

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 28th October, 2004

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.578

LOSS OF SHARES BY KILIFI/MALINDI CASHEWNUT FARMERS

Mr. L. Maitha asked the Minister for Co-operative Development and Marketing:-

(a) whether he is aware that Kilifi and Malindi farmers, through the Kilifi District Co-operative Union, lost 35 per cent of their shares when the Kenya Cashewnuts Factory collapsed; and,

(b) what the Government is doing for these farmers to get back their shares.

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth):

Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware.

(b) The most the Government can do, and what we have tried to do, is to talk to the new owners, Millennium Management Limited, to realise that for their company to flourish, they need to consider selling or giving shares to the Kilifi District Co-operative Union as was the case before they lost the shares.

Thank you.

Mr. L. Maitha: Mr. Deputy Speaker, Sir, the answer talks of the willingness of the Government to talk to the new management to consider giving Kilifi and Malindi farmers shares. That is fine! However, by the time the factory collapsed, 35 per cent of the registered shares were owned by Kilifi farmers. This means that when the factory collapsed, the shares got lost. How are these farmers going to get back these lost shares? The Assistant Minister's proposal is that the farmers be allowed to buy shares again!

Mr. Kenneth: Mr. Deputy Speaker, Sir, the Kilifi Cashewnuts Factory was initially owned by quasi-Government bodies and Kilifi Co-operative Union owned 35 per cent of its shares. When the Government divested, it allowed the co-operative union to buy its 65 per cent of the shares but it did not do so. Instead, a new company bought the 65 per cent shares and entered into a management agreement with Kilifi District Co-operative Union. The new management then borrowed money from the Barclays Bank of Kenya and eventually the bank had to auction the company. As a result of this, the shares of both the new investors and the co-operative union were sold by Barclays Bank of Kenya and that is how Kilifi District Co-operative Union ended up losing its 35 per cent shares. This matter came before this House through the Public Investments Committee (PIC), which investigated privatisation. It gave a report and even felt that the entire sale was not right. It

recommended that the Attorney-General needed to take action against the officials of the co-operative union.

Mr. Kingi: Thank you, Mr. Deputy Speaker, Sir. The people who were responsible for the collapse of the Kenya Cashewnuts Factory are well known, as their names have featured prominently in PIC and other Government reports. They include Messrs. Kulei, Desai, Kiplagat and many others, who were given immeasurable protection by the previous Government. The directive that they be prosecuted has been given. What is the Assistant Minister and the Attorney-General doing to have these people arrested and charged in court?

Mr. Kenneth: Mr. Deputy Speaker, Sir, first of all, at the time when this took place, the Ministry of Co-operative Development and Marketing was not in existence. However, we went through the PIC report and noted that, indeed, it recommended to the Attorney-General the action to be taken. I would have to ask the Attorney-General why he has not taken the action that the PIC reports recommended.

Mr. Khamisi: Mr. Deputy Speaker, Sir, the Minister for Co-operative Development and Marketing went to Kilifi last year and held a very big meeting with farmers. I was in that meeting when he promised that the Government was going to intervene to ensure that the 35 per cent shares were restored to farmers. In fact, he came to this House and said that he was giving the new company 21 days notice to restore the shares to the farmers. What happened to that promise?

Mr. Kenneth: Mr. Deputy Speaker, Sir, at the time Mr. Ndwiga went to the Coast Province and addressed this issue, it had not been verified that the factory had actually been sold by Barclays Bank of Kenya to a third party. These are the facts that we have discovered. We made it very clear to the new owners that for them to survive in business in that area, they needed to think about the co-operative union. This is because most of the cashewnut growers in the area belong to that co-operative union. That is the view we have continued to articulate; namely that the new owners should consider selling 35 per cent of their shares to local farmers. However, we are dealing with a new entity altogether.

Mr. Deputy Speaker: I will have two more questions from Mr. Muite and Mr. L. Maitha!

Mr. Muite: Mr. Deputy Speaker, Sir, you heard the Assistant Minister say that he is going to follow up with the Attorney-General as to why the report by the PIC has not been acted upon. He has had this Question and he knew that he was coming to this House to answer it. Did he really have to wait for this House to ask him what action has been taken before following up the matter with the Attorney-General? Could he tell us why he did not follow up the matter with the Attorney-General before coming to this House so as to give a complete answer?

