

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 19th April, 2001

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.047

INSECURITY IN TURKANA SOUTH

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

(a) whether he is aware that during the last three months, armed bandits from a neighbouring country, in collaboration with a community neighbouring Turkana District, have severally invaded Turkana South and have so far killed 98 people, injured 60 people and stolen livestock from Turkana; and,

(b) what urgent measures the Government is taking, particularly in Lokori-Lokwamosing and Kainuk-Nakwamoru areas, to restore security and safeguard human life in the area.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that in the last three months, armed bandits have attacked Turkana District 14 times, killed 29 people and injured four. Thousands of livestock have been stolen during the raids.

(b) Joint foot and mobile patrols by regular Police, Administration Police, the General Service Unit and the Kenya Police Reservists have been intensified in the area to ensure that this does not happen. Moreover, we have established more radio communication and have provided additional vehicles to contain this situation.

Mr. Achuka: Bw. Naibu Spika, mimi sikubaliani na jibu la Waziri kwa sababu, kwa wakati huu, watu wametoroka sehemu nyingi za upande wa Turkana.

Mr. Sifuna: On a point of order, Mr. Deputy Speaker, Sir. The hon. Member had put his Question in English, and I do not know whether he is in order to proceed speaking in Kiswahili. I thought when you put a Question in English, you should proceed in the English language, and the same applies to Kiswahili. Is he in order to ask the supplementary question in Kiswahili?

Mr. Deputy Speaker: You are quite right!

Mr. Achuka: I think it is not a must!

Mr. Deputy Speaker: Order! Order! The Standing Orders say so. Proceed!

Mr. Achuka: Mr. Deputy Speaker, Sir, I will comply with that.

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

Mr. Deputy Speaker: Order! We cannot have points of order when it is Question Time.

Proceed!

Mr. Achuka: Mr. Deputy Speaker, Sir, I do not agree with the Minister's answer concerning the deployment of security personnel in the affected areas. As I stand here now, most centres in my constituency have been deserted because of fear of further attacks. The affected areas are Lokori-Lokwamosing, where all the families have migrated to more than 50 kilometres away from their homes.

Mr. Deputy Speaker: Ask your question now!

Mr. Achuka: Mr. Deputy Speaker, Sir, even Kainuk-Nakwamoru has been deserted because of the same fear. Where are the security personnel the Minister claims to have deployed in the area, because I have not seen them there? Families have deserted all these areas.

Maj. Madoka: Mr. Deputy Speaker, Sir, I appreciate the question from the hon. Member. I understand the problem there, and as I have said, we have intensified the various patrols and have provided additional communication

facilities. But we are still getting raids from across the border. We have made efforts to have cross-border meetings, and we are hoping that this will bear fruit.

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, this is a very serious issue because it concerns security of the people. Could the Minister confirm that most of the Government officers posted to that area, especially the police officers are involved in the theft of the cattle, which they transport to Nairobi for sale and then blame it on the cross-border conflicts?

Maj. Madoka: Mr. Deputy Speaker, Sir, I cannot confirm that.

Mr. Wamae: Mr. Deputy Speaker, Sir, this is an incursion by the neighbouring country. Could the Minister consider stationing the Kenya Army at the border? It is the duty of the Kenya Army to protect us against external aggression.

Maj. Madoka: Mr. Deputy Speaker, Sir, I do not think it can quite be termed as an incursion from the neighbouring country. These are raids involving a few people and we are doing our best to stop them.

Mr. Wambua: Mr. Deputy Speaker, Sir, could the Minister tell us where the cattle, camel and sheep go to after they are stolen? These animals cannot be driven for more than ten kilometres and neither can they fly. Since the Government has security personnel, aircraft and other possible means they can use to track down these animals, where are these animals taken to?

Maj. Madoka: Mr. Deputy Speaker, Sir, most of the animals which are stolen from that area are taken across the border. We have co-operated with our neighbours and they have helped us recover and return some of the animals.

Mr. Khamasi: Mr. Deputy Speaker, Sir, part of the cause of insecurity in the area is that, some hon. Members in this House uttering provocative and inciting statements. What has the Minister done to make sure that this sort of behaviour from an hon. Member of this House does not occur again?

Maj. Madoka: Mr. Deputy Speaker, Sir, I am on record in this House appealing to all hon. Members or leaders in those particular areas to restrain themselves from uttering inciting statements.

Mr. Achuka: Mr. Deputy Speaker, Sir, why should the Government cheat the---

Mr. Deputy Speaker: Order! Order!

Mr. Achuka: Mr. Deputy Speaker, Sir, why should the Government cheat wananchi?

Mr. Deputy Speaker: Order! Order! Hon. Achuka, the Government is an inanimate body, it cannot cheat. But if you are referring to the Ministers, they cannot cheat because they are hon. Members.

Mr. Achuka: Mr. Deputy Speaker, Sir, I am saying so because the Minister is cheating the House.

Mr. Deputy Speaker: Order! Mr. Achuka, you will withdraw that word and then ask the question.

Mr. Achuka: Mr. Deputy Speaker, Sir, let me say that he is misleading---

Mr. Deputy Speaker: Order! Withdraw that word and apologise!

Mr. Achuka: Mr. Deputy Speaker, Sir, I can withdraw, but I know that is the truth.

Mr. Deputy Speaker: Order! Mr. Achuka, I am not telling you anything that the Standing Orders do not require me to do. So, if you do not withdraw and apologise, certain consequences will follow.

Mr. Achuka: Mr. Deputy Speaker, Sir, I withdraw and apologise.

Mr. Deputy Speaker: Thank you. Now ask your question!

Mr. Achuka: Mr. Deputy Speaker, Sir, the Government has failed to protect wananchi while their livestock are stolen. Could the Minister confirm that as a result of insecurity, more Kenyans die in conflicts than Burundians?

Maj. Madoka: Mr. Deputy Speaker, Sir, we have had quite a few meetings with the hon. Member and the Provincial Commissioner of the area, and we have tried to sort out the various problems there and he has, in fact, agreed that we have done a lot to try and contain the situation. So he knows that something is being done.

Mr. Deputy Speaker: Next Question!

Question No.126

ISSUANCE OF ID CARDS IN BUNGOMA

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

- (a) whether he is aware that many Kenyans in Bungoma District who have attained the age of 18 years are unable to obtain national identity cards due to unnecessary stringent conditions set by the District Registrar of Persons;
- (b) whether he is further aware that the Registrar is demanding parents' land title deeds as one way of vetting the applicants; and,
- (c) whether he could remove these unnecessary conditions to enable the applicants obtain the IDs

and voters' cards.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that there are certain strict rules which apply to Bungoma District, just like other border districts, as per the Registration of Persons Act, Cap.107 of the Laws of Kenya.

(b) I am also aware that applicants settled in Bungoma from other parts of the country who wish to adopt it as their home are required to produce the particulars of their parents' title deeds to confirm their status.

(c) In view of my reply to parts "a" and "b", the reasons are clear, and the removal of these conditions does not arise.

Mr. Sifuna: Mr. Deputy Speaker, Sir, I am surprised to hear that answer from the Minister. It is a fact that not all Kenyans have title deeds, and it is not written in the laws of this country that one has to produce a title deed in order to be confirmed as a citizen of this country. If a child produces his/her parent's identity card, that is enough identification. In fact, not all parents have title deeds, even in his own district of Taita-Taveta.

Could the Minister inform the House what section of the Kenyan law states that one has to produce a title deed in order to be provided with an identity card?

Maj. Madoka: Mr. Deputy Speaker, Sir, we do have this problem in Bungoma because there are many people from a neighbouring country who try to get Kenyan identity cards from that area. So, occasionally, we have to be a little strict. But we will always consider each case on its own merit.

Mr. Deputy Speaker: But the Question he asked was which part of the law requires them to produce title deeds. What you are saying may be quite correct, but which part of the law requires them to produce title deeds.

Maj. Madoka: Mr. Deputy Speaker, Sir, where did I say that the law requires them to produce title deeds? I did say we require them sometimes to produce their title deeds.

Mr. Sifuna: On a point of order, Mr. Deputy Speaker, Sir. The Minister is misleading the House. In his answer to part (b) of the Question, he says: "I am aware that applicants settled in Bungoma from other parts of the country who wish to adopt the district as their home may be required to produce their parents' title deeds to confirm their status." This is why I wanted the Minister to tell us what section of the Kenyan law requires an applicant to produce a title deed!

Maj. Madoka: Mr. Deputy Speaker, Sir, there is no particular part in the Act. In fact, my answer states: "May be required---" That is where we have a very specific doubt.

Mr. Deputy Speaker: Order, Mr. Minister! If the word "may" means you do not require it, according to you--In fact, it does mean you do require it from time to time. Even in those circumstances where you use that discretion, where in the law do you derive your authority to do so?

Maj. Madoka: Mr. Deputy Speaker, Sir, these are administrative arrangements.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. The Minister has admitted that he has broken the law. Would he, immediately, cease breaking the law, either administratively or any other way?

Maj. Madoka: Mr. Deputy Speaker, Sir, when it requires us to put in certain administrative measures to ensure that we safeguard the security of this country, we will do so.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. There is no way Parliament is going to accept any explanation that is in breach of the law! Could the Chair require the Minister - on his own admission that he is breaking the law - to comply with the law? There is no way we can proceed like this!

Maj. Madoka: Mr. Deputy Speaker, Sir, not everything is found within the law.

Mr. Deputy Speaker: Order, Mr. Minister! That may be so, but in administering a law, when you require certain conditions to be fulfilled, which are not within that law, then you are clearly not applying the law.

Mr. Murungi: Mr. Deputy Speaker, Sir, part (c) of this Question talks about "unnecessary conditions". Some of these "unnecessary conditions" include the demanding of title deeds in the issuance of identity cards. Could the Minister tell this House whether he is going to remove the requirement that title deeds should be produced before identity cards are issued?

Maj. Madoka: Mr. Deputy Speaker, Sir, when we will need to do that, we will certainly remove that requirement.

Capt. Ntwiga: Mr. Deputy Speaker, Sir, the problem of the issuance of identification cards is experienced throughout the country. We need the votes of these youths in order to be elected to Parliament. At the same time, the youths also need the identity cards to transact their own businesses. Could the Minister consider decentralising the issuance of identification cards from the district headquarters to the divisions? Many people, especially the youths, cannot afford transport to and from the district headquarters. Could the Minister undertake to do something?

Maj. Madoka: Mr. Deputy Speaker, Sir, what the hon. Member has said is true. We are trying to look for ways and means of easing that problem.

Mr. Poghiso: Mr. Deputy Speaker, Sir, this is a very serious problem in West Pokot District. People are asked to bring photocopies of their parents' identification cards and yet those facilities are not available in West Pokot District, especially in Kacheliba Constituency. Could the Minister declare Kacheliba Constituency safe so that people can get identity cards without requiring all these things?

