

## NATIONAL ASSEMBLY

### OFFICIAL REPORT

Thursday, 20th March, 2003

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.011*

#### ABOLITION OF DDCs

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

- (a) under what law and for what purpose the district development committees were formed; and,
- (b) in view of the current Government's stated policies, when these committees will be abolished.

**The Assistant Minister, Office of the President** (Mr. Dzoro): Mr. Deputy Speaker, Sir, as you are aware, this Question came to the House last time and it was re-directed to a different Ministry. I would like to ask for more time so that we can come up with a correct answer on Thursday next week.

**Mr. Deputy Speaker:** Hon. Members, this Question was, firstly, under the Office of the President, then it was re-directed to the Office of the Vice-President.

**The Assistant Minister, Office of the President** (Mr. Dzoro): Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Are you ready to answer it now or you are asking for more time?

**The Assistant Minister, Office of the President** (Mr. Dzoro): Mr. Deputy Speaker, Sir, I would like to be given more time to search for more information in order to give a satisfactory answer.

**Mr. Deputy Speaker:** Very well! But we have a written answer here, Mr. Dzoro?

**The Assistant Minister, Office of the President** (Mr. Dzoro): Mr. Deputy Speaker, Sir, I am saying that the answer is not satisfactory.

**Mr. Deputy Speaker:** Oh! You are not satisfied with the answer and, therefore, you are asking for more time?

**The Assistant Minister, Office of the President** (Mr. Dzoro): I am asking for more time so that I can bring a satisfactory answer.

**Mr. Deputy Speaker:** Mr. Sungu, what do you have to say?

**Mr. Sungu:** Mr. Deputy Speaker, Sir, since the hon. Assistant Minister is a very good friend of mine and I realise this is his maiden Question to answer, I have no objection. But I would like to request that the Question be put on the Order Paper early next week.

**Mr. Deputy Speaker:** Mr. Dzoro, when can it be put on the Order Paper?

**The Assistant Minister, Office of the President** (Mr. Dzoro): Mr. Deputy Speaker, Sir, Thursday next week.

**Mr. Deputy Speaker:** Is that okay with you, Mr. Sungu?

**Mr. Sungu:** There is no problem, Mr. Deputy Speaker, Sir. We are in the same Government!

**Mr. Deputy Speaker:** Fine. So, the Question is deferred to Thursday next week.

*(Question deferred)*

Next Question, Mr. Sambu!

*Question No.025*

#### COMPENSATION FOR FREEDOM FIGHTERS

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

(a) whether the Government has, since independence, sought and obtained compensation from the British Government for the Mau Mau and other freedom fighters who were illegally detained, tortured and even killed by the Colonial Government; and,

(b) whether the Government could take steps,

including land allocation, to improve the living standards of our freedom fighters and their descendants.

**The Assistant Minister, Office of the President** (Mr. Dzoro): Mr. Deputy Speaker, Sir, I would like to inform the House that I am not satisfied with the answer I received. Therefore, I would like to bring the correct answer to the Question next Thursday.

**Mr. Deputy Speaker:** What is going on, Mr. Dzoro? There is a written answer here! You see, a copy has even been given to the Chair! Do you not know that you give a very bad impression to the House when you keep on saying that "I am not satisfied with the answer?"

**The Assistant Minister, Office of the President** (Mr. Dzoro): Mr. Deputy Speaker, Sir, I beg to answer the Question as it is.

**Mr. Angwenyi:** On a point of order, Mr. Deputy Speaker, Sir. I believe the House wants to receive a proper answer to the Question. So, we cannot accept what the Assistant Minister considers to be "not a proper answer". I think we will be wasting the time of this House; and we will be creating a wrong precedent for this House.

**Mr. Deputy Speaker:** Mr. Dzoro, what do you have to say about that? If you are not satisfied with the answer, why would you want to consider giving it?

**The Assistant Minister, Office of the President** (Mr. Dzoro): Mr. Deputy Speaker, Sir, I would like to tell the House that I have the answer here, but the person who was supposed to answer this Question is not present.

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

**Mr. Deputy Speaker:** Order, hon. Members! Order, Mr. Sambu! Order, Mr. Dzoro! Mr. Dzoro, are you able to answer the Question or are you not satisfied with the answer or is it because someone else was supposed to answer this Question? Could you be clear to the House on that?

**The Assistant Minister, Office of the President** (Mr. Dzoro): It is both reasons, Mr. Deputy Speaker, Sir. The person who was supposed to answer the Question is not here and the answer is not adequate.

**Mr. Deputy Speaker:** Very well. I will defer this Question at the request of the Assistant Minister. But as I said, this does not certainly give a good impression. So, the Question is deferred to Tuesday next week.

*(Question deferred)*

**Mr. Sambu:** On a point of order, Mr. Deputy Speaker, Sir. I agree with the Chair's ruling, but why then should they distribute a written answer if they consider it not sufficient in their judgement? Why should they distribute the written answer through the Clerk to the National Assembly to hon. Members? I already have a written answer here!

**Mr. Deputy Speaker:** Mr. Sambu, I did say that even the Chair has the written answer. I think Mr. Dzoro has indicated that he is not prepared to answer the Question because it was supposed to be answered by someone else. I think what the Chair has ruled should be sufficient to let them pull up their socks as far as that matter is concerned.

**Mr. Sungu:** On a point of order, Mr. Deputy Speaker, Sir. Since we know that these Ministers are briefed by civil servants, and sometimes they do give very flimsy answers, would I be in order to request that the substantive Minister in the Office of the President comes here and explains how he proposes to handle such matters, because this is not the first time we are having this problem?

**Mr. Deputy Speaker:** Mr. Sungu, that matter is finished. You agreed that your Question should be deferred and Mr. Sambu is agreeable.

**Mr. Angwenyi:** On a point of order, Mr. Deputy Speaker, Sir. The point being raised by Mr. Sungu is important. Maybe we should have a Minister for parliamentary affairs; somebody who is conversant and capable to answer Questions in Parliament. He should be a person who gets satisfied with the answer before he comes to give the answer.

**Mr. Deputy Speaker:** Order, Mr. Angwenyi!

*Question No.079*IMPROVEMENT OF FACILITIES IN  
WAJIR EAST DISPENSARIES

**Mr. Mahamud** asked the Minister for Health:-

- (a) when the Government will provide all the required building facilities and equipment for Khorof-Harar Sub-District Hospital in Wajir District;
- (b) what plans he has to provide qualified medical personnel in the hospital; and,
- (c) what the Government is doing to improve the facilities and staffing of all dispensaries in Wajir East Constituency.

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

(a) Khorof-Harar Hospital was upgraded to a sub-district hospital from a dispensary, and therefore, does not have the required physical facilities for sub-district hospital status. An assessment will be carried out to determine the cost of upgrading the facility and thereafter seek funds from Treasury.

(b) The hospital has adequate personnel for the services that it is currently providing to the people. However, more medical personnel will be provided when the facilities are upgraded.

(c) The Ministry has continued to provide drugs to the dispensaries and has ensured that staff are available for the smooth provision of services.

**Mr. Mahamud:** Mr. Deputy Speaker, Sir, could the Assistant Minister tell the House when he will provide those facilities? He has just said that he will provide personnel and facilities but he did not say when. It is very important to know that because this hospital is 160 kilometres from Wajir Town, and yet it is the only health facility in the district, and so it is very important that we get those facilities.

**Mr. Deputy Speaker:** Mr. Konchella, the question is, when?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I have just said that we are assessing the need to upgrade this hospital, and it will require a minimum of between Kshs70 million and Kshs90 million to construct and equip. So, we are assessing the need, and once money is available, we will do that.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, although this Question touches on a particular sub-district hospital, it is a reflection of the general problems we have in this country about under-staffing. Given that we have a lot of qualified nurses and clinical officers who are unemployed, what plans are there to make sure that they are hired immediately?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, indeed, we have 4,000 nurses at home who are ready to be employed and deployed in all our hospitals in the country, but the money is not available. Once the Ministry is allocated enough funds, we will do so.

**Dr. Ali:** Mr. Deputy Speaker, Sir, could the Assistant Minister tell us what number of personnel are required in every health centre in this country? He has said that the staffing level in the health centres is normal when we know that health centres in this country have one clinical officer and possibly one nurse. This applies to two health centres in my constituency. Some dispensaries have no personnel and they have closed. Why does the Ministry build facilities when it is not ready to staff them?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, a health centre which is fully built has an establishment of personnel who are already in employment. However, due to the moratorium on employment in the country, we are unable to employ more.

**Mr. Sambu:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is evading the question. The question posed to him was: How many clinical officers, Kenya Registered Nurses, certificate nurses and public health officers does a health centre require?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, as I said, there is an establishment in every health centre with a specified number of personnel. It is a standard establishment in the whole country.

**Mr. Deputy Speaker:** Mr. Konchella, the question is: What is the required establishment for a health centre and a dispensary? I think that is what hon. Members want to know. What is the standard requirement?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I do not have the figures now, but I can bring them later on.

**Mr. Billow:** Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the Ministry is recruiting staff through the back-door for the "politically correct areas?"

**Mr. Konchella:** Mr. Deputy Speaker, Sir, this is a shock to me because it is not the practice of the NARC Government. Maybe it was KANU's.

**Mr. Mahamud:** Mr. Deputy Speaker, Sir, I think the Assistant Minister is not taking his work very seriously because of the way he is answering the supplementary questions. There are six dispensaries in my constituency, and in part "c" of the Question I am seeking to know what the Government is doing to improve the facilities and the staffing of all dispensaries in Wajir East Constituency. Out of these six dispensaries, namely: Wajir Bor, Riba, Kotulo, Tarbach, Dambas and Mansa, could he tell us how many nurses and other staff are there? He has to tell us because the situation is very grave.

**Mr. Deputy Speaker:** Mr. Mahamud, you have asked the question, please give the Assistant Minister a chance to answer.

**Mr. Konchella:** Mr. Deputy Speaker, Sir, the constituency has seven dispensaries and not six. In all the dispensaries there is an Enrolled Community Nurse which is the required establishment of a dispensary. Therefore, it has adequate personnel.

**Mr. Deputy Speaker:** Next Question!

**Mr. Mahamud:** Mr. Deputy Speaker, Sir, could I ask the last question? I am begging you!

**Mr. Deputy Speaker:** Order, Mr. Mahamud! Sorry, I have already given you the chance.

*Question No.055*

OPERATIONS OF COTTAGES AND VILLAS IN BAHARI

**Mr. Khamisi** asked the Minister for Tourism and Information:-

(a) whether he could inform the House how many cottages and villas are operating in Bahari Constituency;

(b) how much revenue has been generated by these facilities in the last three years; and,

(c) what action he is taking to ensure that these villas operate within the law.

**Mr. Deputy Speaker:** Where is the Minister for Tourism and Information? We shall come back to that Question later on!

*Question No.065*

UPGRADING OF WEIWEI TELEPHONE EXCHANGE

**Mr. Rotino** asked the Minister for Transport and Communications:-

(a) whether he is aware that Weiwei Telephone Exchange is constantly out of order; and,

(b) what steps he is taking to ensure that the exchange is upgraded to facilitate communication in the division and to extend telephone services to other areas in the division such as Lomut, Chesegon and Marich.

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

(a) Yes, I am aware that Weiwei Telephone Exchange is constantly out of order. The Exchange is served by two radio links which are 30 years old, and the spares are no-longer easily available.

(b) The Government, through close co-ordination with the Communication Commission of Kenya, is setting up a universal service fund to encourage operators to take their services to the unserved and the underserved areas of this country. Telkom Kenya has included the automation of Weiwei Telephone Exchange and its environs including; Lomut, Chesegon and Marich in its 10-year development plan 2000/2010 involving utilisation of the satellite system, in other words research.

**Mr. Rotino:** Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for accepting the fact that the radio links are 30 years old. Why keep that machine there if they know that it is 30 years old and the spare parts are not available? Could the Assistant Minister consider replacing this machine urgently because the area is an insecurity prone area and there is no radio call or other means of communication? Could he consider replacing the machine urgently? He should forget about these long-term plans. He should replace it tomorrow.

**Mr. Ligale:** Mr. Deputy Speaker, Sir, currently Telkom Kenya depends on funding from its internal resources. I am afraid I cannot give a guarantee that it will be replaced tomorrow.

**Mr. Karaba:** Mr. Deputy Speaker, Sir, in the absence of such a working machine could the Assistant Minister waive the cost of mobile phones so that our people out there can at least communicate? Currently

mobile phones are very expensive.

**Mr. Ligale:** Mr. Deputy Speaker, Sir, this area is not currently served by any mobile phone system so I cannot waive anything.

**Mr. Rotino:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is misleading the House by saying that that area is not served by any mobile phone system. Kencell serves the area. Could he apologise to the House?

**Mr. Ligale:** I will not apologise to the House!

**Mr. Deputy Speaker:** Mr. Assistant Minister, address the Chair. You should not take instructions from someone sitting there.

**Mr. Ligale:** Mr. Deputy Speaker, Sir, we all know that the mobile phone systems are all privately owned. Kencell is a private company and we cannot order it to do anything.

**Dr. Galgalo:** Mr. Deputy Speaker, Sir, I heard the Assistant Minister say that they were considering introducing satellite systems for telephones. That is a good idea. Countries as poor as Ethiopia are now on that system. In Moyale, for example, I have to go across the border. It is easier for me to cross the border and call than to call from the Kenyan side. When will you give us this important service? Please give us the time frame.

**Mr. Ligale:** Mr. Deputy Speaker, Sir, I am glad to inform the hon. Member that we are in fact liberalising all these services. We will have it within the next few months.

**Mr. Rotino:** Mr. Deputy Speaker, Sir, I want to inform the Assistant Minister that within Sigor there is a project called Weiwei Irrigation Project which has a special STD line. Could he consider requesting them to extend that line for public use?

**Mr. Ligale:** Mr. Deputy Speaker, Sir, I will ask Telkom Kenya to look into the economics of extending the line.

*Question No.060*

PROGRAMMES TO HARNESS RIVER ATHI WATER

**Mr. Kaindi** asked the Minister for Water Resources Management and Development:-

(a) whether he is aware that despite River Athi traversing such a huge area of Ukambani, sufficient efforts have not been made by the Government to harness or conserve this water for use by the communities living along the river, and;

(b) what programmes the Ministry has put in place to ensure that sufficient water has been preserved for use by these communities all the year round.

**The Assistant Minister for Water Resources Management and Development** (Mr. Munyes): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Athi River Water has not been fully conserved for use by communities living along the River. However, in the past the Government, with the local communities, initiated several water projects whose source is Athi River. These projects supply water for domestic and livestock use and for minor irrigation. The Munyu Dam which is situated in the upper catchment of the Athi River is proposed to supply water for electric power generation and irrigation by constructing a canal through Yatta Plateau in Machakos District. The project has not been implemented and the Government is looking for funds to implement it. The Ministry has issued water permits to industrialists for commercial use especially at the Athi River Town.

(b) My Ministry has initiated plans to carry out technical studies to propose viable water conservation projects along Athi River. Once the project proposals are ready the Ministry will prioritise implementation so that the communities can use the conserved water for irrigation, domestic and livestock and improve their standards of living. My Ministry is preparing a national sector investment programme including dams in ASAL areas such as Ukambani.

**Mr. Kaindi:** Mr Deputy Speaker, Sir, despite God giving us such dry land in Ukambani, he was also a good planner. He gave us one huge river which traverses every district in Ukambani. Therefore, the rest is up to the Government. River Athi has such defined banks. All you need is to create dykes. What do you need studies for?

**Mr. Deputy Speaker:** Mr. Kaindi, this is Question Time.

**Mr. Kaindi:** My Question was very specific. I thought the Assistant Minister would tell us the programmes that they will put in place. Could he tell us the programmes that they will put in place to construct dykes along the river and conserve that water for the use of the people of Ukambani?

**Mr. Munyes:** There are already some projects being implemented which get their water from the Athi River. In Machakos we have the Mbiuni Water Supply, Wamunyi Water Supply, Kibauni Water Supply and Kanyasa Irrigation Scheme. In Makueni we have Kisise Water Supply, Kisigo Water Project and Kalawa Water Supply. In Kitui we have Kua-Kinakoni Water Supply. The Ministry has also issued 435 water permits in Machakos District and 14 in Makueni District. On top of this, I must be frank on this issue that a lot has not been done. My Ministry will carry out technical studies and prepare a national sector investment programme so that this year can be catered for when funds are available.