Mr. Kenneth: Mr. Deputy Speaker, Sir, I got the PIC report just this morning. I had not seen it before, but I was told that I should refer to it. I saw it this morning and carried with me the piece that recommends that the Attorney-General should take action.

Mr. Rai: On a point of order, Mr. Deputy Speaker, Sir. Arising from what the Assistant Minister is telling this House, will I be in order to ask him to give an undertaking that he is going back to the Ministry to liaise with the Attorney-General and bring a proper answer to this House instead of taking us round in circles?

Mr. Deputy Speaker: I did not get that! Are you asking for deferment of the Question?

Hon. Members: Yes!

Mr. Deputy Speaker: Mr. Assistant Minister, are you satisfied that you have the right answer for this Question? Do you still need more time?

Mr. Kenneth: Mr. Deputy Speaker, Sir, what is left is for me to write a letter to the Attorney-General, whose reply I can undertake to give to the Questioner. I have answered the Question!

Mr. Deputy Speaker: Very well! Mr. L. Maitha!

Mr. L. Maitha: Mr. Deputy Speaker, Sir, contrary to what the Assistant Minister has said,

the Public Investments Committee (PIC) report says that by 1996, the partner companies which owned the cashewnuts factory, namely, the Industrial and Commercial Development Corporation (ICDC), Industrial Development Bank (IDB) and the National Cereals and Produce Board (NCPB), sold their 65 per cent share holding, worth Kshs78 million, to the Kilifi District Co-operative Union.

Mr. Deputy Speaker: Ask your question, Mr. L. Maitha!

Mr. L. Maitha: Mr. Deputy Speaker, Sir, instead of these shares being registered in the name of the union, they were transferred fraudulently to two companies, namely, Kenya Plantations---

Mr. Deputy Speaker: Mr. L. Maitha, this is Question Time!

Mr. L. Maitha: Mr. Deputy Speaker, Sir, I am coming to the question!

Mr. Deputy Speaker: Order! Order! Mr. Maitha, this is not debating time. Ask your question now or I will discontinue you!

Mr. L. Maitha: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that this factory, contrary to the 35 per cent shareholding of the co-operative union, totally belonged to Kilifi District Co-operative Union by the time it collapsed?

Mr. Kenneth: Mr. Deputy Speaker, Sir, in fact, the PIC is more incriminating than what the hon. Member has said. I have undertaken to write the letter to the Attorney-General. We have the PIC, which has more details that should be taken care of.

Mr. Deputy Speaker: Next Question, Prof. Olweny!

Question No.516

IRREGULAR ALLOCATION OF MUHORONI
SUGAR COMPANY NUCLEUS ESTATE

Prof. Olweny asked the Minister for Lands and Housing:-

(a) whether he is aware that part of Muhoroni Sugar Company nucleus estate was irregularly given to private developers;

(b) whether he could give names of the allottees and how much land each of them received; and,

(c) what effort he is making to cancel the allocations.

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

(a) I am not aware that part of Muhoroni Sugar Company nucleus estate was irregularly given to private developers. However, I am aware that the East African Sugar Industries (EASI), which was the registered proprietor of the land, sold the same land to individuals.

(b) The following are the individuals who bought the same land:-

<u>LR Number</u>	<u>Name</u>	<u>Area(Ha)</u>
6016/1	Hezekiah N. Oyugi	82.600
6016/4	Simeon H. Ominde	34.220
6016/8	Abner O. Achoki	13.3800
6016/11	Peter W. Wambura	17.2100
6016/13	Julia A. Amayo	47.8300
6016/3	Leo P. Odera	77.6200
6016/2	Joseph R.O. Masime	49.2200
6016/7	Abner O. Achoki	8.7700
11685/1	Agro Chemical & Food Co. Ltd	9.8370
11685/2/1	Agro Chemical &	

	Food Co. Ltd	12.8000
11685/2/2	Agro Chemical & Food Co. Ltd	0.1619
11685/2/3	Agro Chemical & Food Co. Ltd	2.5230
11685/2/4	Agro Chemical & Food Co. Ltd	12.8000
11685/2/5	Wilson Ndolo Ayah	32.5000
Total		501.4719

(c) The Ministry is not making any effort to cancel the land sale transactions since the sale was done by the registered proprietor.