Maj. Madoka: Mr. Deputy Speaker, Sir, did he say that I declare Kacheliba safe? If that is what he said, then we will do our best to make sure that Kacheliba is safe.

Mr. Poghiso: On a point of order, Mr. Deputy Speaker, Sir. Are you really satisfied that the Minister has answered my question? I stated that youths are required to produce photocopies of their parents' identification cards before they are issued with identity cards. Where are the people in Kacheliba Constituency going to get photocopies and yet there is no electricity or photocopying machines?

(Laughter)

Maj. Madoka: Mr. Deputy Speaker, Sir, we will see how best we can solve that problem in his constituency.

Mr. Sifuna: Mr. Deputy Speaker, Sir, the Minister seems to be running away from the truth. Could he direct the officers in charge of issuing identity cards to accept copies of parents' identity cards so long as the applicant has been vetted and approved by the assistant chief and the chief? That should be the only criteria to be used but not title deeds!

Maj. Madoka: Mr. Deputy Speaker, Sir, in fact, that is what we normally require. But as I said, sometimes officers on the ground may overstretch their powers. We will certainly consider each case on its own merit.

Mr. Deputy Speaker: Next Question, Mr. Anyona!

Mr. Anyona: Mr. Deputy Speaker, Sir, before I ask my Question, I would like to bring to your attention that I have not received a written reply. However, I beg to ask the Question.

Question No.009

LIQUIDATION OF KENYA NATIONAL
ASSURANCE COMPANY

Mr. Anyona asked the Minister for Finance:-

- (a) whether he could make a comprehensive report regarding the liquidation of Kenya National Assurance Company (KNAC);
- (b) what the total assets and liabilities of KNAC are; and,
- (c) what the total benefits of the former employees are and when they will be paid.

Mr. Deputy Speaker: I am sorry, the Minister did contact me this morning and said he was travelling to Dares-Salaam to attend to some State matters. He informed me that he did not have a satisfactory reply, but he requested that this Question be deferred to Tuesday, next week, and I agreed to do so. Next Question, Dr. Omamo!

(Question deferred)

Question No.125

HARDSHIP ALLOWANCE FOR
TEACHERS IN MUHORONI

Dr. Omamo asked the Minister for Education:-

- (a) whether he is aware that since payment of hardship allowance for teachers in Muhoroni Valley was approved, only a few teachers have been paid; and,
- (b) whether he could undertake to pay hardship allowance to all teachers in the area.

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

- (a) All teachers in Muhoroni Division of Muhoroni Valley have been paid hardship allowance.
- (b) The Ministry will undertake to pay hardship allowance to all the teachers in Miwani Division of Muhoroni Valley with immediate effect.

Dr. Omamo: Mr. Deputy Speaker, Sir, having received this reply, I do appreciate that the Ministry has recognised Muhoroni Valley, after which Muhoroni Constituency has been named. The Ministry appears to have put on a real human face in looking at the issue of hardship allowance to the teachers. The teachers have been suffering too much for too long. But when the Assistant Minister says that these teachers will be paid hardship allowance with

immediate effect, does it mean that the payment of hardship allowance to the said teachers will be reflected in the April, 2001 payslip?

Mr. Awori: Mr. Deputy Speaker, Sir, that is exactly what I meant.

Mr. Katuku: Mr. Deputy Speaker, Sir, the Government seems to be discriminating against some of its officers when it comes to payment of hardship allowances. In my constituency, payment of hardship allowance has not been effected, and yet the relevant organs of the Government have approved the same. Could the Assistant Minister tell us what criteria is used to declare these areas "hardship zones"? Mwala constituency was left out of this programme while in all the other neighbouring constituencies, teachers are paid hardship allowance. As a matter of fact, teachers are moving from my constituency to the neighbouring constituencies. Could he consider declaring Mwala constituency a hardship area?

Mr. Awori: Mr. Deputy Speaker, Sir, the criteria used is where normal services that are taken for granted are difficult to find. These include water, transportation, communication, health facilities and so on. We take all those into consideration before declaring an area a hardship zone.

Mr. Sungu: Mr. Deputy Speaker, Sir, the Assistant Minister has approached this Question in a very sober manner, and we are very grateful for that. Muhoroni Valley covers Kadipo, Kolwa in Winam Division, as well as the lower parts of Nyando and Bondo areas. These areas suffer from the same problems, like flooding, lack of communication and many others. Could the Assistant Minister consider extending the payment of hardship allowance to teachers in the areas I have mentioned?

Mr. Awori: Mr. Deputy Speaker, Sir, since the conditions and circumstances are the same, if the hon. Member could cause a letter to be written to the Ministry, asking that these areas should be declared hardship areas, I am sure good consideration will be given.

Mr. Otita: Mr. Deputy Speaker, Sir, I am really perplexed that Muhoroni and Nyakach constituencies have been declared hardship areas while Nyando Constituency, which is between the two constituencies has not benefitted from this allowance. In fact, the conditions in Nyando Constituency are worse than those found in both Muhoroni and Nyakach constituencies! Could the Assistant Minister consider paying the teachers in Nyando Constituency and other officers hardship allowance, including payment of arrears since the scheme started?

Mr. Awori: Mr. Deputy Speaker, Sir, when a decision is taken, it is not put back. If we accept Nyando Constituency to be a hardship area, payment of hardship allowance will be effected from the time the decision was taken. So, my answer to the hon. Member is exactly the same as I gave to hon. Sungu.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has given an extremely good answer to this Question and the matter is a subject of a Question in Parliament. Surely, it would defeat the purpose if we were to say that a Member goes back and writes a letter. Could it not be the right thing to do, arising from these proceedings, for the Assistant Minister to set in motion the conditions that would fulfil that objective?

Mr. Awori: Mr. Deputy Speaker, Sir, as soon as the HANSARD comes out, I will use that as authority to do as suggested.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, most parts of Homa Bay District lack the facilities the Assistant Minister enumerated. For the past ten years, the District Education Board (DEB) has been recommending to the Ministry that Homa Bay District should be treated as a hardship area. Could the Assistant Minister tell us why they are not doing the same for Homa Bay District?

Mr. Awori: Mr. Deputy Speaker, Sir, if we continue the way the hon. Member is saying, then we will have to declare the whole country a hardship area. We will have to take every case on its own merit.

Mr. Deputy Speaker: But, Mr. Assistant Minister, it looks like the whole country is a hardship area!

(Laughter)

Mr. Awori: Mr. Deputy Speaker, Sir, it may appear so, but it is not.

Mr. Deputy Speaker: Next Question, Mr. Mwakiringo.

Question No.131

HARVESTING OF MANGROVE TREES

Mr. Mwakiringo asked the Minister for Environment:-

- (a) why the residents of Lamu have been denied permission to harvest mangrove trees for export; and,
- (b) what urgent measures he is taking to ensure that harvesting of the same is allowed.

Mr. Deputy Speaker: The Minister for Environment is not here and, therefore, we will come back to that Question.

Next Question, Mr. Achola.

Question No.129

DELAYED PAYMENTS TO SUGAR-CANE FARMERS

Mr. Achola asked the Minister for Agriculture:-

(a) how much money do the following sugar-cane factories owe the farmers as at 31st December, 2000:-

- (i) Sony Sugar;
- (ii) Miwani;
- (iii) Chemelil;
- (iv) Nzoia and
- (v) Mumias

(b) what are the reasons for the delay in payment to farmers; and

(c) what action the Government is taking to ensure that all the sugar-cane farmers are paid their dues with immediate effect.

The Minister for Agriculture (Mr. Obure): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The amount of arrears outstanding as at 31st December 2000 is as follows: Sony Sugar - Kshs165,495,659; Miwani - Kshs111 million; Chemelil - Kshs76 million; Nzoia - Kshs453,987,247; Muhoroni - Kshs189 million, and Mumias - nil.

(b) The sugar companies which I have just mentioned owe the farmers sums indicated for cane deliveries owing to cash flow problems attributed largely to the following factors:

- (i) Poor controls and business practices which have led to high production costs which, in turn, have led to accumulation of large debts to creditors.
- (ii) High financing charges owing to the large loan portfolios.
- (iii) The huge overheads which are due to bloated workforce in a number of those sugar mills.
- (iv) Low cane yields and low cane supply, leading to operations below rated capacities.

(c) The Government has instructed sugar companies to meet with the farmers and agree on mutually acceptable arrangements for settlement of outstanding arrears and, indeed, also agree on timely payments for fresh cane deliveries.

Mr. Achola: Mr. Deputy Speaker, Sir, one of the reasons given by the Minister as attributing to the non-payment of farmers is the fact that all these factories are very poorly managed. However, since the management is actually the responsibility of the Government, because all these firms are Government-owned, why did it take so long for the Government to continue supporting these companies if they were on the verge of collapse instead of coming earlier on and helping the farmers to get out of this mess?

Mr. Obure: Mr. Deputy Speaker, Sir, what hon. Achola is saying is true. The Government is a majority shareholder in these factories. We recognise that mistakes could have been made, but we also realise that it is even worse to allow mistakes to continue. Therefore, we are now determined to ensure that the sugar companies return back to the correct path.

Mr. Kombo: Mr. Deputy Speaker, Sir, you can see that the farmers in the Nzoia sugarbelt are the worst hit. The Minister has quoted Kshs453 million but, in fact, the figure now is Kshs700 million. One of the reasons that have been afflicting Nzoia Sugar Company is because of the debts which were incurred on behalf of the Government; some of the money from Postbank that was used for the elections of 1992 to fund KANU. So, the problems just keep on rising. Could the Minister consider writing off the debts incurred by Nzoia Sugar Company so that it can find a way to get on its own feet and be able to pay the farmers, instead of using money from the farmers to finance the debts that exist because of the Government and KANU?

Mr. Obure: Mr. Deputy Speaker, Sir, it does not serve much purpose going back to the origins of the manner in which the debts were incurred. However, it is much more important to look into the future. We know that there is tremendous potential for cane growing in Nzoia area, and also that we need the capacity to be able to process the cane available. We have instructed Nzoia and even Sony sugar companies to undertake financial restructuring and staff rationalisation in order to reduce the high cost of production. The question of write-off might not be possible, but the lines along which we are thinking is to convert the current loans, including Government ones, into equity.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, the Minister has tried to give us reasons why the farmers are owed so much money, but he has not told us what the Government is doing to use the funds raised by the

Government from the Sugar Levy which has been controlled by Kenya Sugar Authority; which, could, in actual fact, be used to alleviate the problem. Could he tell this House, since the Kenya Sugar Authority and the Sugar Levy were established in 1992, to what extent has the Kenya Sugar Authority acted effectively as a regulatory mechanism in the sugar industry to ensure that the funds that it has are used properly, to avoid this kind of indebtedness to the farmers?

