1992/93, 1993/94, 1994/95 and 1995/96 financial years. The Committee was appalled to learn that some recommendations dating as far back as the 1976/77 Report had not been implemented.

These Committees have made several recommendations, one of them being that some people should not hold public offices. You will be surprised to find that, even today, some people whom the Committee recommended not to hold public offices are even in this House. Therefore, the Committee resolved that---

### QUORUM

**Mr. Angwenyi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. One of the functions of this Parliament is oversight through the two important Committees, PIC and PAC. If we are debating a report about the oversight function, I thought the House should have more hon. Members than it has now. There is no quorum!

**The Temporary Deputy Speaker** (Mr. Khamasi): I think Mr. Angwenyi has got a very valid point. One of the major functions of this House is to do exactly what we are doing. If you look around, it is a shame that we should be sitting in a House with only ten hon. Members out of 222 hon. Members when we are discussing a very important Motion like this one. There is no quorum. I, therefore, order that the Division Bell be rung.

*(The Division Bell was rung)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, hon. Members! We are yet again experiencing the same problem. We are unable to raise quorum. The House is, therefore, adjourned until next week, Tuesday, 19th October, 2004, at 2.30 p.m.

The House rose at 5.00 p.m.