Prof. Olweny: Mr. Deputy Speaker, Sir, the 500 hectares make a very big portion of the former nucleus estate of the company. Today, the company has problems producing sugar-cane because most of its land went to private individuals. As far as I know, this land used to belong - and it still belongs - to the Agricultural Development Corporation (ADC). Could the Assistant Minister prove to this House that the ADC, which owned the land, gave it up for sale, as has been implied?

Mr. Ojode: Mr. Deputy Speaker, Sir, it is, indeed, true that the land is registered under East African Sugar Industries, in which the ADC had 75 per cent shareholding. In 1981, there was a presidential directive that the land be sub-divided. The directive was communicated to the Commissioner of Lands by the Managing Director of the ADC. This is not Government land. It is private land. It was not allocated to its new owners. It was bought on the basis of willing-seller, willing-buyer.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House that an asset in which the ADC had 75 per cent shareholding is not Government land?

Mr. Ojode: Mr. Deputy Speaker, Sir, if the hon. Member heard me correctly, I said that the land belonged to the EASI, in which the ADC had 75 per cent shareholding. As a Ministry, there is no way we can go into private land, sub-divide and allocate it to people. This land was never allocated to people. It was bought on the basis of willing-seller, willing-buyer.

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. The ADC is a public corporation. Is the Assistant Minister in order to mislead the House by suggesting that land which is owned by a public corporation is not public land?

Mr. Deputy Speaker: Mr. Muite, that is the same point raised by Mr. Angwenyi.

Mr. Muite: Yes, but the Assistant Minister has not answered it!

Mr. Ojode: Mr. Deputy Speaker, Sir, I said very clearly that the title of this land does not belong to the Ministry. The land belongs to the EASI. It is private land.

Prof. Olweny: Mr. Deputy Speaker, Sir, may I know from the Assistant Minister how much each of the beneficiaries paid for the land?

Mr. Ojode: Mr. Deputy Speaker, Sir, the late Hezekiah Oyugi paid Kshs840,000; Simeon Ominde, Kshs1,136,506; Abner Achoki, Kshs200,724; Peter Wambura, Kshs417,500; Julia Amayo, Kshs796,610; Leo Odero, Kshs1,147,017.40. Again, Abner Achoki paid Kshs200,000 for eight hectares. The amount paid by Agro-Chemical and Food Company is not indicated.

Mr. Deputy Speaker: Hon. Members, I have two Communications from the Chair. So, I beg your attention.

COMMUNICATIONS FROM THE CHAIR

AWARD OF TAXPAYER CERTIFICATE
TO NATIONAL ASSEMBLY

I wish to inform the House that Taxpayers Day was held on Thursday, 21st October, 2004, at the Kenyatta International Conference Centre (KICC). During the occasion, the Kenya National Assembly, which was represented by the Clerk of the National Assembly, received a distinguished taxpayer certificate from His Excellency the President, and a thank-card from the Commissioner-General in that recognition.

(Applause)

Hon. Members, contrary to the belief of many people, the National Assembly pays substantial Income Tax, which has been levied on hon. Members' and staff salaries. In the year 2004 alone, up to 30th September, the National Assembly has so far paid a total of Kshs134,474,604 in Income Tax. I, therefore, wish to congratulate you, hon. Members, for being good taxpayers, and urge you to continue with this exemplary conduct for the wellbeing of this Republic. As they say at KRA, *Kulipa ushuru ni kulinda Uhuru*.