Mr. Obure: Mr. Deputy Speaker, Sir, I am aware that substantial sums have been collected through the Sugar Development Fund. In accordance with the provisions of the existing rules, in relation to the application of sugar development funds, these funds have been disbursed to assist in sugar-cane development. They have also been disbursed to assist in the rehabilitation of the sugar mills themselves, and all the funds have been applied strictly in accordance with the intentions and existing regulations.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, the Minister has answered very glibly about measures the Government intends to take in order to improve business practices and stuffs of that kind. We have had this before. Could the Minister tell this House what he intends to do about the cheap COMESA sugar imports that are flooding this country today and, therefore, making it difficult for the sugar factories to dispose off their stock-piles by themselves? Is there anything that he is planning to do about this importation of cheap sugar in order to improve the situation in our own factories, which provide employment and a livelihood to a lot of people?

Mr. Obure: Mr. Deputy Speaker, Sir, the question which hon. "Bill" Wamalwa has just raised was, in fact, raised here yesterday.

An hon. Member: He is Michael Wamalwa and not "Bill" Wamalwa! That is not his title!

Mr. Obure: I am sorry about that, Mr. Deputy Speaker, Sir. I meant hon. Michael Wamalwa, Chairman of FORD(K).

I dealt with that question at length yesterday, but, this morning, I checked stock figures in various factories and found that the situation might not be as grave as it has been in the past, mainly because of the declarations of intentions which we have made. For the information of the hon. Members, Nzoia Sugar Company does not have any stocks at the moment. The same applies to Chemelil and Sony Sugar factories. We do have substantial stocks of sugar at Mumias Sugar Factory because of the flooding of sugar from the COMESA countries into the local market and so on. As I said yesterday, we want to come to grips with the problem of flooding of sugar in the local market from the COMESA countries. We are expecting a full report by next week, after which, we will take comprehensive measures to deal with this situation.

Mr. Michuki: On a point of order, Mr. Deputy Speaker, Sir. A while ago, hon. Kombo did make an allegation that some of the monies from one of the factories were used for election purposes. The Memorandums of Articles and Association of companies, as far as I know, do not enable a company to finance political operations. Could hon. Kombo substantiate his remarks?

Mr. Deputy Speaker: Order! Order! We cannot go through three supplementary questions after a certain allegation was made and then return to it. That is totally out of order.

Mr. Anyona: Mr. Deputy Speaker, Sir, I had intended to bring the same issue the other way round. What I was going to find out is: The hon. Kombo did make an allegation that farmers' money was used by the Government and the party to finance election campaigns. The Minister, in his reply, said that he did not want to go into history, which sounds like an admission of the allegation. We want to find out whether that is true. But the question which I really wanted to ask the Minister is this: From my information, the Sugar Development Levy Fund has accumulated funds to the tune of Kshs7 billions---

An hon. Member: The amount has accumulated to Kshs13.2 billion!

Mr. Anyona: I am being told that the amount has now accumulated to Kshs13.2 billion. The whereabouts of those funds are not known. Could the Minister tell this House how much money has been collected, where it is, and how much has been spent?

Mr. Obure: Mr. Deputy Speaker, Sir, I want to clarify one point here. When I was responding to a question raised by hon. Kombo about a sugar-cane farmers' money being used for elections, I said that I did not want to go into history about the matter. I was talking about the mismanagement aspect in various sugar companies. I have been trying to stretch my mind to imagine how sugar-cane farmers' money can be used for purposes of election by KANU or any other party. Indeed, I cannot see how that would happen. But the question has been raised about funds under the Sugar Development Levy Fund. I want to say that I have the figures in my office. In fact, if I knew this question would be asked, I would have brought those figures with me. If the hon. Member wants, I can bring the figures to this House for the benefit of Members and the country at large, so that they can know how much we need. I will respond to this matter in the way of a Ministerial Statement.

Mr. Deputy Speaker: Mr. Minister, that is not what I want! Since the question has been asked, will you supply that information on Tuesday?

Mr. Obure: Mr. Deputy Speaker, Sir, I did not see how that allegation would relate to this Question. Therefore, I will release that information on Tuesday.

Mr. Deputy Speaker: It should be Tuesday next week, then.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister really correct to say that he did not see how the use of the Sugar Development Levy relates to the Question, when part (b) of the Question asks very clearly, what the reasons for the delay in payments of the farmers are? If I understand the mission of the Kenya Sugar Authority as a regulatory mechanism, it ensures that farmers are paid promptly and if they are not, to use that fund to ensure that there is no break between the time when farmers deliver their sugar-cane to the factories and when they are paid. It should serve as an insurance scheme, kind of. What you have been doing, Mr. Minister, is to use that fund to build headquarters here---

Mr. Deputy Speaker: Order! Order, hon. Prof. Anyang'-Nyong'o! You stood on a point of order and not to harangue the Minister.

Mr. Obure: Mr. Deputy Speaker, Sir, there is a strong misapprehension on the part of hon. Prof. Anyang'-Nyong'o. Sugar Development Levy Funds are not intended to pay farmers for sugar-cane deliveries at all. On the contrary, that is specific. In fact, it is very categorical that funds should not be used for that purpose. The funds are specifically meant for sugar-cane development and factory rehabilitation. That is why I did not see the connection of the Sugar Development Levy Fund to this Question, but I will make the figures available on Tuesday.

Mr. Deputy Speaker: Thank you. Mr. Basil Mwakiringo's Question, for the second time!

Mr. Achola: Mr. Deputy Speaker, Sir, is there no other chance for the Questioner?

Mr. Deputy Speaker: Hon. Achola, I did not see you stand all along.

Mr. Achola: Mr. Deputy Speaker, Sir, I have been standing all along!

Mr. Deputy Speaker: Order! Put your last question!

Mr. Achola: Thank you very much, Mr. Deputy Speaker, Sir. The Minister has admitted that the Government is solely responsible for the non-payment of farmers' dues. Could he explain to the House how the Kenya Sugar Authority was able to build a multi-million headquarters in Nairobi, where there is no sugar-cane being grown, when farmers are not being paid their dues?

Mr. Obure: Mr. Deputy Speaker, Sir, as I said, sugar-cane funds from the Sugar Development Levy Fund are intended for rehabilitation, processing capacity development and for administration purposes. I understand that the construction of the headquarters is considered to be part of the administration process of the sugar industry. Therefore, strictly speaking, I think it qualifies. It is a question of prudence on the part of the Board of Directors to determine as to whether the priority lay in constructing a headquarters building in Nairobi or developing the industry in general.

(Loud consultations)

Mr. Deputy Speaker: Order! Basil Mwakiringo's Question, for the second time!

Question No.131

HARVESTING OF MANGROVE TREES

Mr. Mwakiringo asked the Minister for Environment:-

(a) why the residents of Lamu are denied permission to harvest mangrove trees for export; and,

(b) what urgent measures he is taking to ensure that harvesting of the same is allowed.

Mr. Deputy Speaker: Anybody from the Ministry of Environment?

An hon. Member: Still nobody is here!

Mr. Deputy Speaker: Since there is nobody, the Question is deferred to Tuesday next week.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

DEATH OF MR. NYAMU MBUGUA

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

(a) Is the Minister aware that on 10th February, 2001, at Kirache, Kieni Forest of Gatundu North, five policemen beat Mr. Peter Nyamu Mbugua to death?

(b) Is he further aware that on 27th February, 2001, the same policemen robbed Mr. Austin Karanja, at gunpoint, of his bicycle, Kshs900 and his farm produce of potatoes?

(c) Is he also aware that on 4th March, 2001, along Kieni/Gakoe Road, the said officers robbed Mr. Nguire Maina of two bags of potatoes, three bags of vegetables, Kshs2000 and other personal properties?

(d) What action has the Minister taken to arrest and prosecute these officers?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware .

(b) I am also not aware.

(c) I am also not aware.

(d) Arising from my reply to parts "a", "b" and "c", the question does not arise.

Mr. Muiruri: Mr. Deputy Speaker, Sir, I am very disturbed by the answers given by the Minister. I am not a crazy man. The police officers who were involved in this matter are known, and I would like to give the Minister their names. They are: Corporal Omondi, Corporal Kinyua, Police Constable Chege and Police Constable Haji. These officers are attached to Forest Protection Unit. I would like to inform this House that this murder [**Mr. Muiruri**] took place on 10th February, 2001, and the deceased's body was collected by some police officers from Uplands Police Station. How can the Minister come here and say that he does not know all this? In view of this information, could the Minister go back and ensure that these policemen are arrested and charged with the relevant offences?

Maj. Madoka: Mr. Deputy Speaker, Sir, according to the information I have got, no report has been made, and this allegation is fairly serious. The Hon. Member has given me the names of the police officers, but I wish he could give me specific dates when these incidents actually happened because there is no record in the police station, according to the information I have got.

Mr. Muiruri: On a point of order, Mr. Deputy Speaker, Sir. This Minister is in love with making false claims. The date of the murder and the date of the two robberies are in the Order Paper. What is the Minister talking about?

Maj. Madoka: Mr. Deputy Speaker, Sir, this has not been reported to the police station. However, I will go and verify this, but certainly, from the information I have got from the police station, this case was not reported.

Mr. Deputy Speaker: Mr. Minister, how long will it take you to find out?

Maj. Madoka: Mr. Deputy Speaker, Sir, until Wednesday, next week.

Mr. Deputy Speaker: This Question is deferred until Wednesday, next week. Are you happy, hon. Muiruri? I am deferring this Question to Wednesday, next week so that the Minister can get the correct answer.

Mr. Muiruri: I take your advice.

Mr. Deputy Speaker: Thank you. Let us move on to the next Question.

(Question deferred)

THIRD PARTY INSURANCE FOR VARIOUS MODES OF TRANSPORT

Mr. Kariuki: Mr. Deputy Speaker, Sir, in the absence of a copy of the written reply, I beg to ask the Minister for Information, Transport and Communications the following Question by Private Notice.

(a) Is the Minister aware that there is no compulsory third party insurance for aircraft, ferries, trains, boats and bicycles, whereas these modes of transport are commercially hired by passengers and goods transporters, thereby exposing them to very high risks and subsequent losses of life and property?

(b) What action has the Government taken to address this anomaly?

The Assistant Minister for Information, Transport and Communications (Mr. Keah): Mr. Deputy Speaker, Sir, I am aware that hon. Kariuki does not have a copy of the written answer because this answer was finalised very late. But the answer is here with me now.

I beg to reply.

I am aware that there is no compulsory third party insurance for trains and bicycles, but there exists such insurance for aircraft, ferries and boats. I would further like to state that the Ministry of Information, Transport and Communications is now enforcing the requirement for third-party insurance for all Kenyan aircraft through the Civil Aviation Board, the Directorate of Civil Aviation and the Commissioner of Insurance. Foreign aircraft operating in Kenya under the Civil Aviation Board Licences are also required to show copies of insurance cover.