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, you have heard the Minister say that nothing has been done on Athi River. Could he consider taking action urgently because the river traverses through Ukambani and it is totally polluted? Factories discharge polluted effluent into the river and this water is used all through Ukambani. Could he first address the problem of water pollution before he embarks on these projects?

**Mr. Munyes:** Mr. Deputy Speaker, Sir, we will take action to ensure there is no pollution in that area. The major problem is lack of funds. I want to assure the hon. Member that we have started negotiations with the World Bank to ensure we have enough resources to conserve the water of River Athi and construct dams and boreholes along that area.

**Mr. Ndambuki:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say that they will look for money? Why can they not issue a statement to the factories in Athi River to stop discharging effluent into the rivers? You do not require money for that.

**Mr. Deputy Speaker:** In the public interest I will let the Assistant Minister answer that, but that was certainly not a point of order.

**Mr. Munyes:** Mr. Deputy Speaker, Sir, we will look into that.

**Mr. A.C. Mohamed:** Mr. Deputy Speaker, Sir, is the Assistant Minister aware that presently there is a shortage of water in Lamu East Constituency? For that reason, could he consider piping water from Mzima Springs on the mainland near Magogoni to Zefaza and Kipinipini areas?

**Mr. Munyes:** Mr. Deputy Speaker, Sir, I did not get the question. There were loud consultations. Could he repeat it again?

**Mr. A.C. Mohamed:** Is the Assistant Minister aware that there is shortage of water in Lamu East Constituency? Could he consider piping water from Mzima Springs to Lamu East Constituency?

**Mr. Munyes:** Mr. Deputy Speaker, Sir, that is a different question.

**Mr. Deputy Speaker:** I agree with you. That is a totally different question.

Mr. Mutiso!

**Mr. J.M. Mutiso:** Mr. Deputy Speaker, Sir, the Assistant Minister said there are no funds to carry out an improvement exercise on Athi River. In this year's Budget, the Minister for Finance raised the price of kerosene by Kshs1 per litre. This money has never been used. Could the Assistant Minister consider using this money to improve the condition of Athi River?

**Mr. Munyes:** Mr. Deputy Speaker, Sir, I said, at the moment, we do not have funds to do so. However, in the next financial year, we will provide some funds to improve the condition of Athi River.

**Mr. Kaindi:** Mr. Deputy Speaker, Sir, the gravity of this matter cannot be understated. Would I be in order to request the Assistant Minister to tour Athi River so that he can familiarise himself with the pollution and conservation aspects of the river we are talking about?

**Mr. Munyes:** Mr. Deputy Speaker, Sir, tomorrow is an international water day and I will be in Athi River Township. Therefore, I will definitely tour that river.

**Mr. Deputy Speaker:** Mr. Munyes, the question is: Will you have time to tour Athi River? I think that is the question. Mr. Kaindi. Is that not so?

**Mr. Kaindi:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Munyes:** Mr. Deputy Speaker, Sir, I will discuss with the hon. Member to see when we can tour that river.

**Mr. Deputy Speaker:** Very well. Next Question, Mr. Kofa.

*Question No.027*

TERMINAL BENEFITS FOR MR. WARIO

**Mr. Kofa** asked the Minister for Labour and Human Resource Development:-

(a) if he is aware that Mr. Yusuf Wayu Wario, an employee of Kenya Breweries Limited, was

acquitted by the Mombasa Principal Magistrate on 8th September, 1995, in a theft case;  
 (b) if he is further aware that Mr. Wario's employment was terminated without cause or payment of salary and terminal benefits after 18 years of service; and,  
 (c) why Mr. Wario's employment was terminated and how much the employer owes him in salary and terminal benefits.

**Mr. Deputy Speaker:** Is anyone here from the Ministry of Labour and Human Resource Development? We will leave that Question until the end then. Let us move on to the next Question.

*Question No.039*

WHEREABOUTS OF NAIROBI MAYORAL CHAIN

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

(a) if he could inform the House the whereabouts of the Nairobi Mayoral chain which was stolen three years ago and when it will be handed to Nairobi City Council; and,  
 (b) what action he has taken to have the culprits apprehended.

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

(a) The mayoral chain which was stolen in June 2001 has never been recovered. It appears it disappeared into thin air.

(b) After investigations, three City Council employees were charged in court for the offence of stealing the mayoral chain. This case is still pending in court.

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, you can see a display of the ignorance of the Ministry of Local Government. We have seen it before and we can see it right here. The answer given by the Assistant Minister is not an answer by any standards. First of all---

**The Assistant Minister for Agriculture and Livestock Development** (Mr. Osundwa): On a point of order, Mr. Deputy Speaker, Sir. Since the Assistant Minister said clearly that the matter is in court, is it in order for us to continue asking questions on it?

**Mr. Deputy Speaker:** Order! We have not yet reached there.

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, we know that we have some Ministers who are lost. They do not know what they are doing. My question is on the whereabouts of the mayoral chain. I am not asking whether it was stolen because we know that it was stolen by the former Mayor, John Ndirangu. My question is: Where is the mayoral chain? We were told that a woman was caught in Paris, France, with it. It was brought here and handed to the Commissioner of Police. We want to know from the Assistant Minister now, where it is. Who is holding it? Why has it not been taken to court as an exhibit?

**Mr. Deputy Speaker:** Order! You have asked your supplementary question; let the Assistant Minister answer.

**Ms. Tett:** Mr. Deputy Speaker, Sir, I am aware of the media report that a woman was arrested in Paris, France, with part or a portion of the lost mayoral chain. The Ministry and the City Council contacted the Commissioner of Police who advised us that he had checked the report with the interpol who denied any knowledge of the recovery of the chain.

**Mr. Deputy Speaker:** Order! I think there is something that needs to be clarified here; I remember I was on this Chair during last Parliament when a Minister said the chain was held here as an exhibit. This is a serious matter. I believe the only way out, instead of wasting more time, is to defer the Question. We will check the records to see the answer that was given last time. Mr. Mwenje, you could follow up from there. We must all understand that, even if it is another Government, it is still a Government. We do not want this passing of the buck.

**Mr. Mwenje:** I cannot agree with you more.

**Mr. Deputy Speaker:** Mr. Mwenje, we will defer the Question. I would like to ask the Assistant Minister to do more research, especially on the answer given by her predecessor on the same Question.

**Ms. Tett:** Mr. Deputy Speaker, Sir, Mr. Uhuru Kenyatta never handed over anything to the Minister!

**Mr. Deputy Speaker:** Order! Ms. Tett, nobody has talked about Mr. Uhuru Kenyatta. The Chair ruled that you do more research on this Question. Therefore, the Question is deferred to Tuesday.

*(Question deferred)*

**Mr. Omingo:** On a point of order, Mr. Deputy Speaker, Sir. I am not challenging your ruling whatsoever, but I am only asking whether you could give guidance to the House as to what action will be taken against employees of various Ministries who mislead Ministers in this House?

**Mr. Deputy Speaker:** That is not the issue because the Question has been deferred. We will talk about it when we know whether or not the Assistant Minister was misled. So, let us wait until next Tuesday.

For the second time, Mr. Khamisi's Question!

**Mr. Khamisi:** Mr. Deputy Speaker, Sir, although I have not received the written reply, I beg to Question No.55.

*Question No.055*

OPERATIONS OF COTTAGES AND VILLAS IN BAHARI

**Mr. Khamisi** asked the Minister for Tourism and Information:-

(a) if he could inform the House how many cottages and villas are operating in Bahari Constituency;

(b) how much revenue has been generated by these facilities in the last three years; and,

(c) what action he has taken to ensure that these villas operate within the law.

**Mr. Deputy Speaker:** Is there anyone here from the Ministry of Tourism and Information?

**Mr. Sungu:** On a point of order, Mr. Deputy Speaker, Sir. It appears that the same thing that was happening in the last Government has caught up with us. This is the perpetual absence of hon. Ministers from the House to answer Questions. I think the House owes a duty to Kenyans to take stern action against those Ministers so that this is not repeated. This House is being taken for granted. These Ministers are always ready to make statements by the roadside about everything.

*(Applause)*

**Mr. Deputy Speaker:** Order! There is no doubt that the Chair takes it very seriously when a Minister fails to come to answer a Question here. I am sure the House is very concerned about it. Therefore, I am appealing, once again, that the Ministers take seriously the business of this House. The Leader of Government Business is not here. Could I entrust this on one of the Ministers present to impress upon his colleagues to ensure that they avail themselves here to answer Questions?

**Hon. Members:** There is none present!

**Mr. Kajembe:** On a point of order, Mr. Deputy Speaker, Sir. We have had many cases where Ministers failed to turn up to answer Questions, and the Chair has always been warning them. So, what is your guidance on this matter?

**Mr. Deputy Speaker:** My guidance is that this Question is deferred to Tuesday. The sentiments of the Chair will be passed over to the relevant Minister.

**Mr. Angwenyi:** On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to ask the House to take it upon itself next week to establish the number of Ministries we want, and demand that we vet the Ministers? That way, we can have Ministers who will turn up to answer our Questions.

*(Applause)*

**Mr. Deputy Speaker:** Order! Order! Mr. Angwenyi, you would be out of order to make such a request.

**Dr. Ali:** On a point of order, Mr. Deputy Speaker, Sir. I wish to seek your guidance on this issue. Whenever a Member of Parliament fails to turn up to ask a Question, the Question is dropped. However, when Ministers decide not to turn up during Question Time, nothing happens to them. Is that fair?

**Mr. Deputy Speaker:** Dr. Ali, would it be fair for the Chair to drop a Question because the Minister who is supposed to answer it has not turned up to answer it?

**Hon. Members:** No!

**Dr. Ali:** But you have the right to punish the Ministers who have not come here for several weeks to answer Questions.

*(Loud consultations)*



**Mr. Deputy Speaker:** Order! Order! Hon. Members, order shall be maintained in this House. I will not allow anybody to stand up and shout whenever he wants to.

**The Assistant Minister for Planning and National Development (Mr. Kombo):** On a point of order, Mr. Deputy Speaker, Sir. I really do not understand what the hullabaloo is all about. There is only one Question which has not been answered because the Minister responsible is not present. So, it is not fair for hon. Members to blame the entire Government when only one Minister is absent. The Minister who is supposed to answer the Question is in a Cabinet meeting.

**Hon. Members:** But we have not been told that!

**Mr. Deputy Speaker:** Mr. Kombo, your explanation has been noted. However, there is the Assistant Minister who does not attend Cabinet meetings. She should have been here to answer the Question.

*(Question deferred)*

Let us proceed to Mr. Kofa's Question.

*Question No.027*

TERMINAL BENEFITS FOR MR. WARIO

**Mr. Kofa** asked the Minister for Labour and Human Resource Development:-

- (a) whether he is aware that Mr. Yusuf Wayu Wario, an employee of Kenya Breweries Limited, was acquitted by the Mombasa Principal Magistrate on 8th September, 1995 in a case of theft;
- (b) whether he is further aware that Mr. Wario's employment was terminated without cause or payment of salary and terminal benefits after 18 years of service with the Kenya Breweries Limited; and,
- (c) why Mr. Wario's employment was terminated and how much the employer owes him in salary and terminal benefits.

**Mr. Deputy Speaker:** Mr. Kofa, I said earlier that I have been informed that Mr. Balala is out of the country.

**Hon. Members:** What about the Assistant Minister?

**Mr. Deputy Speaker:** The Assistant Minister, Mr. Odoyo, is also out of the country. So, the Question will be deferred.

*(Question deferred)*

QUESTIONS BY PRIVATE NOTICE

TARMACKING OF ISIOLO-MOYALE ROAD

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

- (a) Is the Minister aware that vehicles travelling to Moyale from Nairobi now use Garissa-Wajir route, covering an extra 300 kilometres, due to the impassable state of the Isiolo-Moyale Road?
- (b) Could the Minister immediately disburse funds to repair the worst sections of the road, especially the Marsabit-Turbi section, covering about 200 kilometres?
- (c) What plans does the Minister have to tarmack the Isiolo-Moyale section of the Nairobi-Addis-Ababa Highway?

**The Assistant Minister for Roads, Public Works and Housing (Eng. Toro):** Mr. Deputy Speaker, Sir, I answered this Question last Thursday. I am sure that it has re-appeared on today's Order Paper by mistake.

**Dr. Galgalo:** Mr. Deputy Speaker, Sir, the answer given by the Assistant Minister then was so

unsatisfactory that it was decided the Question would be answered again. So, let him answer it.

**The Assistant Minister for Roads, Public Works and Housing** (Eng. Toro): Mr. Deputy Speaker, Sir, I have with me here a copy of the HANSARD of last Thursday. In fact, this Question was dealt with last on that day. While ending Question Time, the Speaker said as follows:

"This is the end of the Question. Let us leave it now. I think I have given that Question enough time. Next Order!"

**Hon. Members:** On a point of order!

**Mr. Deputy Speaker:** Hon. Members, I believe that the Assistant Minister's response is very clear. This Question was apparently answered last time. Even the Clerk-at-the-Table confirms that, that was actually the position.

**Dr. Galgalo:** Mr. Deputy Speaker, Sir, it is true that the Assistant Minister tried to answer this Question. However, I was not satisfied with the reply. So, I discussed the matter with Mr. Raila yesterday, and we agreed that he would come back to this House with a better answer. You were a witness to that. So, I want a good answer.

**Mr. Deputy Speaker:** Dr. Galgalo, the HANSARD has clarified the position, and the Clerk-at-the-Table has confirmed it. So, if you wish to re-visit the Question, wait until another time.

**Dr. Godana:** On a point of order, Mr. Deputy Speaker, Sir. This is very interesting. If the Questioner says that, indeed, he was so dissatisfied with the answer that he discussed the matter with the substantive Minister and agreed with him that the Question should re-appear on the Order Paper, I would have thought that the Assistant Minister should have used this opportunity to give a better answer.

*(Applause)*

**Mr. Deputy Speaker:** Order! Order! Hon. Members, we cannot change the fact that the Question was answered. The record of this House is very clear that the Question was answered. If subsequently the substantive Minister and the Questioner discussed the matter, that is another issue. So, the Question is not going to be answered again.

Let us proceed to the next Question.

**Dr. Galgalo:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Not on this matter!

**Dr. Galgalo:** On a point of order!

**Mr. Deputy Speaker:** Hon. Members, I have already made a ruling on the matter. So, let us proceed to Mr. Kaindi's Question.

*(Mr. Raila walked into the Chamber)*

**Dr. Galgalo:** The Minister is here!

**Mr. Deputy Speaker:** Order! Order! Dr. Galgalo, you are disorderly. So, I order you to leave this Chamber now.

*(Dr. Galgalo withdrew from the Chamber)*

#### MEASURES TO QUELL INDUSTRIAL UNREST AT EPZS

**Mr. Kaindi:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Labour and Human Resource Development the following Question by Private Notice.

In view of the escalating wave of industrial unrest in the Export Processing Zones (Athi River), could the Minister explain to the House what urgent measures he has put in place to quell the situation and increase investor confidence?

**Mr. Deputy Speaker:** Hon. Members, as I said earlier, the Minister is out of the country. Therefore, this Question is deferred.

**Mr. Kaindi:** On a point of order, Mr. Deputy Speaker, Sir. When will the Question come up again?

**Mr. Deputy Speaker:** The Clerk of the National Assembly will fix a date for the Question to re-appear on the Order Paper. I do not know when the Minister will come back into the country.

*(Question deferred)*

Let us proceed to Eng. Muriuki's Question.

PAYMENT OF PYRETHRUM FARMERS' DUES

**Eng. Muriuki:** Mr. Speaker, Sir, I beg to ask the Minister for Agriculture and Livestock Development the following Question by Private Notice.

(a) Is the Minister aware that pyrethrum farmers in Nyandarua District have not been paid their dues since May, 2002?

(b) Is he further aware that over Kshs159 million of farmers' funds have been deposited in Euro Bank, which has now collapsed?

(c) What urgent action is the Minister taking to ensure that pyrethrum farmers are paid for their produce?

(d) What action is the Minister taking to discipline the errant directors of the Pyrethrum Board?

**The Assistant Minister for Agriculture and Livestock Development** (Mr. Osundwa): Mr. Deputy Speaker, Sir, on behalf of the Minister for Agriculture and Livestock Development, I request the indulgence of the House that this Question be deferred to Tuesday next week.

**Mr. Deputy Speaker:** What is your reaction, Eng. Muriuki?

**Eng. Muriuki:** Mr. Deputy Speaker, Sir, I do not even have the written reply to the Question.

**Mr. Deputy Speaker:** Mr. Assistant Minister, where is the written reply to the Question?

**The Assistant Minister for Agriculture and Livestock Development** (Mr. Osundwa): Mr. Deputy Speaker, Sir, I have requested that the Question be deferred to Tuesday, because the Minister for Agriculture and Livestock Development is not here. I believe that he is on his way to this House. He is engaged in a meeting elsewhere.