MEMBERS OF THE GREAT LAKES
PARLIAMENTARY FORUM ON PEACE
IN SPEAKER'S ROW

Most of you are familiar with the Amani Forum; the Great Lakes Parliamentary Forum on peace. Amani has many members in this House, as well as in the Parliaments of Tanzania, Uganda, Rwanda, Burundi and Zambia. Amani is a regional organisation of Parliamentarians which works to prevent and resolve conflicts in our war-tone regions, and improve the quality of life of their citizens. Amani efforts have been rewarded with success and recognition. This week, for example, the organisation has been granted observer status in the on-going international conference on the Great Lakes region. That conference is actually a three-year process and first, Heads of States Summit will take place this November in Tanzania. The significance of the conference, which is held under the auspices of the African Union (AU) and United Nations Organisation (UNO) is that, it aims, ultimately, to produce a blue-print for peace in that region. Parliamentarians had been left out of those crucial discussions but now, thanks to Amani, we have a place at the table.

They say that the Great Lakes region would have a lot less water without the Democratic Republic of Congo (DRC). Indeed, if we were to look at it from a different perspective, the region would have a lot more peace, if there was peace in DRC. It is for that reason that Amani has found it crucial to engage their fellow parliamentarians in the transitional Government in Kinshasa. Starting at the end of the year 2003, Amani has maintained a dialogue with their Congolese colleagues, facilitating consultation and inter-parliamentary dialogue. In late July this year, Amani visited Kinshasa and was received very warmly by the Congolese Parliament. Amani is currently holding in Nairobi an inter-parliamentary consultation on the peace process in the DRC. The meeting is being attended by Members of Parliament from all the countries where Amani has members. I am pleased to inform hon. Members that our colleagues from Kinshasa are also attending the meeting.

I would now like to formally recognise the presence of the following Members of Parliament from the Great Lakes region, who are visiting us today, and who are sitting at the Speaker's Row.

(Applause)

First, from Burundi, we have hon. Bernard Lukiakamburi, hon. Mark Maranyambona, hon. Kilaire Mberengegere and hon. Pierre Kileva Lutomega. Secondly, from the DRC, we have hon. Eugene Shelakompto.

From the Republic of Rwanda, we have hon. Everest Kalisa, hon. Simon Ntare, hon. Medad Ratijano and hon. Juliana Kabanyana. From the Republic of Tanzania, we have hon. Raphael Chengeni, hon. Aggrey Mwandri, hon. Ibrahim Marwa, hon. Ali Karavina, hon. Hasic Kitine and hon. Teddy Kasele.

From the Republic of Uganda, we have hon. Nibert Mao, hon. Getrude Kulali, hon. Martin Wandera, hon. Ben Wacha, hon. Dorum Bamiomukama and hon. Silvia Sinyambulia.

From the Republic of Zambia, we have hon. Charles Kakoma, hon. Khakaloba, hon. Phiri, hon. Banda and hon. Mbalia.

Hon. Members, we warmly welcome you to Kenya and to this Assembly. We wish you very well in your deliberations. I thank you, hon. Members.

(Applause)

(Resumption of Oral Answers to Questions)

Question No.740

CONSTRUCTION OF KOLA/MUKUYUNI
POLICE POSTS

Mr. Deputy Speaker: Is Mr. Ndambuki not here? We will leave his Question until the end. That is very unusual for him!

Let us move on to the next Question by Archbishop Ondiek.

Question No.542

TERMINAL BENEFITS FOR
CORPORAL OOKO JUMA

Archbishop Ondiek asked the Minister of State, Office of the President:-

(a) whether he is aware that ex-serviceman No. 100313 Cpl. Patrick Ooko Juma has not received his terminal benefits and other entitlements since he was dismissed from the service; and,

(b) what he is doing to ensure that benefits due to him are paid immediately.

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

(a) I am aware that, on discharge, Mr. Juma was paid service gratuity of Kshs47,649.35. He receives a monthly pension of Kshs797.15 through the District Commissioner, Siaya District. Later on, when the period of service was revised, it was found out that it was wrongly calculated and was, subsequently, extended by two months and five days. He was paid the resultant arrears of Kshs2,144.20.

Archbishop Ondiek: Mr. Deputy Speaker, Sir, arising from the answer by the Assistant Minister, could he tell us how long that man served in the Kenya Armed Forces to earn such kind of benefits?

Mr. Mungatana: Mr. Deputy Speaker, Sir, the serviceman served for 14 years and 123 days.