I would also like to explain, with regard to marine insurance, that policies normally cover three main areas of haul, machinery and goods. These areas are usually covered under the normal marine insurance policies such as the Old Lloyds Ship and good form. All the risks not covered by Haul and Machinery Insurance are normally covered by Production and Indemnity Clubs. These would also cover third-party insurance.

On the ferry and boat insurance, I would like to say that ferries are operated by the Kenya Ferry Services Limited as licensee in accordance with the Kenya Ports Authority (KPA) Act, Cap. 391, and the Ferries Act, Cap. 410 of the Laws of Kenya. Such insurance is currently placed overseas with Lloyds in London, and is renewable every year. There is also third-party insurance for ferries which covers passengers, vehicles and goods. The haul machinery and material outfit on board each vessel fall under the same cover.

For railways insurance, which I did say is not covered, the Government has noted with great concern that there has been an anomaly in the Kenya Railways Corporation (KR); which has operated without third-party insurance cover. The corporation has been directed by my Ministry to ensure that they have insurance cover for third-party, and that is currently being enforced because my Ministry has issued that instruction.

As for bicycle insurance, the third-party insurance cover is an area that needs to be approached cautiously because it is mainly used by the majority of low-income brackets. However, due to increased usage of bicycles in the country, the Government will explore, and has, in fact, commenced exploring, possibilities of encouraging the bicycle owners to go for third-party insurance cover. At the same time, the Government has encouraged those who may be willing to cover this mode of transport.

Mr. Kariuki: Mr. Deputy Speaker, Sir, I would have benefited from a copy of the written answer, but in the absence of the same, I hope that the Assistant Minister realises the magnitude of this problem. The KR has had very major accidents, like the one on Ngai-Ndethya Bridge, the recent one which occurred at Athi River, and others. If they had a third-party insurance, the KR would not have met the huge claims that are made by accident victims. Similarly, we have had boats capsizing in Lake Victoria and innocent Kenyans lose their lives without any compensation.

The boda boda bicycles---

Mr. Deputy Speaker: Mr. Kariuki, ask your question.

Mr. Kariuki: Mr. Deputy Speaker, Sir, there are certain anomalies that the Assistant Minister has detected, and action should have been taken yesterday and not tomorrow. Kenyans want to know from the Assistant Minister how soon the other areas that have not been addressed will be addressed.

Mr. Keah: Mr. Deputy Speaker, Sir, I have said that my Ministry has already identified the anomaly with regard to the KR, and has accordingly issued a ministerial instruction to the corporation to look into the issue of immediately insuring for third-party. On the *boda boda* bicycles, I did say that we need to look at the issue with caution and this is what we are doing. We are investigating to find out whether there is an insurance company that will be willing to insure those bicycles.

Mr. Muturi: Mr. Deputy Speaker, Sir, the Assistant Minister has said that they are investigating the possibility of compelling bicycle owners to insure for third-party, but he has not indicated whether, indeed, there exists any legislative framework on which such possibility that he has alluded to could be pursued. This is because the truth is that there is no law in existence, currently, that requires bicycle owners to insure them. The Assistant Minister should tell us when they issued the ministerial instruction to the KR, because it is not enough to tell us that they identified the anomaly and issued the ministerial instruction.

Mr. Keah: Mr. Deputy Speaker, Sir, for the ministerial instruction that we issued to the KR, it is an administrative matter. We are investigating and looking into the legal aspect of the KR third-party insurance cover under the current Insurance Act, to find out whether that is, in fact, adequately covered. Be that as it may, we have, as a Ministry, identified this anomaly and a ministerial instruction has been issued. For the *boda boda* bicycles, I am aware that they are not covered under the Insurance Act, and because the matter is of public concern, we, as a Ministry, cannot shut our eyes; hence my answer that we are looking into the matter. If there is, therefore, need to bring the matter to Parliament for legislation, we will do it immediately.

Mr. Sungu: Mr. Deputy Speaker, Sir, I understand insurance matters well because I am an insurance expert. It is illegal not to insure an aircraft in Kenya and internationally. It is also illegal---

Mr. Deputy Speaker: Ask your question!

Mr. Sungu: Mr. Deputy Speaker, Sir, I wish I could have enough time to defend the Assistant Minister. Railway accidents have occurred as a result of negligence on the part of the Kenya Railways Corporation. Could the Assistant Minister ensure that the KR compensates those who have suffered as a result of these accidents?

Mr. Keah: Mr. Deputy Speaker, Sir, where there has been that suffering, the matter is being vigorously pursued to ensure some compensation is paid.

Mr. Kariuki: Mr. Deputy Speaker, Sir, could the Assistant Minister indicate to this House how much the

Government is bound to pay as a result of outstanding compensation claims by the victims of the Mtongwe Ferry Disaster, the railway accidents at Ngai Ndethya and Athi River? How soon will these compensations be paid to Kenyans who suffered in the accidents?

Mr. Keah: Mr. Deputy Speaker, Sir, the issue of compensating victims of the Ngai Ndethya and the Athi River railway accidents is being looked into as we talk here. Compensation of the victims of the Mtongwe Ferry Disaster has principally been concluded. I do not have the final figures with me here with regard to the compensation of the Mtongwe Ferry Disaster victims, but to the best of my knowledge and belief, the Mtongwe issue has been finalised.

INSURANCE COVER FOR STUDENTS

Mr. Kalulu: Bw. Naibu Spika, naomba kumwuliza Waziri wa Elimu Swali Maalum lifuatalo.

(a) Je, ni lini Wizara itaanzisha mipango kabambe ya ridhaa katika kila shule ili kulinda maisha ya wanafunzi?

(b) Je, Waziri ana mipango gani kuwalipia wanafunzi wanaopoteza maisha yao kutokana na mikasa mbali mbali wakiwa shuleni?

The Assitant Minister for Education, Science and Technology (Mr. Awori): Bw. Naibu Spika, ninaomba kujibu.

(a) Kwa wakati huu, Wizara haina mipango ya kuanzisha malipo ya ridhaa katika kila shule ili [**The Assitant Minister for Education, Science and Technology**]

kulinda maisha ya wanafunzi. Serikali yetu inataka kuhimiza halmashauri za shule kutoa pesa kidogo kidogo, ili ziweze kugharamia malipo ya bima kwa watoto.

(b) Wizara itaangalia uwezekano wa kuanzisha mpango wa kuwaridhia wanafunzi wanaopoteza maisha yao kutokana na mikasa mbali mbali wakiwa shuleni.

Mr. Kalulu: Bw. Naibu Spika, kuna shule nyingi za upili katika nchi yetu. Kila Mbunge katika Bunge hili, na kila mwananchi, anahusika na usalama wa wanafunzi katika shule za malazi za upili. Je, Waziri Msaidizi anaweza kukataa au kukubali kwamba magari yote katika Wizara ya Elimu yamelipiwa bima? Je, tutawekea magari bima na kuwaacha watoto bila ulinzi wa kutosha katika shule za malazi?

Mr. Awori: Bw. Naibu Spika, tumejadiliana sana kuhusu karo na tumeona ya kwamba karo kwa wananchi ni ya juu sana. Tukisema kila shule iwe na bima, kwa mfano ya moto, itakuwa ni lazima wazazi waigharamie hiyo bima. Kuhusu magari, Wizara imekubali kusaidiana na wazazi ili kugharamia bima ya magari ya shule za upili kwa sababu mikasa mingi inatokea barabarani. Zamani kulikuwa hakuna bima yoyote ya magari ya shule kwa sababu hakukuwa na mikasa mingi barabarani.

Mr. Raila: Bw. Naibu Spika, nimeshangaa kusikia Waziri Msaidizi akisema kwamba Serikali haina mpango wowote kuhusu ulipaji ridhaa katika mashule, bali Serikali inapanga kuwalipa ridhaa wanafunzi kila wanapopata ajali. Kulipa gharama ya kila ajali itagharimu pesa nyingi zaidi kuliko kuweka bima ya shule. Je, ni pesa kiasi gani ambacho Serikali imeweka kando kwa madhumuni ya kulipa ridhaa kwa watoto wanapopata ajali?

Mr. Awori: Bw. Naibu Spika, kwa wakati huu, katika makadirio ya pesa za kugharamia elimu, hatujatenga pesa za kulipa ridhaa wakati watoto wetu wanapopoteza maisha yao katika mikasa ya moto au ajali za barabarani. Ie mipango ambayo nimesema itakuwepo ni ya kuhimiza halmashauri za mashule kwamba kila shule ni lazima iangalie jinsi inavyoweza kugharamia bima ili watoto wetu walindwe.

Mr. Musila: Bw. Naibu Spika, kutokana na majibu ambayo Waziri Msaidizi ametoa, ni wazi kwamba hakuna chochote ambacho Wizara inafanya. Tunajua ya kwamba wazazi wanawaacha watoto wao katika shule za malazi wakiamini kwamba hao watoto wanalindwa. Waziri Msaidizi amesema kwamba Wizara inahimiza halmashauri mbali mbali zikate bima kwa watoto hao. Tunajua kwamba kama Wizara ingeweka bima ya watoto, hata kama hizi halmashauri zitatoa pesa fulani, hii ingesaidia sana, badala ya kila shule kujiwekea bima. Je, Wizara imechukua hatua ya kujua bima kwa mashule itagharimu pesa ngapi? Hii itatusaidia kujua kama Wizara inawasaidia wazazi kuweka bima ili watoto wetu wawe wanalindwa na kulipwa ridhaa wakati kunapotokea ajali,

Mr. Awori: Bw. Naibu Spika, hili ni jambo muhimu. Nitapeleka ripoti kuhusu hili jambo kwa Wizara. Shule za upili nchini ni kama 3,600 na watoto walioko katika shule hizi ni wengi sana. Tutaangalia ni pesa ngapi ambazo zinatakikana kugharamia bima ili mikasa kama vile moto ikitokea, watoto wetu waweze kusaidiwa. Tutaangalia jambo hili na ikiwezekana, tutarudi hapa hapa kuuliza Bunge hili lipitishesha pesa ili kugharamia jambo hili.

Mr. Kalulu: Bw. Naibu Spika, umesikia maoni ambayo Waziri Msaidizi katika Wizara ya Elimu, Sayansi na Teknolojia ametoa katika Bunge hili. Sitaki kuwakumbusha Wabunge kuhusu watoto ambao walifariki kule Shule Ya Upili ya Kyanguli. Lakini hawa watoto watalipwa ridhaa na Wizara ya Elimu, Sayansi na Teknolojia?

Mr. Awori: Bw. Naibu Spika, sikutoa ahadi kwamba jambo hilo litafanyika. Nilichosema ni kwamba tutachunguza jambo hilo, kwa vile ni vizuri kuwa na bima. Lakini kwa sasa, hatuwezi kulipa ridhaa kwa waliofariki kwa vile bima haijachukuliwa.