**Hon. Members:** Where?

**Mr. Deputy Speaker:** The request to the House is that we defer this Question until next time. Is that okay with you, Eng. Muriuki?

**Eng. Muriuki:** Mr. Deputy Speaker, Sir, I have no problem but, next time, make sure that I receive the written reply to the Question.

**Mr. Deputy Speaker:** So, the Question will be deferred to Wednesday next week.

*(Question deferred)*

Let us proceed to Mr. Mahamud's Question.

MEASURES TO PREVENT SPREAD OF RABIES

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

(a) Is the Minister aware that foxes and jackals suspected to be infected with rabies have bitten over 60 people in Wajir East Constituency in the last two weeks, and that there is a likelihood of the victims contracting rabies?

(b) Is she further aware that there are no vaccines in Wajir District Hospital or other health institutions in the district to prevent the deadly disease?

(c) What urgent measures is she taking to ensure that there are adequate vaccines in all health facilities in the constituency?

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

(a) I am aware that 40 people bitten by foxes have been treated since February, 2003, and none of them has shown any signs of developing rabies.

(b) Wajir District Hospital has sufficient anti-rabies vaccines for administration to those who need immunisation after bites by wild animals.

(c) Sufficient vaccines have been obtained from Garissa Provincial Hospital, and more will be provided if need arises. Meanwhile, I would like to suggest that the hon. Member lets the Ministry of Environment, Natural Resources and Wildlife know of the presence of the wild animals in the constituency, so that corrective action can be taken.

**Mr. Mahamud:** Mr. Deputy Speaker, Sir, it is not true that the Assistant Minister has taken enough anti-rabies vaccine to the districts. Two days ago, I actually went to KEVEVAPI and collected 100 vaccines. So, the Assistant Minister is actually misleading this House. There are no vaccines in Wajir and other health institutions. Could he substantiate his claims that vaccines are there? The only vaccines that we collected from here have been used.

**Mr. Konchella:** Mr. Speaker, Sir, the hon. Member should know that treatment of rabies takes over a month's time. They were given the first doses and subsequently, they were given as demanded by the people. I am glad that he took 100 vaccines on Sunday to enhance that treatment.

**Mr. Shaban:** On a point of order, Mr. Deputy Speaker, Sir. We would like to know who, between the Assistant Minister and the Member, is misleading the House. You have heard the Member of Parliament categorically saying that those vaccines were not available and his constituents had availed the money to have the vaccines taken to Wajir. This is a very serious matter and the Assistant Minister is telling us that those vaccines are there. Who is misleading this House?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I do not know why the Member is up and about on this issue because when the people were bitten by the foxes in February, they were immunized and vaccinated. It was only in the process that they used whatever vaccines were available in Garissa General Hospital and more is available. He took 100 doses last Sunday and there is still more, should the need arise.

**Mr. Sasura:** Mr. Deputy Speaker, Sir, if some of these answers we are getting here were food, I am sure the Minister for Health would declare it unfit for human consumption. The Assistant Minister is telling the hon. Member to report to the Kenya Wildlife Service (KWS) the issue of dogs, foxes and rabies in Wajir. But, that notwithstanding, could he tell us, because the non-availability of drugs is a common problem in the whole country, the position of our medical stores all over the country? That is because even in Marsabit District Hospital now, there are no drugs. Forget about rabies, immunization and vaccination. There are no drugs. What is the position of availability of drugs in hospitals in this country?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, the hon. Member took the initiative to pick the vaccines himself because he is a concerned citizen. I am glad that he did that. However, the Medical Officer from Garissa came on Monday to pick them. But he found that the vaccines had been taken.

Now, as far as drugs are concerned in the country, we are saying that this House should vote enough money to the Ministry of Health, so that we will be able to buy enough drugs. I think the Minister has highlighted before, that the amount of money that we have for medicine meets only 25 per cent of our drugs need in this country. So, if Parliament votes for sufficient money, we should be able to provide enough drugs to the whole country.

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

**Mr. Deputy Speaker:** Order! Hon. Members, we have already used a lot of time on that Question. Ask the last question, Mr. Mohamed!

**Mr. Mahamud:** Mr. Deputy Speaker, Sir, there was a similar Question where, just a few minutes ago, I complained of transport. The area that the jackals bit over 40 people has no transport. We have no transport to collect even the vaccines. That is why the Member of Parliament is becoming a messenger for collecting anti-rabies vaccines from the Ministry Headquarters. We would like the Assistant Minister to provide transport to Khorof-Harar Sub-District Hospital and, secondly, he cannot refer me to Mr. Tuju to kill the jackals. The ex-Colonel should order his troops in Wajir to kill the jackals!

**Mr. Deputy Speaker:** Order, Mr. Mahamud! You may ignore that question! Let us move on to the next Question.

#### SALARIES FOR NYANDO COUNTY COUNCIL EMPLOYEES

**Prof. Olweny:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that some employees of Nyando County Council have not been paid their salaries since 1996, including those who have been retired since that time?

(b) What arrangements is the Ministry making to pay the employees and retirees their dues?

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

(a) Yes, I am aware.

(b) In this financial year, the council is going to pay Kshs4.1 million as employees and retirees unpaid salary arrears, through the Local Authorities Transfer Fund (LATF). That will be under debt resolution plan.

The other balance of Kshs51.7 million will be paid partly from LATF and the General Rate Fund. An amount of Kshs8 million will be paid from LATF for the year 2003/2004, while the balance of Kshs43.7 million will be paid in the next eight years in instalments of Kshs5.4 million per year.

**Prof. Olweny:** Those payment arrangements seem improper. To take eight years to pay people who had retired without their dues and employees who have not been paid since 1996, is very unfair. Could we know from the Assistant Minister how the Ministry is going to arrange for the payments? Who will be paid first; the retirees or the employees who have not been paid their dues?

**Ms. Tett:** Mr. Deputy Speaker, Sir, the council will pay Kshs3.7 million to employees and the retirees will be paid Kshs400,000. That will make the total amount of Kshs4.1 million.

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, that is the lifeline of the people who have served that council. The Ministry of Local Government gives huge amounts of money for LATF. Why can the Ministry not allocate adequate funds to pay those employees their salary arrears and the retirees their pensions? Why can the Ministry not do that, instead of leaving the employees of the Nairobi City Council to carry home Kshs10 million a day?

**Ms. Tett:** Mr. Deputy Speaker, Sir, from 1999 to date, the current employees have been paid a total of Kshs84 million, leaving a balance of Kshs16 million. We are going to pay in instalments for eight years because there is no money. The LATF money is not enough and if they pay all the money, then they will be left with nothing. The LATF money is about Kshs15 million and we cannot pay all the balances.

**Eng. Muriuki:** On a point of order, Mr. Deputy Speaker, Sir. The question which the Assistant Minister should answer is: Why can the Minister for Local Government not allocate the Kshs5 million which is required, so that we can clear with the employees who have retired once and for all? She is going round and round!

**Mr. Deputy Speaker:** Madam, Assistant Minister, that is the question!

**Ms. Tett:** On the balance of Kshs51 million, we will take up the matter and see how best we can reduce the arrears!

**Prof. Olweny:** Mr. Deputy Speaker, Sir, Nyando County Council lent money to the former councillors, who have not repaid the money. This is one of the things that has caused a lot of financial problems to the county council. What arrangements has the Ministry made to recover the money from the former councillors?

**Ms. Tett:** Mr. Deputy Speaker, Sir, we will investigate the matter and, if need be, surcharge the former councillors.

**Mr. Deputy Speaker:** That is the end of Question Time!

## MINISTERIAL STATEMENTS

### CRISIS IN THE SUGAR INDUSTRY

**The Assistant Minister for Agriculture and Livestock Development (Mr. Osundwa):** Mr. Deputy Speaker, Sir, I wish to give a Ministerial Statement on the current state of the sugar industry in the country.

I wish to refer to the chronology of events since last week when reports of disturbances in the sugar industry appeared in the Press, indicating that cane harvesting and delivery to mills had been affected by industrial strikes and cane pricing issues. Consequently, on Tuesday, 18th March, 2003, I met with representatives of the stakeholders in the sugar industry, drawn from the grower representatives and millers---

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! The Assistant Minister for Agriculture and Livestock Development is making a very important Statement on the state of the sugar industry. May we give him our attention, please?

**The Assistant Minister for Agriculture and Livestock Development (Mr. Osundwa):** Mr. Deputy Speaker, Sir, on Tuesday, 18th March, 2003, I met with the representatives of the stakeholders in the sugar industry, drawn from the growers representatives and millers, with a view to finding an amicable solution to the sugar industry crisis.

After consultations, and having considered views of each party, I instructed the parties to consider the matter, draw up and submit their proposals on modalities on how to solve the crisis within two days. Since then, I have received a report from the millers, whose contents I have noted. I have also looked at the existing Sugar Act, and also perused through the industry's regulations, and I have forwarded them to the Attorney-General's

office for final concurrence before gazettelement.

The Sugar Act 2001, in its present format, is flawed and will not create sufficient harmony in the sugar industry. Many sections require amendments in line with the reality in the sugar industry. I have, therefore, initiated the necessary Government procedures towards the amendment of the same to make it appropriate for the smooth running of the industry. In the meantime, I appeal to growers representatives and their directors in the Kenya Sugar Board to expedite the submission of their position in writing to enable the Minister make the final decision within the parameters of the existing law. I want to encourage all parties concerned to effectively continue with the consultation process initiated at their local level. In the meantime, the Cane Pricing Committee should go ahead and finalise the cane pricing within 14 days effective from 21st March, 2003.

**Mr. Khamasi:** Mr. Deputy Speaker, Sir, cane farmers in this country are going through very severe conditions. In fact, as I speak, I am not sure whether Mumias Sugar Company has been opened.

Employees of cane transporters, mostly tractor drivers, want to join a union of their choice, but the Managing Director of Mumias Sugar Company, Mr. Drisco, is discouraging them from doing so. That is why we are having a lot of problems in the sugar industry. Could the Assistant Minister tell us what he is doing about this problem to ensure that, this particular chief executive is dealt with according to the law?

**Mr. Sungu:** Mr. Deputy Speaker, Sir, the Government's concern for the sugar industry is like the proverbial ostrich which buries its head in the sand and ignores the real problem.

The Assistant Minister has stated clearly that the current Sugar Act, 2001 is flawed. He has said that amendments to it are required. When will he bring the amendments to the House? Could he bring them tomorrow? We need these amendments urgently. The sugar industry is on fire.

**Dr. Oburu:** Mr. Deputy Speaker, Sir, the Assistant Minister has told the House that there is a Cane Pricing Committee which is supposed to give its recommendations within the next 14 days. There are sugar factories which have been paying farmers at low prices, for example, from Kshs2,030 to Kshs1,530 per tonne of cane.

What action will the Assistant Minister take against chief executives who have ignored the Sugar Act and the Pricing Committee's recommendations? These sugar companies have subjected farmers to intolerable suffering. Will the farmers be paid the difference between what they have received and what they were supposed to receive?

**The Assistant Minister for Agriculture and Livestock Development (Mr. Osundwa):** Mr. Deputy Speaker, Sir, the problem in Mumias Sugar Company is that tractor drivers who have not been members of any trade union are seeking to join a trade union of their choice, as hon. Khamasi said. The Government has intervened in the matter and the tractor drivers will be allowed to join a trade union of their choice.

It is true that the Sugar Act, 2001 is flawed. It was brought to the House in a hurry a few months before the last general election. The then Minister wanted to please the farmers in order for them to vote for the former KANU Government. That did not happen. We are reviewing the regulations made under the Sugar Act, and, as I mentioned, the regulations are already in the Attorney-General's office. Any time soon, with the concurrence of the Attorney-General, the regulations will be gazetted, and we expect to have harmony in the sugar industry.

With regard to cane pricing, it is true that chief executives of some sugar companies unilaterally reduced the price of cane per tonne. As I mentioned earlier, I had a meeting with them in the Ministry, and I asked them to go back and review the position and then submit a report to the Ministry. We will take action after perusing the two reports.

**Mr. Angwenyi:** On a point of order, Mr. Deputy Speaker, Sir. What Dr. Oburu said---

**Mr. Deputy Speaker:** Order, Mr. Angwenyi! We are through with that matter! Are you standing on a point of order on something else?

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, I am standing on a point of order on that matter.

**Mr. Deputy Speaker:** No, that is finished. There are a lot of Statements to be made.

#### INSECURITY IN TURKANA DISTRICT

**The Minister of State, Office of the President (Dr. Murungaru):** Mr. Deputy Speaker, Sir, on Wednesday, 5th March, 2003 Mr. Ethuro rose on a point of order seeking a Ministerial Statement on alleged insecurity in Turkana District. The hon. Member expressed concern over what he perceived as an increase in the rate of highway banditry in the District. In this connection, I wish to make the following short Statement.

I would like to start by admitting that insecurity in northern Kenya, Turkana District included, is one of the challenges that I have had to address as a matter of priority. Insecurity in this region is a long-standing

problem, which needs long-standing strategies. Indeed, it is in pursuit of these strategies that I convened a consultative forum on security and development in the North Rift region, which was attended by hon. Members of Parliament from the region. This is one of the first steps among many others on the way forward in dealing with banditry and cattle rustling menace in that region.

Mr. Deputy Speaker, Sir, despite the admission of this challenge, I wish to state that in the last two and half months since I assumed the responsibility for national security, Turkana District has been relatively calm compared to the months prior to this period.

Mr. Deputy Speaker, Sir, for example, in January and February, 2003, there were two robberies, two cattle rustling incidents and five highway banditry cases that were reported. This is a slight decrease compared to November and December, 2002, when there were seven robberies, seven cattle rustling incidents and eight cases of highway banditry reported. In the last two months, in cases where the Turkana cattle have been stolen, the security organs have had almost all the animals returned, which is a very notable departure from the past. As at that time, a total of 659 goats and sheep had been recovered from the Pokot and returned to the Turkana within the period. It is true that highway banditry is increasingly becoming a matter of security concern in the district, and this is particularly so along Lodwar-Kitale and Lokichoggio-Kakuma Highways. There are three cases which are still fresh in this regard. That is the killing of a Swedish national by armed bandits on 4th February along Kakuma-Lokichoggio Road. On 16th February, 2003, bandits ambushed a Nissan *matatu* and killed two people. In respect of the two incidents, three people have been arrested and are being interrogated by the police. The third incident involved the Diocese of Torit Catholic Church vehicle. This happened on 2nd February, 2003. When the vehicle crossed the border from Southern Sudan, it did not wait to get official escort and instead the driver gave a lift to a lone armed soldier who is not a Kenyan to provide escort. After driving for about ten kilometres, the vehicle was attacked by a group of bandits believed to be from a neighbouring country. During the incident, the soldier was shot dead and two people injured, and a total of Kshs9,000 was robbed from other occupants. Those involved in this incident were traced and confirmed to have crossed the border into a neighbouring country. Our security committees at the border have held meetings with those concerned across the border on this incident. I wish, therefore, to assure hon. Members that we will continue with all efforts to ensure better security for the people of Turkana. Meanwhile, the reduction in the number of incidents reported over January and February this year is as a result of intensified security patrols and co-operation with local communities. We have certainly not achieved the level we expect, but we are determined to ensure that banditry and violent crimes in general in that area and the entire country are brought under control.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I would like to thank the Minister for giving a very elaborate Ministerial Statement. When I insisted on getting this Statement, it caused me some problems. I requested the Minister to make a Ministerial Statement because of the insecurity that is experienced in Lodwar Municipality and our highway. Banditry is an issue, and I think the Government is taking action. These issues refer to cases that happened on February. Last Sunday, there were two cases reported. A nun who was a volunteer teacher in a primary school was shot dead--

**Mr. Deputy Speaker:** Mr. Ethuro, you are seeking clarification from the Minister on the Ministerial Statement he has made. But now you are making a very long speech. Could you seek a specific clarification?

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I will be specific. It is just that I wanted to give the background of this. When the District Criminal Investigation Officer's (DCIO) office, which is within a police station is broken into and money stolen, how secure can anyone be? Could the Minister consider disarming some known local criminals there who still have illegal guns? Could he consider doing that because these are the people who perpetrate violence within the municipality and the highway?