Archbishop Ondiek: Mr. Deputy Speaker, Sir, the Assistant Minister has agreed that the man worked for 14 years. But was it fair for him to be given only Kshs47,639.35?

Mr. Mungatana: Mr. Deputy Speaker, Sir, the serviceman signed a contract with the Armed Forces on certain terms upon his employment. He accepted that when he retires, if it will be 14 years and 123 days, he will be paid Kshs47,639.35. So, that is strictly in accordance with the terms of the contract that he entered into.

Question No.746

DEATH OF MASTER BRIAN KIMELI
IN KAPSABET POLICE CELL

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

(a) whether he is aware that a four-year-old child, Brian Kimeli, was killed in the Kapsabet Police Station Cell on 16th June, 2003;

(b) what disciplinary action he has taken against the police officers from Kabiyeet Police Post and Kapsabet Police Station who arrested both mother and child, Mrs. Philomena Chepkorir Samoei; and,

(c) since the mother of the deceased was never charged with any crime, whether the Government could compensate her for the loss of her son and for illegal arrest and confinement.

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

(a) Yes, I am aware that a four-year-old child, Brian Kimeli, was killed in the Kapsabet Police Cell on 16th June, 2003 by one Eunice Cheptenkeny.

(b) Departmental disciplinary action was taken against the officers who were responsible for holding Mrs. Philomena Chepkorir Samoei together with her four-year-old child in custody, without an optional discretion to ensure her presence in court when required.

(c) It is not true that the mother of the deceased was never charged. Mrs. Philomena Chepkorir Samoei was charged with the offence of creating disturbance, contrary to Section 95, Sub-section 1(b) of the Penal Code in Kapsabet, File No.771/65/2003. The case was, however, terminated under Section 204 of the Criminal Procedure Code. Her arrest and confinement was not illegal. The suspect responsible for the murder of the late Brian Kimeli was arraigned in court and, accordingly, was charged with murder. Therefore, the issue of compensation does not arise.

Mr. Sambu: Mr. Deputy Speaker, Sir, the mother was charged, although the case was terminated under Section 204 of the Criminal Procedure Code. They have said that they will not compensate her. What crime did that child commit? The mother may have committed a crime of causing a disturbance. But what crime did Brian Kimeli commit to warrant him to be locked and consequently killed in the hands of the Government?

Mr. Mungatana: Mr. Deputy Speaker, Sir, the facts of that matter must be stated, so that we are not misled emotionally. What happened is that, the mother of the child, Mrs. Philomena Chepkorir Samoei, was arrested by officers from Kabiyeet Police Post on 14th June, 2003, on the allegation of creating disturbance in a manner likely to cause a breach of the peace. The following

day, she was transferred to Kapsabet Police Station, where she was supposed to be taken to court for a plea in the usual manner. At Kapsabet Police Station, she shared a police cell with a lady called Ms. Eunice Jeptenei. They were supposed to do the normal cleaning in accordance with the regulations of the police station. The mother handed the child to Ms. Eunice Jeptenei to hold him for her while she did the cleaning. According to the evidence that we have, the lady who was given the child tied the baby with a *leso* and suffocated him. When the mother finished cleaning and went back to pick the child, the child was dead. Arising from these facts, the lady was charged with the offence of infanticide. The matter is still in court, vide criminal case No.1388/2003.

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

Mr. Deputy Speaker: I have heard this before. This Question has been here before! I remember very well I was in the Chair when it was brought up. This appears to be the second time it is being brought here. I think I have heard that story from the Assistant Minister about twice. Is this the same Question, Mr. Sambu? If so, what is your point of order?

Mr. Sambu: Mr. Deputy Speaker, Sir, when I first brought up the matter, it was not a Question. It was a Ministerial Statement which was given on 18th June, 2003. I am not asking the Question for the second time. I know the procedures and I cannot do that.

Mr. Deputy Speaker: Order, Mr. Sambu! I have not, in any way, suggested that you are asking the Question for the second time. I am only saying that I have heard the story of the mother giving the child to another lady and the child being strangled. Why has the issue not been resolved up to now? That was my concern.