An hon. Member: Jambo la nidhamu, Bw. Naibu Spika.

Mr. Deputy Speaker: Wakati umepita. Inatakikana tuchukue muda wa saa moja tu kwa Maswali. Muda huo umeshapita na dakika kumi!
Endelea Bw. Munyao!

DETENTION OF MR. KISOI MUNYAO AT KNH

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

(a) Is the Minister aware that Mr. Kisoi Munyao was detained at the Kenyatta National Hospital (KNH) for non-payment of a hospital bill of Kshs14,000?

(b) In appreciation of what Mr. Kisoi Munyao did for Kenya in 1963, could the Minister:-

(i) order the hospital to write off the bill and also provide free consultation, treatment and hospitalisation?

(ii) authorise, in consultation with the Office of the President, an *ex-gratia* monthly payment of Kshs50,000 to Mr. Munyao and his family for as long as he lives?

The Minister for Public Health (Prof. Ongeri): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that Mr. Kisoi Munyao, no relation to hon. Munyao, was detained at the KNH for non-payment of a hospital bill of Kshs14,000.

(b)(i) The KNH has already reimbursed Mr. Munyao the amount paid by a well-wisher, by crediting Kshs15,170 to his account in Commercial Bank of Africa. Now that Mr. Munyao's condition has been brought to our attention, the hospital will provide free consultation, treatment and hospitalisation to Mr. Munyao whenever he requires it.

(b)(ii) Under the rules and regulations of the Government service, there is no statutory provision at the moment, to enable me to either recommend, or authorise payment of *ex-gratia* to non-Government employees. Even if it were to be so, that mandate would be elsewhere, and not in my Ministry.

Mr. Munyao: Mr. Deputy Speaker, Sir, through you, Sir, I beg to inform the Minister that we are related because Mr. Kisoi Munyao comes from Mbooni and he is a Kenyan, and I am a Member of Parliament!

Secondly, I am surprised that the Minister is not aware! I would like him to know that Mr. Munyao was detained at the KNH for four months because of the non-payment of the bill. Is the Minister telling this House that Mrs Pamela Mboya, who paid his bill, and Kameme FM which had the guts to pay Kshs100,000, are more considerate to individuals than the Government, and the Ministry headed by the Minister? Could he confirm that?

Prof. Ongeri: Mr. Deputy Speaker, Sir, I have clearly stated that Mr. Munyao came through a private doctor to the KNH on 3rd March, 2001, and was admitted suffering from a severe form of malnutrition, a condition known as pellagra. He was discharged on 27th March, 2001, after he was assessed to be fit to go home. His son, by the name of Philip of P. O. Box 43207 came to the hospital and promised to clear the bill on 28th March, 2001. He rang the Nursing Officer in charge to be allowed to hand in the title deed while he arranged to pay the bill. He disappeared and there was no contact between his son, the hospital and his relatives, from 29th March to 12th April, when the matter was raised in the media. That is how Ambassador Mrs. Pamela Mboya, on 14th April, 2001, came in and gave the money.

Mr. Imanyara: Mr. Deputy Speaker, Sir, the way this Government has treated our national heroes, particularly the freedom fighters, leaves a lot to be desired! Considering that the Minister states that there is no statutory instrument in place to ensure that our national heroes, particularly freedom fighters, are given due recognition, could he, in consultation with the other Members of the Government consider, as a matter of urgency, to bring a law in this House that creates a special fund that caters for freedom fighters, and those who have died including Field Marshal Baimungi from my own constituency, who was shot dead in December, 1994, for asking why the national flag was not flying in the Mt. Kenya forest where they handed over the guns to the Government?

Prof. Ongeri: Mr. Deputy Speaker, Sir, I appreciate the sentiments being expressed by Mr. Imanyara. Obviously, he understands and appreciates the fact that the Ministry of Health can only deal with health matters. In that case, we have already done what is required of us by granting the *ex-gratia* payment to the involved person.

Mr. Sambu: Bw. Naibu Spika, je Serikali hii ina radhi kuwatatiza wananchi ambao hawawezi kulipa pesa zinazodaiwa na mahospitali? Katika kila hospitali, kuanzia Eldoret Referral Hospital, utawakuta watu maskini ambao hawana mbele wala nyuma wakifungiwa ndani ya wadi kwa kutolipa pesa zinazotakikana na mahospitali. Je, Serikali

itafanya nini kuangalia kwamba wale ambao hawana uwezo wa kulipa hawafungiwi ndani ya vyumba vya wagonjwa?

Prof. Ogeri: Mr. Deputy Speaker, Sir, I want to put it on record that no single patient will be detained for non-payment of hospital bills. Secondly, even as we speak today, at the KNH, those who requested for waiver, I have ten patients who were discharged on various dates - 14th March, 3rd April, 17th March, 18th April, 23rd March, 14th April, 7th March and 3rd March, who were discharged and the waiver given, and have not left the hospital!

Finally, right now, the KNH is considering waiving bills for 215 patients who are unable to pay. That is what hon. Sambu has asked. Therefore, it is wrong to say that the Government is insensitive. We are clearly sensitive.

Mr. Munyao: Mr. Deputy Speaker, Sir, as I ask my last question, I do express my great thanks to Ambassador Mrs. Pamela Mboya and Kameme FM for their consideration. Is the Minister aware that on the day Mr. Munyao took the flag on top of Mt. Kenya, the then Kenya Government flew him from the top of the mountain to Uhuru Park in Nairobi, to hand over the documents to Mzee Kenyatta and a representative from the Queen? That is a great honour. In that consideration, could the Minister undertake to negotiate with the Director of the Directorate of Personnel Management to allow Kshs50,000 per month to be paid to Mr. Munyao? It is a small amount, compared to what we keep on embezzling in other ways!

Prof. Ogeri: Mr. Deputy Speaker, Sir, this Question is beyond the purview of the Ministry of Health, and Mr. Munyao knows that. I am aware that Mr. Munyao hoisted the national flag at Independence Day in 1963 on top of Mt. Kenya. I am also aware that he came and presented the documents to the late President Mzee Kenyatta. I am also aware that hon. Munyao was a Member of Parliament when those issues were happening. He should have, appropriately at that time, brought to this House the necessary statutory provisions to cater not only for Mr. Munyao, but many other Kenyans who fought for Independence.

Mr. Munyao: On a point of order, Mr. Deputy Speaker, Sir. The Minister is deliberately misleading this House! In 1963 I was not in this House! My first time to come here was in 1975.

Mr. Deputy Speaker: That marks the end of Question Time. Let us move on to the next Order. Proceed, Mr. Attorney-General!

MINISTERIAL STATEMENT

INJUNCTION TO STOP FOREST EXCISIONS

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I rise to make a Ministerial Statement. On Wednesday, 27th March, 2001, the Member for Kabete Mr. Paul Muite, sought a Ministerial Statement as regards the High Court injunction stopping any further excision of forests. He made particular reference to the forests in Mt. Kenya region.

In Eldoret High Court's Miscellaneous Application 38 of 2001, a Mr. Nixon Sifuna filed an *ex parte* application, seeking leave of the court under Order 53 Rule 3 of the Civil Procedure Code, to file an application for the prerogative writs of *certiorari* prohibition and *mandamus* to issue to quash Legal Notices Nos. 889 to 902, published in the Kenya Gazette Issue of 16th February, 2001, by the Minister for Environment. Among the reliefs sought was one directed at the Commissioner of Lands prohibiting him from registering any allocations in respect of any part of the said forests and/or issuing title deeds in respect of such allocations. On 16th February, 2001, the court granted leave and made an order that the leave was to operate as a stay. In lay man's language, this is an injunction. Whether one is aggrieved by a court order or not, as long as that order has not been set aside by the court itself, it must be obeyed. This is the essence of the rule of law.

Mr. Deputy Speaker, Sir, at a meeting held on 15th March, 2001, all parties were advised by my officers that they must comply with the said court order and stop any activities in the disputed areas covered by the Kenya Gazette Notices, which include the Mount Kenya region. By a letter dated 10th April, 2001, it was brought to the attention of the relevant Ministries further that complaints had been received that despite the court order certain activities were going on, contrary to the said court order. In that letter, they were, again, strongly advised that they should not proceed with the said activities until the application is heard and determined. I have received communication from the Ministries confirming that no activities are taking place, in compliance with the court order. The substantive Motion has been filed and is due to be heard on 4th May, 2001.

Mr. Munyao: Mr. Deputy Speaker, Sir, the Ministerial Statement made by the Attorney-General has been delayed deliberately to allow those people to continue damaging the forests in the said areas. We understand that even after the court order was issued, the Minister locked himself in his office and ensured that he was not served with that order, so that his officers could continue damaging the forests in the said areas. Could the Attorney-General confirm or deny that?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, first of all, let me state in no uncertain terms that my delay to issue the Ministerial Statement was not deliberate. The Ministerial Statement was sought by the

Member for Kabete when I was out of the country. The records will show that the request was brought to my attention by the hon. Member last Thursday. I stated here on that day that I would make the Ministerial Statement today. The letter from the Clerk of the National Assembly informing me of this matter was received yesterday. So, there has been no deliberate delay in issuing this Ministerial Statement. However, the Ministries concerned have since confirmed that the court order has been complied with.

Mr. Michuki: Mr. Deputy Speaker, Sir, could the Attorney-General take this opportunity to assure this House, the entire country and members of the international community who may be interested in environmental conservation in Kenya, that neither before nor after the Minister's publication of the Kenya Gazette Notice to excise the bits of the said forests were any title deeds issued to anybody as implied by the Minister in one of his Ministerial Statements? Could he confirm that no such action has been taken to legalise an illegality?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, at this moment, I can neither confirm nor deny that. But, as I have indicated, the issue of the Kenya Gazette Notice in reference is in court. A substantive application has now been filed in court. It is coming up for hearing on 4th May, 2001. Therefore, even the matter the hon. Member has raised is, in my submission, *sub judice*.

Mr. Mwenda: Mr. Deputy Speaker, Sir, in the words of the Attorney-General, there is a clear admission that officials of the Ministries concerned acted in defiance of the court order. That is why his Office had to give a second warning to the officers of those Ministries to stop their activities. In view of that admission, what action is the Attorney-General considering to take against those officers who acted in contempt of the court order?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, my second warning to the Ministries involved was based on mere allegations I had received, that the court order was not being complied with. I cannot tell whether that was true or not. But the Ministries were clearly informed that, if it was true that, that was happening it was wrong and that it should be stopped. Courts have procedures to be followed when their orders have been violated. The procedure involves the making of an appropriate application by the aggrieved party for the necessary orders to be made by the court.

Mr. Deputy Speaker: Could you make your Ministerial Statement, Maj. Madoka?