**The Minister of State, Office of the President (Dr. Murungaru):** Mr. Deputy Speaker, Sir, I will consult with the hon. Member, and we would appreciate if he would avail any information which would prove that there are illegal guns being held by individuals within the municipality or the environs. Indeed, if that is the case, we will definitely confiscate them and let the law take its course.

**Mr. Haji:** Mr. Deputy Speaker, Sir, could the Minister tell us whether there is any relationship between the nun who was shot and the priest who crossed over into a foreign country and took some *askaris* to escort them into Kenya and in the process, the foreign *askari* was shot? Is there any relationship between the two incidents?

**The Minister of State, Office of the President (Dr. Murungaru):** Mr. Deputy Speaker, Sir, that was not within the scope of this Statement. But given the circumstances under which this nun was shot it would appear, at this early stage, like there was some connection, but I would not like to give half-baked information to the House and the nation.

**Mr. Poghisi:** Mr. Deputy Speaker, Sir, the Minister would not like to name the foreign country or the

neighbouring country. As we know, we are surrounded by several countries to the north. What is the reason for not naming the country for our proper understanding, when he takes the name of the Pokot in vain and mentions it? Why can he not mention the name of that country?

**The Minister of State, Office of the President** (Dr. Murungaru): Mr. Deputy Speaker, Sir, I think the reason for that would be fairly obvious. I do not want to start naming countries here and they trigger incidents. But I can assure the hon. Member that we are dealing with this country in question with a view to ensuring that this incident does not recur.

**Mr. Deputy Speaker:** Mr. Minister, do you have another Ministerial Statement that you would like to make?

#### OPERATIONS OF NACC

**The Minister of State, Office of the President** (Dr. Murungaru): Mr. Deputy Speaker, Sir, on Tuesday, arising from a Question which had been put, I believe by Mr. Sasura, I had undertaken to issue a Ministerial Statement regarding the operations of the National AIDS Control Council (NACC). Today, on the Order Paper, there is a Motion which is to be moved by my colleague, the Minister for Health. On consultation at the Cabinet, we felt that in order to give the most accurate and up-to-date information to the House, as the Government, there is need for my colleague and I to consult so that the Ministerial Statement and the information that we will avail to the House and the nation will be the most current Government position on the matter. So, I seek the indulgence of the Chair to defer the issuance of this Ministerial Statement until next week after we have done those consultations.

**Mr. Deputy Speaker:** Very well!

**Mr. Sasura:** Mr. Deputy Speaker, Sir, on the Ministerial Statement concerning the NACC, I would like the Minister to note, while consulting with the Minister for Health, that this matter was raised because the NACC falls under the Office of the President and not the Ministry of Health. While I will wait for the Statement, I am a bit surprised to hear that the two Ministers will consult when the NACC falls under the Office of the President. Mr. Tarus convinced the House that the NACC is under the Office of the President because of the multi-sectoral nature of the HIV/AIDS scourge---

**Mr. Deputy Speaker:** Mr. Sasura, you are pre-empting the issue. The Ministerial Statement will be issued on Tuesday!

**Mr. Sasura:** Mr. Deputy Speaker, Sir, I am not pre-empting the issue. The Office of the President said that the NACC is supposed to fall under it and not the Ministry of Health, and now, the Minister has told us that he will consult with the Minister for Health.

**Mr. Deputy Speaker:** Order, Mr. Sasura! I think the Minister made a very legitimate request to the House. He sought the indulgence of the House to consult more and come with a Statement on Tuesday next week, and it was granted!

#### POINTS OF ORDER

##### THE INTEGRITY OF THE HOUSE

**Prof. Oniang'o:** On a point of order, Mr. Deputy Speaker, Sir. Please, keep quiet!

*(Laughter)*

**Mr. Deputy Speaker:** Order, Professor! That is my work; it is not your work! Proceed!

**Prof. Oniang'o:** Sorry, Mr. Deputy Speaker, Sir. I apologise and withdraw that remark. Yesterday, I sought a Ministerial Statement from hon. Dr. Murungaru, the Minister of State, Office of the President in charge of Internal Security regarding a very disturbing statement that he made at a party in Embu. What are his views since his fellow Ministers have also contradicted him about that matter of money passing around? So, we need that statement.

**Mr. Deputy Speaker:** Very well. This statement was requested yesterday. Mr. Minister, are you ready for it?

**The Minister of State, Office of the President** (Dr. Murungaru): Mr. Deputy Speaker, Sir, I was not in



the House yesterday and so I am not aware that it was asked. Since I have been caught by surprise, I would like to seek your permission to issue the statement on Tuesday. However, may I correct one impression?

**Mr. Deputy Speaker:** Very well!

**The Minister of State, Office of the President** (Dr. Murungaru): Mr. Deputy Speaker, Sir, I did not make a statement in a party. I made the statement in a prayer meeting.

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

**Mr. Deputy Speaker:** Order, hon. Members! The request for the statement was made yesterday and the Minister who is present has promised to come with it on Tuesday. Professor, are you satisfied?

**Prof. Oniang'o:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** The professor is satisfied. So, if you are standing on something else, that is fine but not on that issue.

**Mr. Weya:** On a point of order, Mr. Deputy Speaker, Sir. Who is the Minister going to consult with since he made the statement himself?

*(Laughter)*

**Mr. Deputy Speaker:** Order, Mr. Weya! Once the Chair rules on a matter, that is the end of it. Since you are new, you will get away with it. However, in future when the Chair rules on a matter, that is it and we move to the next one.

**Mr. Obwocha:** On a point of order, Mr. Deputy Speaker, Sir. The Chair has often urged the Ministers to make weighty policy statements in this House but not in funerals, prayer meetings or party meetings. Could you also urge the Ministers to make such weighty policy statements in this House so that they can have an opportunity to educate Kenyans from the Floor of this House?

**Mr. Deputy Speaker:** Mr. Obwocha, why do you not wait until that statement of clarification is made so that you can raise that point?

Mr. Moroto!

ATTACK ON POKOTS BY THE UGANDAN  
ARMY IN UGANDA

**Mr. Moroto:** Mr. Deputy Speaker, Sir, I would like to seek a Ministerial Statement from the Minister of State, Office of the President in charge of Internal Security with regard to Pokot Kenyans who were attacked on 27th February this year while grazing their animals in Uganda, Kapchorwa District. Over 3,000 heads of cattle were taken away by the UPDF (Uganda People's Defence Force), which is the Ugandan army, but up to now not a single animal has been recovered. What steps has the Kenyan Government taken to recover the animals? Secondly, what support is the Government offering to the affected families since they depended on the animals? Is he also aware that since the animals have been stolen, these people have been going without food, their children are at home because they are not going to school? What action is the Government taking to assist these people?

Mr. Deputy Speaker, Sir, lastly, what is---

**Mr. Deputy Speaker:** Order, Mr. Moroto! You were requesting for a statement, but what is your last point?

**Mr. Moroto:** Mr. Deputy Speaker, Sir, can he give an assurance that such an incident will not occur in future?

**Mr. Deputy Speaker:** The Minister is here and I believe he has heard you. He will bring a statement, I believe, next week.

**Mr. Salat:** Mr. Deputy Speaker, Sir, yesterday I was promised by the Speaker that the Minister of State, Office of the President in charge of Internal Security was going to answer my question. This is the third time I am still waiting for it.

**Mr. Deputy Speaker:** Which question, Mr. Salat?

**Mr. Salat:** Mr. Deputy Speaker, Sir, I had sought a Ministerial Statement.

**Mr. Deputy Speaker:** Then it is a statement; it is not a question!

**Mr. Salat:** Yes, it was a Ministerial Statement. Sorry, Mr. Deputy Speaker, Sir. I had sought a Ministerial Statement from the Minister of State, Office of the President in charge of Internal Security.

**The Minister of State, Office of the President** (Dr. Murungaru): Mr. Deputy Speaker, Sir, I sincerely apologise to the hon. Member. The statement that I got from the officers in my office was totally irrelevant to the

situation that the hon. Member had referred to. I seek the indulgence of the Chair and the hon. Member to bring the proper statement on Tuesday.

**Mr. Deputy Speaker:** Very well. Mr. Kagwima!

#### NYS ARMY TRAINEES

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, sometime in 1997, about 1,500 National Youth Service (NYS) personnel were recruited for training as army personnel. After a thorough training they were dispatched to the countryside. They are not in the army service or the NYS. Since the Minister in charge of that portfolio is here, we are asking him that he makes---

**Mr. Deputy Speaker:** Order, Mr. Kagwima! My understanding was that you asked the Chair earlier to seek a Ministerial Statement. Is that the case?

**Mr. Kagwima:** Yes, Mr. Deputy Speaker, Sir. It is an important matter and the Minister is here.

**Mr. Deputy Speaker:** Order, Mr. Kagwima! The issue is not whether it is important or not. Had you sought the indulgence of the Chair to stand on a point of order to request for a Ministerial Statement?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, if you require that notice, I will do that next week.

**Mr. Deputy Speaker:** Order, Mr. Kagwima! You should know better than that. We cannot run the House like that where somebody just stands and says whatever is in his mind. If you have anything for the benefit of new hon. Members and I believe you are not that new, go and see the Speaker or the Deputy Speaker so that they are aware that you are going to stand on a point of order. That is the position. Mr. Kagwima, I thought you knew that.

Next Order!

### BILL

#### *Second Reading*

#### THE PUBLIC OFFICER ETHICS BILL

*(The Minister for Justice and Constitutional  
Affairs on 13.3.2003)*

*(Resumption of Debate interrupted on 19.3.2003)*

**Mr. Deputy Speaker:** Who was on the Floor? Mr. Muchiri, you were on the Floor!

**Mr. Muchiri:** Thank you, Mr. Deputy Speaker, Sir. I wish to continue to contribute to this important Bill. The House rose when I was saying that this Bill is very straightforward and self-explanatory. I am surprised that this House was treated to a big lecture yesterday afternoon that this Bill contravenes this and that law. That was incorrect.

Mr. Deputy Speaker, Sir, this Bill is nothing more than what we are used to. For those of us who are professionals, we know ethics are all over. For those of us who have been employed in the Civil Service and in the private sector, we know that there is no employment that does not have certain limitations. Therefore, in addition to supporting this Bill wholeheartedly, I want to say that this Bill could not have come at a better time than this one.

Mr. Deputy Speaker, Sir, this Bill is geared towards setting up a Commission that is going to establish the ethics that will be followed by particular public officers in that particular sector. This is quite true because quite often ethics are supposed to be self-regulatory. People are supposed to be regulated by the ethics that are created by their own employers. For instance, if it is a professional doctor, an engineer or a valuer, like myself, they have their own ethics; if it is a certain organization, there are ethics for that organization.

Mr. Deputy Speaker, Sir, there is nothing new in this Bill; civil servants know that there is a Code of Regulations for the Civil Service and, it is only being codified in this Act. It is interesting to note that the public officers are being asked to be politically neutral. This is very important because we all know that during the 2002 General Elections, many civil servants abrogated their duties and decided to support one political party. The provision for political neutrality is, therefore, very timely because we do not want public officers to be partisan to the politics of the day. We want them to be the servants of the people. They have been contracted by the society to provide a noble service.

Mr. Deputy Speaker, Sir, many of us know that during the last General Elections, many District Commissioners and District Officers went round waving a one-finger salute. To me this is a big shame because

when a DC or a DO goes to the polling station and waves the one finger salute. For example, this happened in my area. That is not the

right thing to do for a public servant. So, the clause which governs that neutrality is, therefore, very important.

Mr. Deputy Speaker, Sir, the ethics that we are trying to establish are also such that public officers must see to it that they do not have a conflict of interest on what they do. This is again not a new thing! We are only trying to put it in the form of an Act. Hon. Members know that in the Local Government Act, Cap.265, councillors are supposed to declare if they have an interest in a debate which is going on. Again, that is part of the canons of natural justice. That is part of the law that says that you cannot participate in a matter in which you have an interest. That is a matter which is also embodied even in the private sector. The Companies Act is very specific on this point. So, some of the things that are contained in this Bill--- I do not want hon. Members to think that there is anything new here. All that the Bill, perhaps, says or does is to codify or correlate all the regulations that are in various corners of this country and put them in an Act of Parliament.

Mr. Deputy Speaker, Sir, I have said that the principle of conflict of interest is what has made this country go astray. We know that even in the old days when we were fighting for Independence in this country; many people were collaborating with the colonialists at night and during the day, they would say that they were together with our people. That was the beginning of some of this conflict of interest. It is important, therefore, that a matter like that be taken seriously in our laws.

Mr. Deputy Speaker, Sir, I have mentioned that Section 181 of the Local Government Act compels anybody having an interest within our councils to declare his or her interest. This is the law. Sometimes, it is even said that the monkeys cannot decide the affairs of the forest; and that is where the conflict of interest began.

Mr. Deputy Speaker, Sir, this Act is trying to prohibit improper enrichment. I do not think those who use public money to enrich themselves will see the Kingdom of God. Why should one enrich himself, drive many cars, when the gap between the rich and the poor continues to widen? That is the crux of the matter. We are not just fighting corruption for the sake of it. We are fighting corruption because it arrogates resources to a few people and denies resources to very many people in this country. That is why we are saying and this Act is very precise on this point - that this Act is prohibiting improper enrichment of public officers. Of course, I would have liked to see that clause extended to the private sector. I think the Companies Act is being flouted with impunity. We would also wish to see that resources in this country are fairly distributed.

Mr. Deputy Speaker, Sir, if hon. Members would care to look at Part III, they will find that professionalism is emphasized. How come that most of the contracts awarded in the roads and building sectors and other public sectors become exorbitant? I come from the world of property! I am valuer Gachara Muchiri. I can tell you that wherever a building is contracted, the cost of that building doubles! If you are building a house and it has to do with contractors, and all those professionals, the cost of construction doubles. If you are constructing a good house at a cost of Kshs3,000 per square foot, it becomes Kshs6,000 per square foot! But if you constructed the house by yourself, it will cost you less. Why? Because of the notorious 10 per cent and 20 per cent. This is what this Act says, that any public officer must act professionally. Clause 8 is very clear on this point, that public officers shall observe professionalism.

It is at this point that I want to urge the Government to ensure that those who run Ministries, Permanent Secretaries, Deputy Permanent Secretaries and Accounting Officers need to be professionals. If those PSs and Accounting Officers are not professionals, what does that mean? They will have no ethics to observe because they have no professional body to account to. It is important, therefore, that while we talk about professionalism, let the Government be the role model of appointing people who are professionals to run Ministries. This is important because when you look at Clause 8(D), it states the following:

"If a public officer is a member of a professional body, he is obligated by this law to observe ethical and professional requirements of that body."

Therefore, if a person is not a professional, he is not an engineer, a doctor, a valuer or whatever profession, then how will he be accountable as a professional? This is the point I want to bring to the attention of this House. It is important that we are not stopped from holding Harambees. The NARC Government has not abolished Harambee, and these are not the provisions that Section 12 is talking about. Clause 12 only states that a public officer shall not use his office to solicit Harambee funds. If you attend a Harambee and donate Kshs1 million and yet your salary is less than Kshs1 million, we would want to know where you got that money from. I do not want our friends in the Opposition to think that the Government is trying to stop Harambee. Harambee is there to stay, but in a properly regulated manner. I think the NARC Government is going to do that. There is need to identify which projects should be Harambee funded. I do not want this House to be misled, and I rose on a point of order yesterday to say exactly that, because the hon. Member who was on the Floor at that time was misleading this House. We are politicians and we do not want to see our constituents suffering just because we cannot hold Harambees. We will continue assisting our people whenever need arises. It is important, therefore, that this law does not appear to discourage the Harambee spirit. God loves a cheerful giver. It is a good virtue to share with

others. A Judge or a Permanent Secretary should not circulate his Harambee cards to various contractors, so that he can raise a lot of money, because he is aspiring to come to this House in the future.

**Mr. Deputy Speaker, Sir,** with regard to the question of sexual harassment, I think the whole of Section (b) should be expunged. I think it is enough to say that a public officer shall not sexually harass a member of the public or a fellow public officer. If you go on stating the details, the way Mr. Wetangula stated, then you can go on and on. In my view, I think the details are not necessary. For example, what would one say if people were to collide along the corridors? Clause 20 should be redrafted so that it can give true meaning of the law.

**Mr. Deputy Speaker, Sir,** there are certain laws that are passed in Parliament that become what is known as dead letters. These are laws that will never be applied, and we have many of them. That is why I would like to say that a lot of professional bodies have boards to regulate them, but they do not seem to be doing their work. There is, for example, the Engineers Board, the Architects Board, the Valuers Board and the Estate Agents Board which have never even called one of their own to be disciplined. It is high time we asked those boards to rise to the occasion and do a proper job. This includes the Law Society of Kenya, because it is the professionals who know those ethics. The fact that we are including this issue in this Bill does not mean that we are infringing on anybody's privacy.

**Mr. Deputy Speaker, Sir,** this Bill is simply talking about declaration of wealth. I would like to tell the House that there is nothing new here. If I want to know who owns what land, I know what to do. I will simply get the LR number, go to the Ministry of Lands and Settlement office and then know who is the owner. I will also know what loan you have taken from a certain bank. I do not know why we were being told yesterday that Section 70 of the Constitution is being infringed. That is not correct. I am not a lawyer, but I have a lot of interest in law. Section 70 of the Constitution states that you should not infringe on the privacy of an individual at home or his property, but that should not be at the expense of the public. I have the Constitution in my hands and I do not want Mr. M. Kilonzo to come here with his oratory to confuse this House. I wish he was present in the House today. The Section states:-

"Protection for the privacy of his home and other property and from deprivation of property without compensation--- the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest".

The Constitution, therefore, states that if it is in the public interest, we should infringe into your privacy. That is not infringement on the Constitution. That is why I was fuming with rage when we were treated to a lecture on law yesterday. I would like to state that hon. Members in this House are the makers of the law. We are the makers of the law and we are not going to interpret it in Parliament. I would like to sound a warning to the lawyers in this House, that they are not going to come to this House to lecture us on law. Some of us are quite eloquent and conversant with the laws of this land. After all, that is why we are hon. Members of Parliament.

**Mr. Obwocha:** On a point of order, Mr. Deputy Speaker, Sir. The hon. Member sounds eloquent, but are you satisfied that he has not referred to Mr. M. Kilonzo in derogatory terms when he stated that Mr. M. Kilonzo lectured us on irrelevant issues?

**Mr. Deputy Speaker:** Mr. Obwocha is that derogatory, for sure? He has just expressed his opinion. Proceed, Mr. Muchiri!

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, I will ignore him. I am a student of law and I am quite conversant with what I am saying. The information that is being required under Section 29 is supposed to observe confidentiality. Section 29 guarantees that in an individual's submission of assets and property, it will be treated confidentially by the Commission.

**Mr. Muite:** On a point of order, Mr. Deputy Speaker, Sir. As a matter of fact, I agree with the interpretation of the law by the non-lawyer as opposed to Mr. M. Kilonzo. Is it in order for him to proceed further to sound a warning to hon. Members who are lawyers in this House, who are expressing their opinion just as he is?

**Mr. Deputy Speaker:** Mr. Muchiri, I heard you say that you were giving a warning to those who are lawyer hon. Members. That is out of order. Could you withdraw your warning?

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, I withdraw, but I should also continue to say that---

**Mr. Deputy Speaker:** Order! Mr. Muchiri when you withdraw, do not add a "but".

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, I am not warning any hon. Member who is a lawyer, I am only saying that we are the lawmakers.

**Mr. Deputy Speaker:** Have you withdrawn?

**Mr. Muchiri:** I withdraw, Mr. Speaker, Sir.

**Mr. Deputy Speaker:** Very well! Proceed!

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, when you declare your wealth as a public officer, there is the

principle of confidentiality and there is also the penalty that goes with it. If you infringe that provision, you will be fined Kshs5 million. That is to say that this law is not infringing the Constitution at all. First of all, what is declared is confidential. Secondly, if you want to know who owns what company, you only need to walk to the office of the Registrar and you will know who are the directors and shareholders of a particular company. What is so confidential about an individual's property? I have searched many properties in this country. I can just look at a property, and as long as I know the LR number, I will know the owner and whatever else that appertains to that property.

I beg to support.

**Mr. Deputy Speaker:** I will give this opportunity to the Chairman of the relevant Departmental Committee, Mr. Muite and then I will come to Mr. Angwenyi.

**Mr. Mukiri:** On a point of order, Mr. Deputy Speaker, Sir. Yesterday when Mr. Muchiri started to contribute to this Bill, you promised me that I would be after him, but now I am seeing---

**Mr. Deputy Speaker:** Mr. Mukiri, the day is too long, and you will still speak. That does not mean that I change what I have already done.

Proceed, Mr. Muite!

**Mr. Mukiri:** Thank you, Mr. Deputy Speaker, Sir, for that assurance.

**Mr. Muite:** Mr. Deputy Speaker, Sir, in supporting this Bill, I wish to take this opportunity to highlight a few aspects of the report of the departmental Committee on the Administration of Justice and Legal Affairs which was laid on the Table of this House, and copies of which have been made available to hon. Members from room No.8.

Permit me to begin by sincerely thanking Members of the Committee for their co-operation, dedication and valuable contribution and commitment in producing these reports. The following are the Members of the Committee: Hon. Gideon Ndambuki, MP, hon. Moses Cheboi, MP, hon. Amin Abdallah, MP, hon. Jim Choge, MP, hon. Kenneth Marende MP, Peter Owiti MP, hon. Mirugi Kariuki, MP, hon. Cecily Mbarire MP, hon. Kibunguchy, MP, hon. David Were, MP, and myself.

The report contained amendments which the committee proposed. The committee held two sittings to deliberate on the Bill. The minutes of the deliberations of the committee on the Bill are attached to the report for ease of reference by hon. Members. Coming specifically to Clause 2 of the Bill, the Committee has recommended that we add or insert a new sub-clause to specifically refer to the President. The reason for this is that when you look at the first schedule on page 41 of the Bill, the President is listed there as one of those people who are required to declare their wealth, but he is referred to as part of the National Assembly. We thought that the institution of the presidency should not be brought in through the schedule because after all, it is the President himself who has said that the fight against corruption has to start from the top. Therefore, we thought that it is important for the presidency to be included in the body of the Bill itself and not just in the schedule. So, we are recommending that in fact, a sub-clause A should refer to the President, so that the matter is beyond doubt.

The committee had in mind the fact that in future, you could have a President who would want to split hairs and say that because he is only referred to in his capacity as a Member of Parliament, he does not need to declare his wealth in his capacity as President. The other amendment which the committee has proposed is in Clause 3(2) of the Bill. If you look at that Sub-clause, it says that the committee to which Members of Parliament will declare their wealth and debts is the Committee of the National Assembly, responsible for the ethics of Members. The committee of the National Assembly responsible for the ethics of Members is the responsible commission for Members of the National Assembly. The question arises as to which is the departmental committee as presently constituted. Is there a particular committee that this House can say within the meaning of this Clause, that it is the committee of the House which is charged with the ethics of hon. Members?

This is important because you will recollect that Mr. Speaker himself suggested that that committee is the Committee on Privileges. If you look at the National Assembly Powers and Privileges Act which is the one the Speaker was referring to, the objects of that Act is that; it is an Act of Parliament to declare and define certain powers, privileges and immunities of the National Assembly and of the Members of the National Assembly to secure the freedom of speech in the National Assembly, make provisions regulating admittance into conduct within the precincts of the National Assembly and to give protection to persons employed in the publication of the reports and other papers of the National Assembly.

Mr. Deputy Speaker, Sir, when we considered that Act, it was quite clear that its objectives do not include ethics. The only reference to ethics is in Section 9 of the Act which gives power to Mr. Speaker from time to time as he deems expedient, to issue directions in the form of a code of conduct regulating the conduct of Members of the Assembly, while within the precincts of the Assembly other than the Chamber. Even the power given to the

Speaker under Section 9 is very narrow and limited. Therefore, the committee is recommending that in order to remove the matter from any doubt, the Bill should be amended in order to specifically empower one of the existing departmental committees to be declared as the committee responsible for ethics of Members and therefore, the commission envisaged under Clause 3. That committee could be the Powers and Privileges Committee or any other committee. That is a matter that clearly needs clarification.

The other proposed amendment is that the Bill refers to the "Minister" without clarifying who is envisaged as the Minister responsible. In view of the doubts that have been cast around, Clause 33 talks about the Minister making amends. Therefore, we are recommending that in Clause 2 the "Minister" should be specifically defined as "the Minister responsible for constitutional affairs for the time being" so that it is clear who the Minister is. I believe this Bill has been moved by the Minister for Justice and Constitutional Affairs, so that clarification should be there to remove any doubts.

We did suggest that it could either be the Powers and Privileges Committee or the Parliamentary Service Commission, but the clarification as to which Committee is intended needs to be made. If you look at sub-clause 5, the Parliamentary Service Commission is responsible for public officers in respect of which it exercises disciplinary control. That refers to the employees; the non-MP members of the National Assembly. Therefore, clearly, the Parliamentary Service Commission is not the commission intended to cover Members of Parliament.

Clause 3(6) makes the Electoral Commission of Kenya (ECK) the responsible commission in respect of elected councillors. As a committee, we thought that there is not very much logic in that because the role of the ECK, in terms of its constitution and mandate, is to conduct elections. Of course, it is the responsible Commission for its own employees including the Commissioners. We thought that perhaps, the councillors should be accommodated within the ambit of the Local Government Act, if it can create the necessary commission there rather than loading the ECK with supervision of the conduct of councillors.

On page 72 of the Bill, there is a small matter that needs tidying up. It talks about code of conduct and ethics and yet, when you read that part, there are different codes of conduct for different categories of public officers. We have suggested that as a matter of tidying up, the letter "s" should be added to the word "code" so that it should read as "codes". In Clause 9(2) the present wording is intended to cover the rule of law. It says: "A public officer shall carry out his duties in accordance with the law." Sub-clause 2 says: "In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under part 5 of the Constitution.

Mr. Deputy Speaker, Sir, subclause 2 has in mind the current Constitution. As we all know the country is looking forward to a new Constitution. It may well be that the fundamental rights of the citizen may not necessarily be in Part V in the new Constitution. So, if they are in another place, this Bill will require to be amended. As a Committee, we thought that in order to obviate the need to amend this particular clause when the country has a new Constitution, it is much better to leave out Part V. The amended Clause will read as follows:

"In carrying out his duty, a public officer shall not violate the fundamental rights and freedoms of any person as enshrined in the Constitution."

Mr. Deputy Speaker, Sir, wherever those fundamental rights might be placed in the new Constitution, there will be no necessity to amend this particular Bill if it is enacted into law. It is anticipatory that we will have a new Constitution.

In Clause 12 on page 77, we are suggesting that the Minister should clarify precisely what is prohibited and what is not prohibited regarding Harambees. It has been left general at the moment. Here, I do not know whether we are not being a little too vague. In addition, the Government has stated its intention to abolish Harambee. That should be clarified because the term "Harambee" is now being used in an Act of Parliament. So, the Minister should explain exactly what is prohibited and what is not prohibited. What is envisaged under the term "Harambee" should also be clearly explained now, that we are enacting a law with a penal consequence. It is necessary to have clarity in that particular section.

Mr. Deputy Speaker, Sir, Clause 13 reads:-

"No public officer shall, in a manner that may be detrimental to the interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual."

Mr. Deputy Speaker, Sir, you will agree with the Committee that the phrase; "furthering the interests of an another individual which may be prejudicial to the Republic of Kenya" sounds vague. This is very general language. For example, there are accountants, firms or auditors, who may be auditing books of a foreign organisation in a manner that the disclosure would be prejudicial to the interests of Kenya. There may be valuers who are valuing assets or other individuals providing their professional services to foreign companies or individuals, and the provision of those professional services - if we leave the Clause the way it is - could be deemed to be prejudicial and, therefore, a violation of Clause 13. We thought that this language should be narrowed somewhat. Therefore, the Committee suggested that a proviso be added to Clause 13 to read:

"Provided that this section shall not apply to persons discharging professional duties or to purely commercial transactions."

There may be lawyers, for example, acting for foreign companies against the Kenya Government. Without this proviso, they would be violating this particular clause.

Mr. Deputy Speaker, Sir, with regard to Clause 27, we suggested that there should be added a subclause 3 to specify the period within which clarification should be required, once a public officer has disclosed his assets and liabilities. The reason for this is that if a very long time elapses, one may very well destroy the document that would have provided evidence of clarification. Therefore, it should be incumbent on the particular commission to which the declarations are made to act expeditiously. If they are not satisfied with the declarations, they should seek clarification within a given period of time. We had suggested, perhaps, a period of six months is reasonable.

Mr. Deputy Speaker, Sir, the most contentious recommendation of the Committee is with regard to Clause 29. The marginal note to Clause 29 is "confidentiality of information." In other words, the philosophy and ideology behind Clause 29 which is, perhaps, the most important Clause in the entire Bill is that the Judges will declare their assets and liabilities to the Judicial Service Commission. That information is to be treated as strictly confidential so that even a fellow Judge will not know what a brother Judge has declared. Therefore, a fellow Judge will not know what his brother Judge owns or owes, except members of the Judicial Service Commission. When public servants declare their assets and liabilities, it is only the members of the Public Service Commission who will know what they have declared. For the hon. Members, it is only the Committee which this House will clarify as the Committee in charge of Ethics or maybe create one, that will know what hon. Members have declared. It is absolutely confidential, so much so that the sentence for disclosure is punitive. For example, if a journalist stumbles onto this information and publishes it, the fine will be Kshs2 million or imprisonment for two years. Compare that with the sentence for deliberate distortion and falsehoods in making the declaration. If an hon. Member makes a false declaration, the fine is Kshs1 million or one year imprisonment. So, the thrust of the punishment is against disclosure. Therefore, the question is: What are we seeking to achieve by enacting this Bill if the weight is against any disclosure?

Mr. Deputy Speaker, Sir, I have listened to contributions by various hon. Members, and the Departmental Committee on the Administration of Justice and Legal Affairs is a Committee of this House. It is subordinate to this House. So, it is the decision of this House which will carry the day, and not the views of the Departmental Committee on the Administration of Justice and Legal Affairs.

Mr. Deputy Speaker, Sir, I urge this House, when making a decision, to very dispassionately consider whether to accept the recommendations of my Committee or to retain the provisions regarding confidentiality as they are. Members should address their minds to the policy objective of this Bill. There are two choices. Is the objective of this Bill merely to comply with what the donors are asking us to do in order for us to begin to get aid? Or is the objective the policy decision by us, as Kenyans, to truly confront corruption? If it is the latter, no case can be made for confidentiality. Statistics the world over, show that the media is the most effective organ in the fight against corruption. It is the whistle blower. We have witnessed it even in this country. It was not until the media started talking about the Euro Bank saga that Government officials were galvanised into action. That is the story the world over. It was the media that focused on the wrong-doing by the Nixon administration in bugging the offices of the Democratic Party. The world over, the media has got a special role in the fight against corruption as the whistle blower. So, if truly, our intention is to confront corruption as a nation, we must make this register available for inspection. That way, members of the public will monitor how individuals will be acquiring their wealth. They could, for instance, note that Mr. Muite had only two houses, but after he became a Minister, he acquired an estate. If that were to be the case, would the media not be entitled to inquire how the hon. Member acquired an estate or a fleet of aeroplanes?

Mr. Deputy Speaker, Sir, if such information is kept confidential, the whole purpose of enacting this law will be defeated. In fact, my Committee went further to recommend that, because of the important role the media plays, it should be accommodated. We invited the Minister to look into ways in which he can strengthen the position of the media. The media get hampered by the defamation laws and by the very unreasonable defamation awards given to complainants.

Obviously, we are talking about the public good. In the process of trying to achieve the public good, several factors should be weighed, one against another. In this case, we could be having in mind the reputation of individuals. However, the public interest must always carry the day. Therefore, when you accept a public position, you must accept scrutiny by the media. My Committee felt very strongly that the whole purpose of the Bill will be defeated if we retain the rule about confidentiality. So, we suggest that this provision be amended to read as follows:-

"There shall be a register to be kept by the Commission on all public officers upon declaring

their income, assets and liabilities, which shall be open for inspection."

Mr. Deputy Speaker, Sir, Clause 31, which creates offence, reads as follows:-

"A person who fails to submit a declaration or clarification as required under this part, or who submits such a declaration or clarification or information that he knows or ought to know is false or misleading, is guilty of an offence and is liable on conviction, to a fine not exceeding Kshs1 million or to imprisonment for a term not exceeding one year, or to both."

So, you can see that making a false declaration of what one owns will be a lesser offence than that of publishing this information by a journalist, who runs the risk of two years imprisonment and a fine of Kshs2 million.