Mr. Michuki: On a point of order, Mr. Deputy Speaker, Sir. I would like to make one more point on the issue of the defied court order.

Mr. Deputy Speaker: I am sorry, we are through with that issue, Mr. Michuki.

DROWNING OF MR. DANIEL KIHARA KAMANDE

Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, Mr. P.K. Mwangi sought to know the circumstances under which Mr. Daniel Kihara Kamande, alias wa Ziporah, drowned on 16th April, 2001. I would like to state as follows.

On 16th April, 2001, at about 6.40 p.m., five police officers from the Flying Squad Unit, Makuyu, received information that a wanted criminal, Mr. Macharia Ng'aru, had been seen at Makuyu Town. Mr. Macharia Ng'aru is wanted for the offence of store-breaking and stealing among other criminal activities. Following that tip-off, the police officers proceeded to Makuyu Dam, where they found a group of about ten men playing poker cards. Among them was the wanted suspect, Mr. Macharia Ng'aru. On noticing the police officers, the group tried to escape by swimming across Makuyu Dam. One man, Mr. Joseph Mbuthia, was arrested before he could swim across the dam. Unfortunately, as the rest of the group swam across, Mr. Daniel Kihara Kamande, alias wa Ziporah, drowned. His body was later retrieved from the dam and taken to Murang'a Mortuary. The body had no visible injuries when it was recovered.

Mr. Deputy Speaker, Sir, according to the police officers who were at the scene of the incident, there were no gun shots whatsoever. Indeed, there is no evidence to suggest otherwise as no spent cartridges were found at the scene. The officers have accounted for every round of ammunition as required.

Following the unfortunate death of Mr. Daniel Kihara Kamande, Makuyu Inquest File No.4/2001 was opened and is pending under investigation.

DEMOLITION OF KIOSKS

Mr. Anyona: Mr. Deputy Speaker, Sir, sometime last week, there was a Question before the House regarding demolition of kiosks by Nairobi City Council. One issue in contention was the list of the inventory of properties confiscated by the Council. The Chair made a ruling that the Minister should produce before the House the list of that inventory. Yesterday, the Assistant Minister was here and he never did so. Today, I saw him a little earlier, but he has

not done so. That is gross misconduct and contempt of the House. We still want that inventory to determine where those properties are. I think the Chair should decide what action to take because we want its ruling complied with.

Mr. Deputy Speaker: Hon. Members, in fact, I was in the Chair when that ruling was made. I made it myself. Mr. Sirma, who was in the House on behalf of the Minister for Local Government, undertook to bring that inventory to the House on Wednesday. I was not in the House yesterday afternoon. I was in the House in the morning and I did not see him. But for his benefit, he should take the rulings of the Chair, at his own peril. He must appear here on Tuesday afternoon with the list of inventory. That ruling should be accordingly transmitted to him.

SHOOTING OF PCEA CLERIC

Mr. Ndicho: Mr. Deputy Speaker, Sir, I asked the Minister of State, Office of the President in charge of internal security to give a detailed Ministerial Statement on circumstances that led to the shooting of a PCEA cleric in Githurai. He promised to do so, on Tuesday, this week. Today is Thursday. The hon. Minister is neither bothered nor prepared to give a Ministerial Statement. I do not really know what he wants to tell this House. The issue of insecurity is very serious. Every day people are carjacked and gunned down. For the benefit of the hon. Minister, in a situation where you are carjacked and you are in the vehicle that has been carjacked, what are the police officers supposed to do in order to avoid killing both the hijacked victims and the carjackers? The Minister should tell us what is supposed to be done. Will the policemen be taken for a refresher course because when most of them were in Kiganjo Police Training College, the phenomenon of carjacking was not prominent in our society? They were not trained on how to handle carjacking cases. Since it is a new phenomenon, what will the Government do about it? It is a very serious issue because next time we may hear that Maj. Madoka was carjacked and his car was sprayed with bullets. He will wish he had answered this question. What is the Government position on this?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, it is true that I undertook to make that Statement. But I said I was waiting to get a report from the ballistic experts so that the Statement will be complete. As of now, I have not got the report. I was made to believe that I may be able to get it on Tuesday. If I make the Statement now, it will be incomplete. So, I will request that I be given more time until I get that report.

Mr. Deputy Speaker: "More time" means until when?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, let us try on Tuesday.

Mr. Deputy Speaker: Thank you very much.

COMMUNICATION FROM THE CHAIR

UNSATISFACTORY ANSWERS TO QUESTIONS

Mr. Deputy Speaker: Hon. Members, during Question Time yesterday morning, a question arose as to whether the first Question by Private Notice was answered satisfactorily or to the satisfaction of the House. The hon. Member concerned approached me to indicate that he was not satisfied and he was, therefore, going to invoke the provision of Standing Order No.18(2). For the benefit of the House, I would like to read what Standing Order No.18(2) in respect of an unsatisfactory reply. It says:-

"Any Member who wishes to raise a matter under the provision of this Standing Order, shall give notice of the matter in writing to Mr. Speaker. Subject to the giving of such notice, Mr. Speaker may allot the right to raise a matter to one Member on any sitting day by such method as he may think fit, but he shall not allot such right on more than two sitting days in any week, nor on any Allotted Day"

Being satisfied that the Member has made a valid point, I did agree that I will allot time to discuss the matter of the answer to Question number one by Private Notice, yesterday morning, which was directed to the Ministry of Agriculture, Livestock and Rural Development. Accordingly, I will allot half an hour on Tuesday, from 6.00 p.m to 6.30 p.m.

Secondly, there was another hon. Member who raised the issue of the answer to Question number two by Private Notice asked by Mr. Kombo. This Question was also directed to the Ministry of Agriculture, Livestock and Rural Development. Again, I agree that he will be given an opportunity to raise that matter under a Motion of Adjournment. I will, therefore, give time for that Motion on Wednesday from 6.00 p.m. to 6.30 p.m.

The two Motions will be moved by Mr. Anyona and Prof. Anyany'-Nyong'o, respectively.

Next Order!

MOTION

ADOPTION OF 1996/97 PAC REPORT

*(Mr. Gatabaki on 18.4.2001)**(Resumption of Debate interrupted on 18.4.2001)*

Mr. Gatabaki: Mr. Deputy Speaker, Sir, let me start by thanking the House for the support, patience and encouragement it gave me yesterday. I would like, particularly, to thank hon. Members on the Opposition side. Their various points of information clearly show their commitment to the PAC. Let me also express my regrets to Dr. Ali for the oversight regarding his constituency. Let me emphasise that Dr. Ali, the Member for Wajir North, gave the Committee considerable amount of insight. He was there throughout. I want to recognise his independence of mind, capacity to provide very concrete support and his sagacity of mind which helped the Committee in its deliberations.

Mr. Deputy Speaker, Sir, I want to continue with the introductory part on the Ministry of Finance and Planning that I had embarked on last evening. Because of the interruptions I was subjected to yesterday regarding unconstitutional expenditure which constituted most of the bulk of the misdeeds by the Government of the Republic of Kenya, I made a point of getting the Report of the PAC dated June 1963. At that particular time, the Chairman of the PAC was Mr. Moi. This was the time when KADU was in the Opposition. He expressed concern regarding the excess amount of public funds which amounted to about K£300,000 which is equivalent to Kshs6 million. He particularly pointed out that the Permanent Secretary who authorised the expenditure of all that amount of money acted contrary to the constitutional provisions. The Chairman, Mr. arap Moi, did emphasize the provisions of Section 122 of the Constitution. His Government is on trial for breaching the very constitutional provision, that so many years ago, he tried to defend. He did raise Section 122 and recorded the following:-

"No money shall be spent or withdrawn from the Consolidated Fund except;

(i) to meet expenditure that is charged upon the Fund by this Constitution or by an Act of Parliament.

(ii) where the issue of those monies had been authorised by Appropriation Act and by a Vote on Account passed by the House of Representatives Section 124 of the Constitution."

On the issue of spending money from the Civil Contingencies Fund, in his Report, he did emphasize that even the Civil Contingencies Fund for that amount of money, Kshs6 million taken, the Minister had the authority and requirement to seek approval from this House. Furthermore, the Government went out of its way and apologised to the Public Accounts Committee (PAC). Mr. Daniel arap Moi noted this in his comment:-

"The Committee heard evidence---

Mr. Deputy Speaker: Mr. Gatabaki, that is a document within the possession of the House. Just tell the Members which pages you are referring to.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, this document has 28 pages---

Mr. Deputy Speaker: Order! You cannot read all of it. Just refer Members to the relevant pages because it is a document in the public records.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, the relevant section is found on pages 4 and 5 of the Government of Kenya Accounts, June 1963. The message he was sending is that, the Government realised the mistake of spending Kshs6 million. He apologised to the House. The Head of that Government, Prime Minister, Mzee Jomo Kenyatta, did give an undertaking that never again will the Permanent Secretary, or the Government, spend public funds without seeking parliamentary authority. I am emphasising that because, if you compare these two reports, the first one is 25 pages and the other one is 707 pages. During the Government of President Kenyatta, the misdeeds were this thin. For this Government we are trying, the misdeeds are this fat!

(Laughter)

Mr. Deputy Speaker: Mr. Gatabaki, I heard you make the same point yesterday. Please, spare us repetitions!

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I also looked at the records and Mr. Daniel Toroitich arap Moi took a day to go through this small document. So, with your indulgence, I might require a year to go through this huge document because these crimes are so many. They require a lot of time to elaborate.

I want to pay tribute to our media, both electronic and print, for expressing some of these pronouncements by the House and bringing them to the attention of the people of Kenya, so that they can also share with the House some

of the problems committed by the Government, which calls itself "the most popularly elected Government."

Mr. Deputy Speaker, Sir, yesterday I was talking about the advances and discounts by the Ministry of Finance. The issue here is that the Central Bank of Kenya advances money to politically-correct financial institutions. The Committee was horrified, and these are the words used again and again in this very document, by the Central Bank of Kenya use of Kshs17,761,526,794 in politically-correct banks, namely; The Trade Bank, Post Bank Credit Ltd., and the Exchange Bank without the authority of either Parliament or the constitutional provision. The Committee noted that this amount of money; Kshs17 billion where Trade Bank got Kshs2,172,000,000, Post Bank Credit - Kshs2 billion and the Exchange Bank - Kshs13 billion, could not be recovered. All these banks went into receivership. On what basis did the Central Bank of Kenya base the advances of Kshs17 billion which were questionable and which had no record of existence? These are not the Barclays Bank of Kenya or the Kenya Commercial Bank or the Standard Chartered Bank, but questionable banks which had been created many months before getting this amount of money from the Central Bank of Kenya. The Committee noted that the outstanding balances within the Deposit Protection Fund were not enough to cover whatever requirements were made. The outstanding amount of money in the Post Bank Credit Ltd., which has gone under, was so huge and there are no assets or securities to safeguard this money. The Committee does require that the Central Bank of Kenya undertakes all the powers at its disposal, including legal action to recover the Kshs17 billion from these banks.