Mr. Deputy Speaker, Sir, we thought that if this clause is passed the way it is, and a Member of Parliament is convicted, he will suffer additional liability. As you know, if a Member of Parliament is convicted for one year, he will also lose his parliamentary seat. That will not be a consequence that other public officers will endure. So, specifically, with Members of Parliament in mind, we suggested that the sentence of one year should be reduced to six months. If a Member of Parliament is found guilty of giving a false declaration, and the court decides to jail him, let him be jailed for six months. This provision has practical implications. You will recall that a former Member for Nakuru Town was jailed for only six months for having torn the dress of a former mistress of his, and he did not lose his parliamentary seat. So, we thought that six months imprisonment is quite adequate punishment.

Mr. Deputy Speaker, Sir, with regard to Part 4, we suggested that the letter "s" be added so its heading reads: "courts".

Under Clause 34, we suggested that a new subclause 5 be inserted to read as follows:-

"The investigation by the respective Commission or body to which an investigation has been referred shall remain confidential in accordance with Section 36."

What the Committee had in mind here is that, if the Commission feels that it should refer the declaration for investigation, before such investigation is complete, it should be prejudicial for that particular person to have it broadcast that he is being investigated. It may as well turn out, after the investigation, that that person is innocent.

Therefore, we also included a new subclause 6 to read as follows:-

"Any person who contravenes that requirement of confidentiality regarding investigations should be liable to imprisonment if convicted."

If you look at Clause 35, you will realise that this Bill gives a lot of powers to the various commissions.

Specifically, Clause 35 reads as follows:-

"If an investigation discloses that the public officer has contravened the Code of Conduct and Ethics, the commission shall, within the time period prescribed by subsection 2(a), take whatever disciplinary action it considers appropriate."

It is this sort of open-ended power that is susceptible to abuse. So, we suggest that this clause be amended by replacing the words "whatever disciplinary action it considers appropriate" with the words "such disciplinary action as may be prescribed by regulations".

If we leave the proposal contained in this Bill to stand, the House Committee responsible for ethics for Members of Parliament, for instance, may decide to deprive a Member of Parliament of his emoluments and salary for two years. The Members of that Committee can say that, that is the disciplinary action they found appropriate. Really, that would not be fair if it were to happen. Where you talk about punishment, people have a right to know in advance, the various punishments that can be meted out to them. So, we suggested that the Minister comes up with regulations to govern what disciplinary action should be taken against the different categories of public officers.

Under the First Schedule, we suggest that we add paragraphs 5 and 4 in order to cater for the Electoral Commission of Kenya, which has been omitted from the Schedule, as well as the staff of the National Security Intelligence Service, who have been omitted. So, these two institutions should be included in the Schedule.

Mr. Deputy Speaker, Sir, I would, therefore, urge hon. Members to consider adopting this Report as it is. Of course, the Committee is subordinate to this House. I have listened to some very good contributions by hon. Members. So, I would urge the Minister for Justice and Constitutional Affairs to give serious consideration to the very valuable contributions made by hon. Members and, if he finds it appropriate, try and develop a consensus or a bipartisan approach. From what I have heard, it is clear that both sides of this House want to support this Bill, subject to amendments.

So, perhaps, the way forward is for the Minister to consider remitting this Bill to the Committee on Administration of Justice and Legal Affairs, so that all the views that have been expressed by hon. Members can be considered, and so that we can come up with a Bill that enjoys bipartisan support of this House, so that we can



pass it.

I beg to support.

**Mr. Angwenyi:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this important Bill. I wish to proceed from where the previous speaker stopped. Time has come when there should be consultations between the two sides of this House before a Bill is drafted and published. I would urge the Ministers concerned to first seek the input of some of the Members of Parliament, before a Bill is published. If we do that, we will take interest and transact more business in this House.

Mr. Deputy Speaker, Sir, the Bill before us is very important. But the Bill before us, important as it might be, will require a change of attitude of Kenyans. The laws that we are going to enact through this Bill are in some of our ordinary statutes and even in the Constitution. In fact, Section 4 of the Constitution does provide that we respect and defend various rights of the citizens of Kenya. But what has happened most times is that we do not protect and defend the rights of Kenyans. As you know, if there is an incident in the area which you represent--- Maybe, a policeman is attacked and the General Service Unit (GSU) is sent to that area; the GSU will transgress every law in the book. They will rape, steal and destroy peoples' property, maim and even kill in complete transgression of Section 4 of our Constitution. So, what I am trying to advocate is: Are we able to change the attitudes of Kenyans, especially those who hold high positions in the Government and public service.

Mr. Deputy Speaker, Sir, the definition of a public officer has been confined to people who work in Government related activities. But in modern days, most of the work in the country is done outside the Government. Some private organisations are larger than the Government. The General Motors Corporation of America is larger than all the governments in Africa. So, if we were to enforce the Code of Conduct and Ethics for public servants only, a larger proportion of our citizenry will be left out of following the same Code of Conduct and Ethics.

I would, therefore, propose to the Minister to consider expanding the definition of a public officer to include those people who serve a large number of Kenyans. They either work in companies listed in the Nairobi Stock Exchange (NSE) or in large private companies which are not listed in the NSE.

Mr. Deputy Speaker, Sir, if you look at Section 8 Sub-section (c), it states that a public officer will maintain and improve standards. Are we going to have performance targets set for every activity that we do in this country? Are we going to have performance targets for Members of Parliament - that they must transact so many enactments in a year or month, before we can know whether they are improving their performance or not?

Mr. Deputy Speaker, Sir, the other aspect that I would like to touch on is Harambee. The original spirit of Harambee was beneficial to our country. But as we have come to learn, Harambee is a very inefficient method of developing our country. Harambee is very inefficient and a form of taxation of the citizens of our country. First, in Harambees, you do not follow proper rules as to how you raise the funds and how you are going to manage them. Secondly, Harambees encourage corruption. I know, if you want to conduct an Harambee to build a hospital or a dispensary for the needy people in Mwingi South and you come to me and I give you Kshs1 million which would complete that dispensary, it would be very difficult to prosecute me, even if I committed a crime and came before you! That is because you will be thinking about the people that I have helped in your constituency; the people who are suffering from various illnesses, and who can get assistance in that hospital. The Harambee system that we have in this country encourages corruption. The Harambee system that we have in this country discourages people from following their religious doctrines. I have had an occasion where I saw somebody who stole money from the Nairobi City Council and he was arrested, taken to court and released on bond. The same day he was released on bond, he went and raised money for a church in Kisii. All the church people prayed for him and asked God to allow him to take more money from wherever he got it! That was money stolen from Nairobi City Council. So, the Harambee system does not only encourage corruption but, actually, makes people to go contrary to their religious beliefs. The Harambee system that we have got in this country does, in a sense, go against our religious beliefs.

Mr. Deputy Speaker, Sir, the other section that I would like to touch on is one that deals with the protection of public property. This Bill does not say what will be done to the President if he decides to go to Harambees, or if he dishes out public property. I am thinking about that because in 1969, the Government of Kenya had 5,191 housing units in this country. Public servants could live in those houses without paying rent and the Government was not paying any house allowance. But the previous Government dished out those houses and I believe now that there are less than 1,000 in the entire country! About 5,000 units have been dished out to individuals and not even at market prices. They have been dished out for free. Sometimes, you could get one person getting one, two or three houses in Milimani, Upper Hill or Kileleshwa. So, what are we going to do to a President or a senior person in public service who dishes out Government property? As you know, most of the Agricultural Development Corporation (ADC) demonstration farms have been dished out to individuals. Some of

the forests have been dished out to individuals. That has been done legally or constitutionally for that matter. How are we going to handle that aspect, where we give powers to an individual, or to a few individuals, to dish out public property as they wish? So, what will this Bill do? It will not change the constitutional provision which allows an individual or a group of individuals to dish out public properties without regard to their value or their public use.

Mr. Deputy Speaker, Sir, Clause 16 of the Bill talks about nepotism. I wish this section was enacted a few months ago, because in the recent months, Ministers have been firing people from their Ministries, and, with a few exceptions, they have been appointing home boys to those positions. That is nepotism. These jobs are not advertised. For example, if an officer has been fired from the Kenya Power and Lighting Company, and the Minister wants to follow the meritocracy, he should advertise that job instead of appointing a home boy to that position. If the previous regime made mistakes, do we have to make the same mistakes? We must make a difference.

Still on nepotism, whether or not a person is related to you, he is entitled to competitively seek a position in your organisation. If your relative gets a job in your organisation competitively, then that is not nepotism. So, we may need to define what nepotism is. If people are appointed to senior positions in particular organisations, they employ in those organisations people from their communities, religion, friends and gender. So, we need to define nepotism and favouritism.

Mr. Deputy Speaker, Sir, the Bill will require public servants to honour their financial obligations. You may enter into an obligation with a financial institution, but financial institutions in this country have become reckless. They change their interest rates without informing you; they charge penalties without informing you, and they make reseriving of loans go beyond borrowers' reach. Would the Government undertake to maintain reasonable interest rates and penalties for people who fail to honour their financial obligations? This is a very bad clause. For example, if I own a bank and I do not like a certain hon. Member of Parliament, I will advance him a loan of Kshs1 million at an interest rate of 10 per cent. After two months, I will increase the interest rate to 20 per cent and the hon. Member will begin failing to service the loan. When he fails to make the repayments, I will charge him penalties of 40 per cent, so that the total interest rate that he will pay will be 70 per cent, instead of the original 10 per cent that we had agreed upon. So, to enforce some of these clauses, we must require the private sector to abide by a certain code of conduct in their operations. Clause 21 of the Bill talks about integrity. Integrity will be required of everybody in the country. It will be required of the President, Ministers, hon. Members of Parliament, senior Government officials, down to office messengers. Last week, it was reported in the newspapers that a group of officers, some of them messengers, at City Hall have been used to a system of carrying out of their offices, Kshs10 million a day. These people are not Presidents, Ministers, hon. Members of Parliament, Permanent Secretaries or Judges, but they did not portray integrity. We must require everybody in the country to behave with integrity. We must change our attitudes, so that integrity becomes a virtue we all aspire to attain and maintain.

Mr. Deputy Speaker, Sir, the last general election was declared as being free and fair. But how can you have free and fair elections in a country where there are large population disparities between constituencies. For example, Embakasi Constituency has close to 200,000 registered voters. There are constituencies in this country which have 3,000 to 5,000 registered voters. How fair is it that 200,000 people are represented by one person and another 5,000 are represented by one person? So, for us to have free and fair elections, we must work out a formulae to ensure that all votes in Kenya carry the same weight. This will require us to adjust our constituency boundaries after every five years. We should take into consideration, migrations and population growth. We should ensure that all Kenyan voters are equal.

The Bill will also require public officers to declare their wealth as well as the wealth of their spouse or spouses. A spouse is an adult, who can pursue his or her own interests. Why would she be required to declare her wealth as if she is a public servant when, in fact, she could be in the private sector? An ordinary Kenyan is entitled to all the rights every other Kenyan enjoys. If you are required to declare your wealth because you are a public servant, will your spouse, who might be in the private sector, be required to do so? Unless people in the private sector are required to declare their wealth, spouses who are not in the public sector should not be compelled to do so. This is discrimination. If your wife or husband is the managing director (MD) of the Kenya Breweries Ltd, and you are a mere Back Bencher like myself here, your spouse is not supposed to declare her wealth. Mr. Angwenyi, who earns Kshs300,000 is required to declare his wealth, and his wife who is the MD of the KBL, and who earns Ksh5 million per month is also required to declare that Kshs5 million per month. Will that be fair? Why should spouses be compelled to declare what they should otherwise not be required by law to declare? The only way you can go around this is to require every worker in Kenya, whether in the private or public sector, to declare their wealth. It is only then that it will be sensible to require spouses who are in the

private sector to declare their wealth. It is good that we must pass these laws, but I would like them to state how they will make Kenyans adhere to them. This afternoon, a Question was asked about the sugar industry, where directors of certain sugar companies have, in complete disregard of the law, decided to pay our farmers very little money for the cane delivered. The money they pay to the farmers is far below what has been set by the law. These directors do this with impunity. The directors are doing this, and yet the Government is not catching up with them. The Government knows that these directors are committing those crimes, but it is not doing anything about it. This is happening because of our attitude, or the attitude of the Attorney-General that these big people can break the law and get away with it. But if it was the small farmer who had committed such an offence, he would be in jail by now. So, we must find a way, and I want to stress this, of inculcating into the minds of Kenyans, the importance of behaving with integrity and conducting themselves ethically.

Mr. Deputy Speaker, Sir, we have gone through Parliamentary Reports, where some of the professionals have committed crimes. There is one case where a lawyer did a transaction with one of the Government parastatals and was paid Kshs264 million. He was paid this amount of money for writing a letter in ten minutes. We have seen companies going under, like the Euro Bank, and yet they are audited by professional accountants year in, year out. These accountants do not raise a "red flag" when they realise that these banks are about to go under with peoples' money. What we are saying is that if the professionals cannot behave with integrity or conduct themselves ethically, how do we expect the rest of Kenyans to do that?

I wish we had started with the professionals. We should have started with the engineers who certify shoddy jobs and come up with fake plans of public land. I wish we had started with the people whose names were in the "list of shame". We should inculcate that culture to the rest of Kenyans. As you know, public servants in Kenya have got the Code of Regulations which states how they should conduct themselves. But you have seen in recent weeks, in this Parliament, Parliament questioning the behaviour and the conduct of certain officials of the Government and nothing happens. Why can we not study those cases? Why can we not start inculcating that culture by pursuing those people; people who have conducted themselves unethically; people who have not conducted themselves with integrity and people who have been found to have been less than discharging their duties by acts of omission or commission?

This country can only regain its fame and economy if we conduct ourselves in a better manner. I wish we had demanded in this Bill that if you are adversely mentioned, you resign from your job. Let investigations be done and when they are complete and you are found to be clean, you resume your job, but if you are not clean, you stay out and if you have committed an offence, you are pursued and charged in a court of law. If we do that, even this Parliament will respect the judgement by courts. Recently, I saw in this Parliament, people questioning the integrity of a public officer who had been arrested, charged in a court of law and found innocent. Hon. Members were saying that this man was corrupt and yet he had been absolved of corruption in a court of law. Until we change our attitude in this House, it will be very difficult to enforce these ethics. I can declare my wealth or my liability, but if I take something small to the person who is likely to pursue me, he will not pursue my case. If I am taken to a court of law and I give something small, it will set me free. Unless we reform most of our institutions, it would be very difficult to enforce the rules and the laws we are enhancing in this statute.

The other section that we should deal with is on the performance of the Executive. Year in, year out, the President creates Ministries in complete disregard of the interest of Kenyans. If Angwenyi becomes his friend, he creates a Ministry and appoints him the Minister. If Mr. Angwenyi's community complains, he creates a Ministry and appoints him a Minister to satisfy that community. This Parliament---

**Mr. Muite:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Mr. Angwenyi to really cast all the blame and aspersions on the President, when he is aware that it is the failure of this House to create and fix the number of Ministries as required of it by Section 16 of the Kenya Constitution? Is it in order for him now to put the blame on the President when it lies with us?

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, the hon. Member has said what I wanted to say; that, this House has not conducted itself ethically. If this House acted ethically and conducted itself in the manner it should, then we should have demanded under Section 16 of the Constitution of Kenya, to establish the Ministries. We should say that the number of Ministries will be ten, 50 or 200 so that everybody is a Minister and we do not have these grudges and quarrels, but we have refused to do that. Actually, we are acting unconstitutionally.

*(Applause)*

I am saying that if this august House is unable to conduct itself well, why do you expect the rest of Kenyans to conduct themselves well? Why do you expect them to follow the law when we have refused, in this House, to follow the law, especially in the current environment when the President says that he wants to empower

Parliament? The President wants Parliament to do its job and we have failed to do our job. We should have demanded to vet some of these appointments, but we have not done that. We are scared of doing that. Let us pass this law because I do not think we will get a new Constitution in the next two or three years.

Mr. Deputy Speaker, Sir, with those few remarks, I would like to support this Bill.

**The Member for Molo** (Mr. Mukiri): Mr. Deputy Speaker, Sir, my names are Macharia Mukiri. I am the Member of Parliament for Molo. I have struggled for the last two weeks to catch your eye and I am quite grateful to you for giving me a chance.

Mr. Deputy Speaker, Sir, I support this Bill but with some reservations. The spirit of the Bill is quite good because it is an extra stone that we are throwing towards killing this monster called corruption. Corruption has permeated all the avenues of our lives and it is a cancer that we need to remove from our society. It is a cancer that needs to be stamped out. The only way that we can do this is by enacting a Bill like the one that is in discussion.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, the reason why we are debating this Bill and fighting to implant other Bills like the Kenya Anti-Corruption Commission Bill into the Constitution is because over the years, the officers who have been given the responsibility of carrying out their public duties have failed this country. If the Office of the Attorney-General was performing its work as it is supposed to, we would not be here discussing the Kenya Anti-Corruption Commission Bill and the Public Officer Ethics Bill.

The holder of that office has failed this country. We have seen people being charged with corruption. We have seen some people being left out just because they are friends of the Attorney-General or the system and it is because of this fact that this culture of corruption cannot be removed from our system.

Mr. Temporary Deputy Speaker, Sir, this culture of corruption cannot be removed from our society. I ask the holder of that office, to give up his job in public interest. I am saying that because if you look at the Goldenberg scandal, we only have one person who is being followed for more than ten years. We have heard of Ministers taken to court and the following day, they tell you: "I know that I am going to be free." Sooner or later, we find that these people are on the streets smiling and laughing at us. I would ask the hon. Attorney-General to give up his position to more qualified Kenyans - the people who are ready to serve the mandates which they were given by Kenyans.

Mr. Temporary Deputy Speaker, Sir, the office of the Attorney-General is a constitutional office but at the moment, we have a constitutional crisis there. You cannot be able to know whether it is the Attorney-General or the Minister for Justice and Constitutional Affairs who is carrying the day. The other day, we saw the members of the Electoral Commission of Kenya (ECK) trying to assert their independence. When the hon. Attorney-General was asked by Members of this House to say what his position was on the matter, he just came here and said that he is within his powers to be a subordinate staff to the Minister for Justice and Constitutional Affairs---

**The Attorney-General** (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that, I said it is within my powers to be a subordinate to the Minister for Justice and Constitutional Affairs? The HANSARD Report will bear me out. I did state in very clear terms that the Attorney-General of the Republic of Kenya is an independent office, and in accordance with Section 26 (7) of the Constitution, I am not subject to any authority or person. That is what I said here and not what the hon. Member is alleging.

**The Member for Molo** (Mr. Mukiri): Mr. Temporary Deputy Speaker, Sir, I do not know whether that was a point of information or a point of order---

**The Attorney-General** (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, it was a point of order because you are deliberately misleading this House on what I stated.

**The Member for Molo** (Mr. Mukiri): Mr. Temporary Deputy Speaker, Sir, I think my reply to that would be that, maybe, the Constitution gives the Attorney-General a lot of powers, but let us see him exercising those powers.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, it is because of this selective prosecution of some people and the

implanting of corruption in our society that you see most of these institutions dying. I come from an area where we plant pyrethrum and because of corruption, the pyrethrum industry has collapsed. We have seen farmers working very hard throughout the year but since May last year, none of them has received a penny.

The other day, we read in the newspapers that some of the officers from the Pyrethrum Board of Kenya had deposited Kshs159 million in a bank. Now, we are told that the money is lost, whereas the farmers right down at home are not able to feed their children; their children do not go to school and they are drinking tea without sugar. This is all because of corruption.

Mr. Temporary Deputy Speaker, Sir, I wish to submit that the Pyrethrum Board of Kenya is a den of corruption. I think if we have laws of this land and we are asking the hon. Attorney-General if that is within his docket, he should move to the Pyrethrum Board of Kenya and make sure that all those officers who have been "eating" farmers' money and selling their land are taken to court.

Mr. Temporary Deputy Speaker, Sir, I have looked at the Bill in question. Though I said that I am going to support it, I believe that there are some few areas which need to be amended. Section 2 of this Bill describes who is a public officer. However, if you look at it, it has left out so many other sectors of our economy and other people. I think that during the Committee Stage, I will make a suggestion that other players of the economy in this country should be brought within the purview of this Bill.

I remember very well during the State Opening of Parliament, the President said that he was going to reform the *matatu* industry. That is one of the areas which I would request to be brought within the purviews of this Bill. We know the *matatu* industry is a menace. We know what happens on our roads in this country. I think that if we are going to leave out some of these sectors and not control these people, at the end of the day, this Bill will not serve the purpose for which it was to be enacted.

Mr. Temporary Deputy Speaker, Sir, Section 3 which is the one that deals with Members of Parliament, states:-

"The Committee of the National Assembly responsible for the ethics of Members is the responsible Commission for Members of the National Assembly."

In the same Section 3(6), the duty of commissioners who are supposed to be taking or regulating the councillors is left to the Electoral Commission of Kenya (ECK). I think it is not right because these are politicians. We should create a separate body to regulate the ethics and conduct of councillors, so that we do not leave it to the Electoral Commission of Kenya which has a lot of work to do. I think it would not be proper to expect it to regulate the ethics and conduct of councillors because it will not have enough time.

Mr. Temporary Deputy Speaker, Sir, if you look at Section 4 of this Act, it deals with the code of conduct and ethics. This leaves the duty of making the law to a separate body, not Parliament! I think it is important that when the codes of ethics are established, these powers should be left to Parliament. We should not leave them to another body, because if we do so Parliament will not have the powers to regulate what the other body will prescribe.

Mr. Temporary Deputy Speaker, Sir, with regard to the code of conduct, there are several areas where you find the Act stating that the code of conduct should be made by various organs that govern separate public officers. This duty should not be taken to somebody else, but should be left to Parliament.

Mr. Temporary Deputy Speaker, Sir, I support Section 10 of this Bill which deals with improper enrichment. This section tries to stop public officers from using their offices unjustly to enrich themselves. I think this is a very important section because it also touches on what His Excellency the President said when he made his inaugural Speech. It is very important that public officers become honest. It is very important that elimination of corruption should start from the top. In this respect, I would like to ask hon. Members that, those people who have unjustly enriched themselves from the former regime should give up what they have taken from the people.

Mr. Temporary Deputy Speaker, Sir, the other time, I saw two Ministers; hon. Maitha and another Minister in Machakos, giving up what they had taken from the people about five years ago. I am asking hon. Ministers to do the same. For instance, if you go to my constituency, you will find a very big chunk of land which belongs to Agricultural Development Corporation (ADC), and at the moment, it is in the hands of a Minister. People at home are questioning about it because in my constituency, there is no electricity; but we have a power line which traverses the whole constituency for about 70 kilometres and it goes directly to this farm. I think that is unfair.

Mr. Temporary Deputy Speaker, Sir, when we are discussing this Bill, we should also look at ourselves as Members of the Cabinet. If we know that we have unjustly enriched ourselves, we have time to go for "public cleansing", so that we return whatever we had taken from the people. Let us not tell the people that we are fighting corruption, let us not tell the people to give up corruption practices when, at the same time, we are keeping what we had taken from the people.

Mr. Temporary Deputy Speaker, Sir, Section 12 outlaws public officers from soliciting Harambee funds. My view is that the Harambee spirit was very good at inception, but it has been abused over the years. Very many hon. Members have talked about it, but my view is that instead of taking half measures to ban Harambee, we should ban it completely. If you look at this Section it says:-

"A public officer shall not use his office or place of work as a venue for soliciting or collecting Harambee".

This Section is very narrow. It only says that an officer should not solicit for money when he is in his office or at a place of work. What would happen if this officer went out of his office to ask for Harambee funds? Would that be perfectly in order? I think the spirit of Clause 12 is to stop officers from engaging in acts of corruption. If you tell them not to solicit money in their offices, then it means that outside their offices, they can ask for the money. This defeats the whole purpose of Section 12.

Mr. Temporary Deputy Speaker, Sir, I also have a problem with Section 14. It is with regard to a public officer taking care of property. That Section is very narrow. For example, if a councillor is told by the Minister for Local Government to allocate a certain individual some property, what is he supposed to do in such circumstances. Most of the property that has been grabbed in this country--

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Could you use some other acceptable word other than "grabbing".

**The Member for Molo** (Mr. Mukiri): Mr. Temporary Deputy Speaker, Sir, I said that "grabbing" of public land was done on orders from above. I hope you all know what grabbing means.

**The Temporary Deputy Speaker** (Mr. Poghisio): Are you referring to grabbing as people taking away land from the public?

**The Member for Molo** (Mr. Mukiri): Mr. Temporary Deputy Speaker, Sir, I think it means the same thing. The point I was pursuing is, for example, if you are a councillor and the Minister for Local Government tells you to give certain individuals plots, you do not have powers to protect yourself under Section 14. The Minister or the Attorney-General should look at that section and find out ways of protecting such officers. Most times, they are told to allocate those properties by the senior officers. So, if they do not do it, they lose their jobs.

Mr. Temporary Deputy Speaker, Sir, Section 16 has left out a very important aspect of our life today. It has not talked about tribalism. I do not want to talk too much about Section 16 because other hon. Members ably talked about it, but I think it is important that when we are talking about nepotism or favouritism, we should include tribalism, so that at the end of the day, we do not have an Act of Parliament that has left out very important aspects of our society.

Mr. Temporary Deputy Speaker, Sir, I feel that Section 29 is the undoing of this Act. I do not know why the Minister decided to introduce Section 29. If you look at it from Sub-section 1 up to Section 5, the purpose of this Section beats the spirit and the purpose of this Act. The aim of this Bill is for people to be transparent, accountable and be able to declare their property. Section 29 actually criminalises anybody who goes out and gives information on a person who has already declared his wealth. It gives a very heavy penalty of Kshs2 million. If you look at sub-section 4(b), it makes it very difficult for somebody to obtain this information from the Commission. Section 4(b) says: "A person has a right by an order, of the judge of the high court---" What it means is that if you want to get information from the Commissioners, you must go to the High Court. We know how expensive it is to go through the legal process in this country.

We know how tedious it is to obtain a court order, especially if you are a common man. I think that this Section is making it very difficult for people to declare their wealth. In fact, it is punishing people who are supposed to be helping the Act.

I also have a problem with Clause 32(1). Clause 32(1) takes away the powers of Parliament to make laws on administrative procedures. At the end of the day, we will have an Act of Parliament that does not have a code of conduct and ethics. We will be sitting here making laws that we do not understand because after passing this Bill, we will relinquish our powers to other bodies. I think that our aim here is to make laws that will be followed by the people of Kenya; laws which we will be able to scrutinise. The spirit of the Act is very good. I wish to say that if we incorporate the several amendments which have been suggested by other hon. Members and I, it can be a very good Act.

With those few remarks, I beg to support the Bill, but with reservations.

**The Member for Kipkelion** (Dr. Rutto): Mr. Temporary Deputy Speaker, Sir, I would also like to contribute to this Bill. Since this is my maiden speech I would like to introduce myself. I am Dr. Sammy Rutto, the Member of Parliament for Kipkelion Constituency. I would like to take this chance to thank my constituents for giving me the opportunity to serve in this capacity. The spirit of the Bill, as the MP for Molo said, is quite good.

The intentions are also good. What seems to be coming out very clearly is the point that the scope is not sufficient. The contents also need some revision of style and depth. The Public Officer Ethics Bill has come to us at a moment that is appropriate because it recognises the need to induce ethical behaviour in Kenya's public officers.

The need to induce ethical behaviour has been discussed widely by Members of this House. In other words, this need manifests itself in various habits, practices and attitudes which public officers have shown in their work or responsibilities.

This Bill has come at a moment when Kenyans require change. Therefore, all of us should try and support this Bill.

Mr. Temporary Deputy Speaker, Sir, my colleagues have talked about inefficiency and ineffectiveness demonstrated by public officers. They have talked about negligence of duty, where public officers report late to work and they do not take their work seriously. Some show little commitment to their work and engage in deliberate omissions to delay their tasks. This practice emphasised the need for an ethics Bill in this country.

Quite a number of us have alluded to the fact that both officers in public and private sector require an ethics Bill. They should behave according to certain standards. I want to join the chorus to support the fact that there is need for ethical behaviour among our public officers.

Mr. Temporary Deputy Speaker, Sir, we, as Kenyans, have witnessed wanton waste of resources through allocation of public funds. We have witnessed wastage of resources through misappropriation of funds and extravagant expenditure. Public officers run many vehicles, some of which may not be necessary. They give some to their secretaries, messengers and girlfriends. These are vehicles that are maintained by public. I think there is the will in the House to bring to an end, some of these habits.

Mr. Temporary Deputy Speaker, Sir, the allocation of funds to white elephant projects is among the factors that justify the introduction of this Bill. Such acts of lawlessness, abuse of basic freedoms and rights, and acts of torture call for the introduction of this Bill. It is unfortunate that recently, we were treated to acts of torture committed by officers in the previous Government. Also, irregular tendering is among habits and bad practices that make us introduce the Bill. In fact, we need to see our public officers behaving ethically.

Mr. Temporary Deputy Speaker, Sir, some of the public officers use their offices to enrich themselves. Kenyans have decried this behaviour for a long time. It is now time for us to do something positive about it.

Mr. Temporary Deputy Speaker, Sir, we have also witnessed a deterioration of professionalism among public officers due to non-adherence to proper work ethics or guidelines on professional behaviour. You will find people who hold public office acting in complete disregard of the values and principles that enhance professionalism. They report to work late, hang their jackets on chairs and leave the office to attend to their private matters, and yet continue to draw salaries. This is the behaviour we are referring to as unethical. Other unethical practices include, among others, theft of public resources and use of public cars for their own private business. We have time and again discussed cases of administrative incompetence and corruption. We are talking about situations where public officers discharge duty below the expectation of the public, high-handedness, unfair promotions, inappropriate distribution of resources and opportunities through nepotism, unethical decisions and choice of policy on the basis of tribalism, racism and sexism, irresponsible behaviour among public officers, lacking care and commitment and running down facilities without ever attempting to effect due repairs. If you visit public institutions, you will find a lot of property that has been run down due to lack of repair.

#### QUORUM

**Mr. Salat:** On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House.

**The Temporary Deputy Speaker** (Mr. Poghiso): Mr. Rutto, are you making your maiden speech?

**The Member for Kipkelion** (Dr. Rutto): Yes, Sir.

**The Temporary Deputy Speaker** (Mr. Poghiso): Proceed.

**Mr. Salat:** What about my point of order, Mr. Temporary Deputy Speaker, Sir?

**The Temporary Deputy Speaker** (Mr. Poghiso): I have noted your point of order, Mr. Salat. Let the hon. Member on the Floor complete his contribution.

**The Member for Kipkelion** (Dr. Rutto): Mr. Temporary Deputy Speaker, Sir, I was talking about the justification for enacting laws to address ethical issues among public officers. I was saying that sometimes, you visit public institutions and find public property run down because of poor state of disrepair, not because there is no money to repair the property but rather because the money meant for that purpose is channelled elsewhere. So, we are saying that it is such habit that makes this Bill justifiable.

We are talking about the contemptuous manner in which public officers deal with members of the public.

You can go to a public office and find that there is nobody to attend to you. You go to a hospital and learn that doctors and nurses take tea as somebody dies on the queue. That is complete negligence. We are talking about the failure by public officers to recognise the fact that they are not bosses but rather servants of the public. This is the attitude that this Bill, at the background, decries and says that we should change. We are referring to the intolerant manner in which public officers deal with members of the public; they often regard themselves as bosses rather than servants.

So, the introduction of the element of ethics in the conduct of public officers is important. It means, therefore, that by introducing this Bill, we are seeking to enhance the performance of the Public Service. Secondly, we seek to enhance Civil Service management and control of public resources. In other words, we are acknowledging the fact that sometimes, public officers behave as if there is no control over them. By enacting this Bill, we are saying that we are going to put control in the behaviour of civil servants. Thirdly, we are saying that, in enacting this law, we are seeking to enhance accountability and responsibility among public servants. In other words, we are saying that we want to have confidence in our public servants. We want to trust them in what they do. We want them to be accountable. We want them to be truthful in what they say and do. So, an enactment of such a Bill goes a long way towards improving our confidence in the public service.

There is something which I think is questionable. How would ethics do that? Perhaps, we need to understand the fact that ethics would have an effect of inducing caring attitudes. We are saying that, for sometime now, the public services that we get from those entrusted to serve the public are wanting. We are saying that we need them to be more careful, caring and positive towards serving the *wananchi*. Now, ethics, as we see in this Bill, contain rewards and penalties that are associated with enforcement of rules of conduct. We are saying that ethics have a role of motivating us to behave according to certain given standards. Ethics also encourage an effective appreciation of moral value in the conduct of human life.