The Committee recommended that the Governor of the Central Bank of Kenya and one Mr. Nicholas Biwott, I wish he was here, do appear before the PAC to give evidence in relation to this amount of money. Why was Mr. Nicholas Biwott mentioned by the PAC? From the evidence given, it became very clear that Mr. Nicholas Biwott was involved in the Kshs2 billion given to the Trade Bank. There was ample connection between that amount of money and the Yaya Centre. The money was used for the construction of the Yaya Centre in circumstances which are questionable and the circumstances which led to this enormous amount of loss of public expenditure.

Mr. Deputy Speaker, Sir, whatever happened to Yaya Centre and the former headquarters of the Trade Bank, which is now Integrity House, and the circumstances in which Trade Bank lent a certain amount of money to Mr. Biwott for the completion of the Yaya Centre, the PAC was not satisfied about the evidence given and did give mandate to the next PAC to summon Mr. Biwott. Mr. Biwott is to give further evidence regarding how he acquired that money and the securities he gave, and the amount of money that he got from the Deposit Protection Fund and what securities he gave. I am not insinuating any criminal conspiracy, but the Committee did establish that kind of conspiracy between the Central Bank of Kenya (CBK) and Mr. Biwott. So, the recommendation given is that the next PAC does summon Mr. Biwott to give evidence regarding the amount of money he took from the Trade Bank with the purported security from the Deposit Protection Fund amounting to Kshs600 million and put into Yaya Centre, which was not repaid back to the CBK and for which there were no securities given other than the Deposit Protection Fund. We consider that to be a serious and grievous crime.

Mr. Deputy Speaker, Sir, the next item that the PAC was horrified about is construction of Eldoret International Airport. There is a continuation of various PAC findings that there was a conspiracy among certain officials in the Ministry of Finance and the Office of the President to defraud the Kenya Government enormous amounts of money during the construction of Eldoret International Airport. The Committee noted that the same firm was awarded the contract in order to both identify the financiers for the airport and the Presidential Jet. For the Presidential Jet, he got Kshs10 million in advance to look for the appropriate Presidential Jet. In the case of Eldoret International Airport, the same person got Kshs12 million, equivalent to US\$187,268 in order to identify a financier for the Eldoret International Airport. And the moment he got the money, that was the last he was seen or heard of. So, the question asked by the PAC was: How can the Government, on two successive cases, lose Kshs10 million while identifying the Presidential Jet and again lose Kshs12 million when identifying a financier for the Eldoret International Airport and disappear into thin air? How did the Kshs22 million disappear into thin air? It is no longer available, and that is it. On what basis was that contract awarded? Was there competitive bidding for those contracts? How was he identified, having disappeared with Kshs10 million? How could the same firm be given the responsibility of again identifying a financier for the construction of Eldoret International Airport?

The Committee summoned the Attorney-General regarding that issue. The Attorney-General gave evidence; that the Government had been unable, despite the use of Interpol, to get hold of that gentleman or the firm that squandered so much money from the Kenya Government. The recommendation that the PAC gave was that, the Attorney-General moves with haste and reports back to the PAC by 30th October, 2000, on how far he has gone in getting that financier who took so much money, so that he can be prosecuted and also for the firm to be blacklisted. Also, the directors of the firm should be blacklisted so that they do not undertake any construction job with the Government of Kenya. Furthermore, what was more baffling to the Committee was that the land on which the Eldoret International Airport was built upon was part of the land given by one wheeler-dealer financier called Mr. Tiny Rowland to the President of the Republic of Kenya free of charge. It was about 3,000 acres given to the President of

Kenya, by one Mr. Tiny Rowland, who was the head of the Lonrho Trading Conglomerate. So, the Committee was concerned about how part of that piece of land was given to Eldoret International Airport and another part to Moi University and then sold back to the Government of Kenya. The Committee did note that the Government sent its own valuer to value that piece of land and he came up with a valuation of about Kshs160 million. But Lonrho PLC had its own valuer, and the value was twice the amount of money that was given by the Chief Government Valuer. It was about Kshs310 million. But the Government went out of its way and, instead of taking the valuation of its own officers, it took the valuation of the private valuer as given by the Lonrho PLC.

Mr. Deputy Speaker, Sir, I have my friend who is sitting directly opposite me, Mr. Mark Too, who was the Chairman of Lonrho PLC. I do not know whether he was aware of it, but maybe, he was not aware of that situation because he could not have allowed that kind of development to take place. So, on that basis, the Government of Kenya lost over Kshs140 million, by opting for private valuation against the Government valuation in acquiring the land on which Eldoret International Airport was built. We did call the Chief Government Valuer and the PS in the Ministry of Lands and Settlement. We did put this question to the Government Valuer: Whether he is aware that there was a Government valuation of about Kshs150 million and then there was a private valuation of Kshs310 million and the Government decided to pick on the private valuer and discard the valuation by the Government. The Chief Government Valuer expressed deepest regrets that anything like that could happen. He said that he was not responsible and it was illegal. It is there in the HANSARD; that, the Chief Government Valuer expressed deepest regrets that the Government went out of its way to pay for a valuation of a private valuer, instead of a Government valuer and in the process, lost twice the amount of money.

Furthermore, the Government went out of its way and instead of even paying the total amount of money to the private valuer, it paid three-quarters of the amount of money - about Kshs200 million. The rest of the money was paid in form of assets and land belonging to a private organisation - Uplands Bacon Factory land, owned by the Uplands Pig Producers Association, located in Uplands which was given out as compensation. So, here is a situation where the Government exchanges land in Eldoret International Airport with the land belonging to peasant pig farmers in Kiambu District. It is located in Mr. Philip Gitonga's constituency next to Mr. George Nyanja's constituency. Their land, buildings and factory of many years, were given to Lonrho; the giant international trading conglomerate. It was given on the understanding that the land belonged to the Government, but the only connection was that, the Government had sanctioned some loan to be given to the factory, but the Government was not the owner of the land.

So, the recommendation the Committee made was that all documents relating to all the transactions regarding the airport be submitted to the Controller and Auditor-General for verification by 31st October, 2000. The Permanent Secretary in the Treasury be banned from holding public office and the Attorney-General should take legal action against all the permanent secretaries and this is very important. In view of the gravity of the expenditure of Kshs2.7 billion to construct an International Airport at Eldoret without the authority and function of the Parliament and the Constitution, the Committee found it prudent to recommend that the Attorney-General takes legal action against all the permanent secretaries in Treasury and Office of the President responsible for that kind of expenditure and for violating Sections 99 and 100 of the Constitution. The recommendation was that whoever were permanent secretaries in both the Office of the President and Treasury should be barred from holding public office.

Mr. Deputy Speaker, Sir, I want to reiterate what I said yesterday. So far, none of the permanent secretaries has been barred. All those mentioned in successive PAC reports and I have got the whole document down here, none of them have been banned from holding public office. They keep on being recycled from one department of Government to another, from one Ministry to another despite the recommendation of the PAC of this House and despite this document being unanimously passed by this House. So, the question is and that is why I brought this small document: Whereby the current Head of Government was no other than the Chairman of a PAC so many years ago in 1963 who questioned and queried about the Government's misuse of spending by the Treasury of about Kshs6 million and censured that Minister and the Accounting Officer. The Government officer came later to apologise to the House. The Government of the day apologised to the House. We are asking for no lesser kind of appropriate response from the Government of the day. All these findings by the PAC in response to the Controller and Auditor-General's Report is time the Government of the day took action so that, at least, public funds are safeguarded. Not only that, but we create a standard of Government scrutiny and accountability.

Mr. Deputy Speaker: Mr. Gatabaki, I do not want to interrupt you but you are presenting a report and not debating. So, first of all, present the report and if you want to debate, do that later because you are beginning to repeat yourself.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, the Chair goes through the HANSARD reports and all these things are discussed. They are there. And if I bring the HANSARD report, we will not only identify an issue, but also go ahead and find out why do these things recur and no action is taken; and why actions were taken so many years ago by another Government and this particular Government does not take action.

Mr. Deputy Speaker: Order! We have already gone through that matter and I am saying that you are repeating yourself! So, the Members are not getting the grip of the Report which you should be giving them.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, the grip of the Report is not an analysis of what is there. A quick reading of whatever is there is also an analysis and the Controller and Auditor-General is thorough.

Mr. Deputy Speaker: Order! We are not going to argue. Please, give us your Report and you have ample opportunity to do so.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I am finding it increasingly difficult to proceed because of a lot of interruptions by the Chair and that has happened to me again and again. Other Members are not interrupted no matter how irrelevant they are and here I am very relevant quoting section by section, and describing the view point of the PAC, with your indulgence. Otherwise, I will have to take the whole---

Mr. Munyasia: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to challenge the Chair by accusing it of interrupting him every now and then? Should he not be asked to withdraw and apologise that particular remark?

Mr. Deputy Speaker: Mr. Gatabaki, I am not interfering. I am trying to give guidance so that the debate may proceed with due regard to our rules. Proceed!

Mr. Gatabaki: Mr. Deputy Speaker, Sir, we are still on the Ministry of Finance and there are 27 Ministries and by the time we get to the last one, it will be around June or July or thereabouts.

On honoraria, the Committee was very horrified. The word "horror" appears many times and notwithstanding your position regarding what I am talking about, the use of the English language connotes the weight that the users want to indicate. The PAC uses the words "appalled", "horrified" and "baffled" and they do that for a particular purpose. In this case, the senior staff of the Treasury paid themselves Kshs60 million for jobs which they are employed to do and among them is to identify the free trading zones, clearing the backlog of retirement cases, task forces on commercialisation of National Cereals and Produce Board. Here are a few of them, including the Permanent Secretary, claiming overtime and it is clear in their employment contract that certain job groups, that is "G" to "T", are not entitled for honoraria. So, this group of people goes ahead and creates jobs and claims honoraria amounting to about Kshs60 million over and above the Kshs20 million that had been budgeted for. So, not only did the senior officers in the Treasury pay themselves in excess of Kshs40 million but also did so unconstitutionally, because that money was not voted for by this Parliament. So, they acted unconstitutionally and against the parliamentary system.

Mr. Deputy Speaker, Sir, the irregular and fraudulent supply of equipment is an indication of the extent to which the PAC noted a kind of conspiracy between Government officers and merchants elsewhere as the following case will illustrate. The Treasury ordered for two printers and they were supplied without competitive bidding, invoices and tendering documents, at a cost of Kshs3.8 million in June, 1997. One of the printers did not function. I am picking on this small item to indicate the kind of conspiracy to defraud the Government of Kenya by the Treasury which has got the mandate of safeguarding public funds. So, two printers were bought for Ksh3.8 million which is equivalent to about Kshs1.9 million for one printer. An assessment of the prices in the open market revealed that the maximum price that kind of printers could go for, the least, would be Kshs150,000.