What we seem to be accepting is that morality had deteriorated in public service. We are saying: "Let us bring ethics back, so that we can appreciate the role of moral value in the conduct of human life." Now, morality, so to speak, is a fundamental feature of our basic humanity. When we behave immorally, we are degrading ourselves as human beings. We are behaving at a lower level. In other words, brainity is something that distinguishes us from the beasts in the world. By insisting that we put ethics in our conduct, we are saying that we need to be more human in the way we behave and in the way we conduct our affairs. What we are saying is this: To require that we behave morally, is to say that we behave in a more human way. We are insisting that requirement of ethical behaviour among public officers, is merely to tell them to put in practice, an important element of our basic humanity; that is to behave morally. Note that human beings are humans, partly to the extent that they are moral. When morality decays, then we fall short of being human.

So, this Bill derives its importance from that basic fact. We are saying that as human beings, public officers ought to behave as human beings. The practice of morality that this Bill seeks to enforce, adds value and dignity to our life and public service. Therefore, commitment and care are straits of desirable performance at work, and are enforced by the value we attach to the tasks in our hands. We are saying that public officers should embrace morality in that respect.

Mr. Temporary Deputy Speaker, Sir, observance of ethics enhances economic growth. I do not need to emphasise on that point. It enhances economic development and improves efficiency that should accompany accountability and transparency. It encourages growth of an economy and enhances fair distribution of resources, and reduces wastage. We have acknowledged in this House that wastage is rampant in our public institutions.

Ethics give us direction. In other words, I am saying that if we enact this Bill, we will give ourselves some sense of direction, that we have lost as a society. So, ethics give us direction to decide where our habits, practices and attitudes should be directed to. To me, the timing of the Bill is good. We should pass it. We should enact a Bill that enhances our ethical behaviour as a nation. Kenya is going through hard economic times, and we need a sense of control in the way we conduct our economic affairs. If our economy is to grow, we need to put in place, rules that will enhance economic progress.

There is need to manage available resources efficiently and effectively, hence there is need to put in place a workforce that is supportive of a "bed-ridden" economy.

*[The Temporary Deputy Speaker  
(Mr. Poghiso) left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

Mr. Deputy Speaker, Sir, there is also need to pass the Public Officer Ethics Bill at this point. There is



need to encourage a more patriotic approach in the management and use of public resources. For a long time, public officers have taken public property as *mali ya umma*, or property that can be vandalised with impunity. They have taken public property as property that does not belong to anybody. That unpatriotic behaviour should be put to an end. Through a Bill such as this one, we should seek to encourage more patriotism in our public officers. There should be an encouragement of a more patriotic approach to the management and use of public resources.

The other point I want to raise is that there is need to nurture a public officer who is more proactive in combating the ills of declining morality in Africa or in the world. So, this Bill should be supported for this reason. There is need to equip public officers with the capacities and attitudes of accountability, responsibility, fairness, justice and a sense of servanthood, rather than a sense of lordship. There is need to develop a public service that is driven by purpose, intentions and acceptable standards of conduct. This Bill is timely. That is why I have said that its spirit is good. It is intentions are good and, perhaps, what we may question is its content.

I would like to make specific comments on some sections of the Bill. A lot has been said about the scope of the Bill. It has been said that the Bill should encompass a wider scope. The depth of the Bill has also been put to question. Perhaps, I should say something about this Bill with a light touch. The style in which this Bill has been written is wanting. For instance, this is not a document of this Century, but it is a document of the previous Century, in the sense that it is sexist. In other words, this Bill has been written for a male public servant and women are not supposed to abide by it. In other words, there is a lot of reference to sexist terms. I am saying that a Parliament of the 21st Century should draft a Bill in a manner that is not sexist. I would like to prove my observation. On page 73, it talks about "his", "he", "himself" and so on. For instance, Part III of Section 7 says:-

"A public officer shall to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly."

Section 8 reads:-

"A public officer shall-

(a) carry out his duties in a way that maintains public confidence in the integrity of his office;

(b) treat the public and his fellow public officers with courtesy and respect;--"

As a Parliament which is guided by current ideas or reality, we should take care that we do not propagate sexist ideas and attitudes in a document of this nature. We should move towards better development of appreciation of social realities as a Parliament. So, that is one issue which should be looked into. Perhaps, when we re-write some of the sections, I would really like to urge the Government to eliminate sexist reference.

Section 12 of the draft Bill talks about Harambees. A lot has been said about Harambees, but I think the Bill does not say that we stop conducting them. Section 12 says:-

"A public officer shall not-

(a) use his office or place of work as a venue for soliciting or collecting Harambees;

or--"

I think that is quite in order. The subsequent sub-sections are quite in order too. However, I do not support the idea that we should do away with Harambees altogether. This is because Harambees have helped us in various ways as a nation to speed up our development. Perhaps what we should do about Harambees is that we should subject the collections to audit. We can discuss that, as a House, on the introduction of audit in Harambee funds. Secondly, we should check on the manner the Harambee money is collected. Harambees are good, but we are saying that the manner in which the funds are collected is not good. We should revisit those areas which we think are not good or erode the role of Harambees in this country. For example, Harambee to raise funds for hospital bills for those who are unable to pay should be encouraged. I think it is a good gesture by the public that we should not try to destroy. Harambee to raise money for school-going children who do not have sufficient funds or children who come from poor backgrounds, should be held. In other words, Harambee funds for supporting bursaries for school-going children is something that should not be stopped and it should continue. I am saying that we should, perhaps, introduce certain regulations to check the abuse of the Harambee spirit, rather than doing away with it completely.

Mr. Deputy Speaker, Sir, Section 14 of the Bill also talks about public officers money. In rewriting some of the sections of this Bill, particularly Section 14, we should expand the scope. Property should also include things like water resources, for instance. Those public officers in the Ministry of Water Resources Management and Development, for example, allow the wastage of water resources through, perhaps, mismanagement of the environment that produces rivers. We are saying that we should expand that section not just to include property but to include public resources like water and air. If you drive along our highways, you find vehicles polluting the

air with impunity, yet we have environmentalists and offices in the Ministry of Environment, Natural Resources and Wildlife that are supposed to be taking care of our environment. We are saying that air is a resource that also requires to be taken care off and the Bill should include those areas. Minerals and forests are resources that cannot be defined as property.

Mr. Deputy Speaker, Sir, I would like to mention something also that the Bill does not seem to be taking care of and this is the enforcement of the principles of the Bill. Hon. Mutula Kilonzo yesterday expressed surprise that this Bill has no provision for enforcement in the law. The Memorandum of Objects and Reasons, Part 3 provides model principles of ethics and conduct called guiding principles. These principles themselves have no enforcement in law. When such an enactment has no enforcement of the law, then it is just as good as nothing. I think hon. Kilonzo emphasised that point and I do not need to belabour on it again.

Mr. Deputy Speaker, Sir, however, the point that I wish to mention with regard to enforcement of the principles of the Bill is this: There seems to be no provision for the public to participate in the enforcement of the principles of the law. For example, if I am sexually harassed by some public officer, who do I complain to? If I go to a hospital, for instance, and I wait for three hours while doctors and nurses are taking tea, and there is a patient who is dying on the line, who do I complain to with regard to the basic principles of this Bill? In other words, there should be something that requires every institution, whether Parliament, the Judiciary or the Teachers Service Commission, to set up a section that deals with public complaints. There should be a section that deals with complaints from the public; where I can go to as a member of the public and complain.

Mr. Deputy Speaker, Sir, setting up a public relations office is not enough. That is why I am saying that, a Bill of this nature should accord the public an opportunity to complain and be heard. So long as we are seeking to have this Bill to be effective, there is need to accord the public an opportunity to complain.

The other bit is that, how to deal with political patronage *vis-a-vis* the principles of this Bill? I do not want to belabour on the point whether Prof. Meme should go home or not. He may not be guilty. But what we have seen in this House is that it is possible for a public officer to be protected by politicians. So, political patronage is something which is real. If we enact a Bill that does not deal specifically with political patronage, then we might fail. I am saying that there is need to introduce something on political patronage.

Mr. Deputy Speaker, Sir, the other point is something that the other hon. Members have raised, concerning who the public officer is with regard to this Bill. I think there is need to define the scope of the public officer. Now, from what I gather from the ground and from the debate on the Floor of the House, I think the definition of a public officer should start from the President, all the way down to the least of the public officers the Government has employed.

Mr. Deputy Speaker, Sir, I think there is something that should be done about the definition of a public officer. I wish to say that this Bill is wonderful, but it needs to be corrected in certain sections.

I will support the Bill when those corrections are made.

Thank you.

**The Assistant Minister, Office of the Vice-President and Ministry of National Reconstruction** (Mr. Mungatana): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity.

I stand to support the Bill before the House. This Bill is part and parcel of the revolution the NARC Government promised when we got elected [**The Assistant Minister, Office of the Vice-President and Ministry of National Reconstruction**] to Parliament. His Excellency the President in his State Address, stated that there will be zero-tolerance to corruption. I want to say that this Bill is in keeping with that particular promise to Kenyans; that there will be zero-tolerance to corruption in this country.

Mr. Deputy Speaker, Sir, in keeping with the same pronouncements--

**Mr. Mwenje:** On a point of order, Mr. Deputy Speaker, Sir. Since this Bill has actually been exhaustively discussed, may I move that the Mover be now called upon to reply?

*(Question, that the Mover be now called upon to reply, put and agreed to)*

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): Mr. Deputy Speaker, Sir, I would like to thank hon. Members on both sides of the House for supporting this Bill, subject to the amendments that they have proposed.

*(Applause)*

I would like to thank hon. Members for the high quality of debate that has been demonstrated in the process of this debate and the depth of analysis. It shows that the Ninth Parliament is taking its work very seriously. I believe that all the comments were made in good faith; in the interest of improving the law that has been drafted by the Government. It is with that spirit, that we are saying that we are going to take on board, the amendments proposed by the hon. Members.

Mr. Deputy Speaker, Sir, I was not in the House throughout the debate period, but I have obtained copies of the HANSARD, and my Assistant Minister who was here almost throughout the entire period has also briefed me on the various comments made by the hon. Members. Those comments are, indeed, very well thought out and we are giving them very serious consideration.

With regard to the omission of the commencement date of the Bill, the Interpretations and General Provisions Act, Cap.2 of the Laws of Kenya, provides that where a Bill does not provide for a specific date of commencement, then the commencement date is the date on which the Act is published. So, this is not a fatal omission. In fact, we had a discussion with the draftsman, and we said that since there is that provision, there is no point of fixing a specific date. The date on which the Act will be published will be the commencement date for this particular Act.

Mr. Deputy Speaker, Sir, with regard to application, some hon. Members have pointed out that this Bill is not all inclusive, and that there are certain categories of public officers who were left out of the Bill. It was felt that there was need to introduce an amendment to include, especially holders of constitutional offices, like the Attorney-General, the Controller and Auditor-General *et cetera*. I think that was a good suggestion and we will take it on board during the Third Reading or the Committee Stage.

Mr. Deputy Speaker, Sir, it has also been suggested that we have a uniform code instead of having different codes for various categories of public officers. I think this is a good idea. We shall look at part three of the Bill to see if instead of providing general guidelines of the code of ethics, whether as a matter of fact, this part could be converted into mandatory legal provisions which must be included in every code. In other words, we could prescribe a code which is adopted by the various commissions, and which is similar in all material disciplines.

Mr. Deputy Speaker, Sir, there was a suggestion that one of the greatest crimes, if I may say so, by public officers is their failure or refusal to reply to correspondence. I think this is a good point. We are going to amend Clause 8 to include a new paragraph which imposes a duty on public officers to reply to all the letters addressed to them. Hon. Members may also want to know that we are considering introducing the office of the ombudsman through the new Constitution, so that all cases of official negligence and abuse of power are dealt with through that institution. So, failure to reply to letters will be a matter which can be taken up as a disciplinary offence through the office of the ombudsman.

Mr. Deputy Speaker, Sir, the issue of Harambees has also been discussed at length. The debate oscillated between whether we should ban Harambees in total or specify certain categories of Harambees which we should retain. I must say, this was a very difficult provision to draft because the issue of Harambees is a very complex one and it requires a much more detailed analysis before we can make final conclusions on it. What we are trying to do for the time being is merely to remove Harambee cards and receipt books from public offices as an initial measure in this complex area.

My Ministry will soon appoint a task force to study the whole issue of Harambees and amendments necessary to the Public Collections Act. The recommendations we get from that task force will enable us to draft a more comprehensive role on Harambees indicating what areas should be left for Harambees to be authorised and which Harambees should be banned. I am asking Members of Parliament to bear with us until we are able to collect that information and draft a proper role through the Public Collections Act, for proper management of Harambee funds and indicating the proper province for Harambees.

There is also the question of civil servants participating in politics. There has been a suggestion that public servants should be banned from all political activity. We understand the sentiments of hon. Members, but this is again another complex area because, for instance, political activity is not defined. The question is: Can we prevent a public servant from discussing politics with his wife? We need to decide what we mean by political activity. I am agreeable to amending Clause 15(2) which reads: "A public officer shall not publicly engage in political activity."

This means that he can engage in political activity between friends and others, but not in a public manner so as to influence the outcome of elections. We will look into all those amendments in detail. If there is any amendment that we have not captured, we will request hon. Members to bring in amendments at the Committee Stage.

With those few remarks, I beg to move.

*(Question put and agreed to)*

*(The Bill was read a Second Time and Committed to a Committee of the whole House tomorrow)*

#### MEMBERS' HALF-HOUR STATEMENTS

**Mr. Deputy Speaker:** Hon. Members, it is now 6.30 p.m. and today being a Thursday, I have two items under Standing Order No.20(a) where hon. Members want to make some statements. Could I first call Mr. Salat?

#### DEATH OF MUSICIAN E-SIR

**Mr. Salat:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. Kenya's entertainment industry lost one of its promising musicians by the name of Issah Mmari aka E-Sir, at the age of 22 as a result of a tragic road accident along the Nakuru-Nairobi Highway. I would like to send my condolences to the family, friends and fans of E-Sir and to tell them that their loss was not a loss to them only, but to the entire nation. E-Sir was a promising musician who had worked hard to put Kenya in the international world map. On that note, I would like to censure the Minister for Gender, Sports and National Heritage for being insensitive towards the loss of such a young, talented musician. We would like him to explain why the entertainment industry in Kenya seems not to play a good role in bringing Kenyans together. I would also like the Minister to state to us what role the music industry plays towards enhancing the unity of all Kenyans.

Thank you.

**The Assistant Minister for Co-operative Development (Mr. Kenneth):** Mr. Deputy Speaker, Sir, I want to assure the hon. Member that we will pass the issue to the relevant Ministry, which will come up with a comprehensive statement.

**Mr. Deputy Speaker:** Very well. For the information of the Whips; in accordance with Standing Order No.28(3), Whips are supposed to inform the Ministers responsible for issuing Ministerial Statements not later than 4 p.m., so that they are able to respond accordingly. So, next time, please, Whips, make sure that you inform the Ministers not later than 4 p.m..

Let us move on to the next statement by Mr. Sasura.

#### BARRING OF KANU MPs FROM KICC

**Mr. Sasura:** Mr. Deputy Speaker, Sir, last Friday at about 2.30 p.m., I went to the premises of the Kenyatta International Conference Centre (KICC). You know very well, KICC houses public offices, a branch of the Kenya Commercial Bank, a telephone bureau and even toilets. When I went there, I was accosted by a security officer who asked me whether I was hon. Sasura. I told him what I was and he told me that I was not allowed to enter KICC premises. I asked him why and he told me that there were thugs within the premises of KICC. He told me that they had explicit instructions from the Ministry of Tourism and Information, Mr. Tuju, not to allow any KANU Member within the premises of KICC. He told me that he would rather prevent me from going inside the building, rather than letting me in because I would be killed, and then later, people would talk about my death.

I feared for my dear life and left that compound. Later on, I found out that Mr. Sammy Leshore and Mr. Isaac Shaaban were also victims of the same.

Mr. Deputy Speaker, Sir, the Minister for Tourism and Information, Mr. Tuju, is embarrassing this very good NARC Government. I have the right of passage to any building under provisions of the Constitution of Kenya. I would like the Minister to come to this House and clear himself on that, or tell us whether he has issued Executive orders to have KANU hon. Members killed if they go into the KICC.

**The Assistant Minister for Co-operative Development (Mr. Kenneth):** Mr. Deputy Speaker, Sir, I do appreciate the hon. Member's predicament. It is quite awkward. I also appreciate the fact that he feels the NARC Government is a good Government. I will communicate the issue to the relevant Ministry and they will issue a comprehensive response.

#### ADJOURNMENT

**Mr. Deputy Speaker:** Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 25th March, 2003, at 2.30 p.m.

The House rose at 6.35 p.m.