Mr. Deputy Speaker, Sir, the highest in the open market in any part of the Republic of Kenya would be Kshs150,000. This represents a difference of an incredulous figure of Kshs1,753,000 or Kshs1.5 million. It is a small case, but it shows the extent of squalor, corruption and looting in the Treasury. The two printers whose cost could not have exceeded Kshs600,000, at the highest, were bought for Kshs3.9 million.

QUORUM

The Assistant Minister for Tourism, Trade and Industry (Mr. ole Sankori): On a point of order, Mr. Deputy Speaker, Sir. There is no quorum in the House.

Mr. Deputy Speaker: Yes, there is no quorum in the House. Ring the Division Bell.

(The Division Bell was rung)

Mr. Deputy Speaker: Order! Order, hon. Members! We now have a quorum. Proceed, Mr. Gatabaki!

The Assistant Minister, Office of the President (Mr. Too): On a point of order, Mr. Deputy Speaker, Sir. I would like to urge Mr. Gatabaki to precisely dwell on the PAC Report. We do not want to hear about issues of 1962 and 1965.

Mr. Deputy Speaker: Order! Proceed, Mr. Gatabaki!

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I have never seen hon. Members in the Front Benches being so

scared---

Mr. Shidiye: On a point of order, Mr. Deputy Speaker, Sir. If the hon. Member wants to take two to three days moving the Motion on the PAC Report and behave like Fidel Castro, it will be impossible and there will be no quorum in this House. We want him to use, at least, 15 minutes.

Mr. Deputy Speaker: Order! Hon. Members, you should raise points of order which have a foundation in our regulations. When an hon. Member is moving a Report of a Committee, his time is limitless. That is not by me. I do appreciate the point that the longer the Mover takes to move, the less interest hon. Members show, and they show that by walking out and, therefore, denying us a quorum. I have made that point to Mr. Gatabaki, who has assured me, as an hon. Member of this House, that he will proceed to move his Report with dispatch.

Proceed, Mr. Gatabaki!

(Applause)

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I did make a point and I will stick by it. I am happy [**Mr. Gatabaki**]

you have said that I can take as much time as possible, to present this Report. I do not want to limit myself because the evil done by people who make us produce a Report like this must be told no matter how long it takes. Future generations will go to the library and read the HANSARD. I do not want to be the first person to shy away from bringing out certain characters---

Mr. Deputy Speaker: Move the Motion! You do not answer---

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I am moving it. If there will be no quorum for the next two weeks, so be it. But what is---

Mr. Deputy Speaker: Order, Mr. Gatabaki! You have an opportunity to move the Report of the PAC, and that time belongs to the House. So, would you proceed?

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I would like to proceed, and I am surprised at the amount of fear from the other side of the House in connection with what I will expose. Most of them when the new Kenya Anti-Corruption Authority (KACA) comes into operation will not escape jail or many years behind bars, and I shall go ahead to name them.

(Applause)

[Mr. Deputy Speaker left the Chair]

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

I will start by giving the amount of money that has resulted in uncollected revenue and avoidance of payment of Duty and tax by the Government. So, wherever you are, if you know that you are among these people, you can run away to avoid forming a quorum.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, the Committee was horrified by the sheer amount of laxity and criminal conspiracy to defraud the Income Tax Department and the Customs Department through avoidance of payment of Income Tax, Import Duty, Excise Duty and Value Added Tax (VAT). Swindlers range from well-known political personalities and merchants to the mighty and high in collusion with the Kenya Ports Authority (KPA), the Customs Department and the Income Tax officials. A few examples will surprise the Chair. The Maj. (Rtd) Philip Moi, who is the son of the President imported a Mercedes Benz purportedly for the Embassy of Sudan with a specific purpose of avoiding payment of duty. He fraudulently and wilfully changed the registration numbers of this vehicle three times. He did this with full knowledge of successful Registrar of Motor Vehicles, who did not demand any record of payment of duty and taxes which have rose, as at 29th February, 2000, to Kshs58,808,905.

I would like to say that the Committee recommends that the Attorney-General should investigate and institute criminal proceedings against the Registrar of Motor Vehicles, Maj. (Rtd) Philip Moi among others, and that the Accounting Officers should ensure that loopholes that made this kind of conspiracy to defraud taxes by one, Maj. (Rtd) Philip Moi to obtain logbook of a Porsche, 901S without chassis or engine numbers which he later used to criminally register a Mercedes Benz car in question, are sealed. The issue here is not the single car that this gentleman imported,

but the loopholes that exist that certain people had been importing equipment, vehicles using all kinds of loopholes, including the embassies and dumping those things in the Kenyan market. They register them, use the Registrar of Motor Vehicles, the Registrar of Companies and get away without paying duty.

Forged bankers cheque and identity cards were used to clear many vehicles from the KPA. I would like to say that 39 clearing agents had been suspended for facilitating diversion of transit goods with an estimated revenue in excess of Kshs1.2 billion, which should have been collected. Unless we emphasize these things that the KPA has been used as a conduit to defraud the Customs Department and the Government of Kenya billions by people who are known, who are here with us and some of them are in this Parliament--- Failure to institute stringent bond execution measures by insurance companies led to diversion of goods from home use--- This duty and the VAT is in excess of Kshs200 million. I would like to say that goods with taxable revenue worth over Kshs360 million were released without having been made to pay and without payment of duty at the Inland Container Depot here in Embakasi. In all areas where we have our people who collect revenue; in all the border posts, the story is the same again and again, and they are all recorded here. I would like to say that Import Duty and the VAT amounting to over Kshs 72 million was not collected at Jomo Kenyatta International Airport (JKIA). The balance of Import Duty and the VAT amount to about Kshs 140 million, and over Kshs20 million and 3 per cent penalty at Namanga and Isebania by the Customs was lost.

The Government waived over Kshs10 billion and Kshs1.6 billion tax in arrears on the Kenya Posts and Telecommunications Corporation (KP&TC) without the authority of Parliament. The Government waived over Kshs10 billion of the VAT and duty on the KP&TC and Kshs1.6 billion on the Kenya Pipeline Company. This adds up to Kshs11.6 billion which was waived just like that with a pen. This amount of money was written off by the Government. The waiver on the KP&TC left a balance of Kshs1.7 billion which has been---

The Assistant Minister for Tourism, Trade and Industry (Mr. Sankori): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think we are talking about the PAC and not the PIC. The issues that Mr. Gatabaki is bringing out are actually in the PIC and not the PAC.

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, I keep emphasizing that if I had the opportunity of meeting the President, I would implore upon him when he appoints Cabinet Ministers or Assistant Ministers, at least, get those with certain understanding of issues, or those who have gone to school beyond Form IV.

(Laughter)

The Assistant Minister for Tourism, Trade and Industry (Mr. ole Sankori): Mr. Temporary Deputy Speaker, Sir, I do not think I will take Mr. Gatabaki---

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of order?

The Assistant Minister for Tourism, Trade and Industry (Mr. ole Sankori): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Gatabaki to impute improper motives against me when he knows that I am a very capable hon. Member of Parliament?

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, I was talking about the Customs Department which falls under the docket of the PAC.

The Temporary Deputy Speaker (Mr. Imanyara): Order! The hon. Member is qualified to be an hon. Member of this House. I am sure he met all the criteria for election to this House. So, please, do not impute improper motives against him.

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, with all due regard, I will go ahead, but to emphasize the point that we are dealing with the Customs Department and the KPA. These are some of the dockets which fall under the Controller and Auditor-General and also the PAC. If the hon. Member was here or listened to me, I was talking about billions in uncollected revenue, avoidance of payment of duty, taxes and waiving of duty and taxes by the Government of Kenya.

Mr. Temporary Deputy Speaker, Sir, the Committee recommended that the waivers of Kshs10 billion and Kshs1.6 billion by the former Kenya Posts and Telecommunications Corporation (KPTC) and the Kenya Pipeline Corporation (KPC) be rescinded, collection of the amount be made and the officers involved be identified and action taken against them. So, whoever was responsible for recommending the waiver of duty amounting to Kshs10 billion by the former KPTC, and Kshs1.6 billion by KPC---

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. I stand to seek the Chair's guidance because it appears as if the Mover of the Motion has run out of material. He is repeating himself over and over again since yesterday. Could the Chair guide us on what to do because this Motion should be seconded so that we can debate it also? There are other hon. Members interested in this Motion.

The Temporary Deputy Speaker (Mr. Imanyara): But there is no Motion before the House now. I have to propose the Question before there can be a Motion before the House.

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, the Mover is repeating himself all the time.

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, I am explaining point by point. Those hon. Members who are tired of hearing misdeeds because they want to be associated with the wrongdoers have their own problem. It must be recorded for posterity that I raised these issues, and that certain people tried to hinder those who wanted to expose bad governance and those responsible for stealing public funds.

An hon. Member: They are co-operating?

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, if the National Development Party (NDP) and KANU are co-operating, I can now understand why the co-operation is in problems.

Mr. Munyasia: On a point of information, Mr. Temporary Deputy Speaker, Sir. May I inform hon. Gatabaki that we have copies of this Report? For details, we can read the Report ourselves or go to the library and read it. He will do himself and this House a lot of good if he highlighted those things that he thinks are very serious.

(Applause)

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, going by where the applause is coming from, you can understand where the hon. Member's heart is. I have no intention of not doing my job of tabling the Report of the Public Accounts Committee (PAC). When the founding fathers of this nation said that the Mover's period would be endless, they had some wisdom. Some topics require more time to discuss than others. I want to say categorically that even if it takes me one year before the next general election, I will go ahead and record whatever misdeeds are in this Report for posterity.

The Committee noted with considerable concern what has been going on in the Kenya Post Office Savings Bank. For some time, the bank has been making deliberate losses, and some hon. Members in this House are involved in this bank one way or another. There is a section in the Kenya Post Office Savings Bank Act which provides for whatever losses made by the Kenya Post Office Savings Bank to be paid by the Government of Kenya from the Consolidated Fund. Year in, year out, this bank has been making losses. For the year under review, the losses amounted to Kshs1 billion. This amount of money was paid by the Government from the Consolidated Fund. The Committee recommended that while the Attorney-General investigates this matter, the relevant Accounting Officers should liaise with him to draft a Bill to amend the outdated Act, in addition to ensuring that the bank acts profitably and pays dividends to its shareholders.

QUORUM

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

The Temporary Deputy Speaker (Mr. Imanyara): We do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Order! There being no quorum, the Standing Orders require that we adjourn the proceedings of the House.

Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 24th April, 2001, at 2.30 p.m.

The House rose at 5.15 p.m.