Mr. Sambu: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has not answered my question! I asked about the child and not the mother. What crime did this four-year-old boy commit to be put in custody in the first place, and secondly, to be killed? The Government has failed to compensate the family.

Mr. Deputy Speaker: For the information of the Assistant Minister and the hon. Member, this Question was before brought before the House on 25th June, 2003. I was in the Chair and we went through the same thing. So, could we finish with it, Mr. Assistant Minister, once and for all?

Mr. Mungatana: Mr. Deputy Speaker, Sir, the issue of compensation by the Government does not arise in situations like this one. In criminal litigation, once a person has been arrested and charged, the Government has discharged its responsibility. If somebody wants monetary compensation beyond that, they are free to pursue that through a civil case. For example, in a traffic offence, the Government discharges its responsibility by charging the person with careless driving. If that person caused an accident that injured you personally, you should file a civil suit and get compensation.

Dr. Khalwale: Mr. Deputy Speaker, Sir, probably because of the age of the Assistant Minister, he does not know how a four-year-old child looks like!

(Laughter)

Mr. Mungatana: On a point of information, Mr. Deputy Speaker, Sir. For the information of Dr. Khalwale, I have a five year-old-child!

Dr. Khalwale: Mr. Deputy Speaker, Sir, on his own admission, the Assistant Minister knows that if a four-year-old child was tied by a *leso*, he would have created so much hell which would have drawn the attention of the police officers who were within the station. Could he confirm to this House that the Government neglected murder when it was being committed?

Mr. Mungatana: Mr. Deputy Speaker, Sir, I want to inform the hon. Member, who is a medical doctor by profession, that in death by suffocation, especially in infants, the muffles may not

be heard. Apart from that, I have stated in this House that we have taken disciplinary action against the officers who were concerned. We have charged them in accordance with the Police Rules under Cap.84. First of all, we transferred all the officers who were concerned and subjected them to proceedings which are equal to what the army calls "court martial". We charged them in a court which is established within the police rules. They were all found guilty and the necessary punishment, which included deductions from their salaries, suspensions and subjection to fatigue, was meted out on them in accordance with the Police Act.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I am surprised that the Assistant Minister has said that the Government cannot compensate this family. The mother of the child was arrested for behaving in a manner likely to cause a breach of the peace and taken to Kapsabet Police Station. Then her son was murdered in the police station. What is the Assistant Minister's sense of justice? A murder was committed in a police station after a mother had been arrested for behaving in a manner likely to cause a breach of the peace. The child had committed no crime. He needs to be serious.

Mr. Deputy Speaker: This is, indeed, serious!

Mr. Mungatana: Mr. Deputy Speaker, Sir, I share the concerns of the hon. Member. The Government has taken action and has arrested the person who committed that infanticide. We have charged her in court with the offence of murder of the child and the case is pending. As I have explained, compensation will only arise if the family followed up the issue through a civil suit.

Mr. Sambu: Mr. Deputy Speaker, Sir, this Government does not give a damn about human rights! That is why 56 prisoners---

Mr. Mungatana: On a point of order, Mr. Deputy Speaker, Sir. Could the hon. Member substantiate what he means by saying that the Government does not give a damn about human rights? We do!

Mr. Deputy Speaker: I should not have allowed that point of order!

Mr. Sambu: Mr. Deputy Speaker, Sir, the point of order was frivolous, indeed!

Mr. Deputy Speaker: Mr. Sambu, do not do the Chair's work. It is me to rule whether a point of order is frivolous or not. Certainly, it was not!

The Minister for Gender, Sports, Culture and Social Services (Mr. Ochilo-Ayacko): Mr. Deputy Speaker, Sir, I hate to interrupt Mr. Sambu, who is my friend, but I need your guidance. Is the phrase "giving a damn" parliamentary? The hon. Member has said that this Government does not give a damn about human rights. Is this parliamentary language?

Mr. Sambu: Mr. Deputy Speaker, Sir, it is about caring about human life! Fifty six prisoners died in Meru Prison and more are dying in other places. That is why the Government does not care about a four-year-old child! It is so sad that Kenyans must take all this into consideration and then elect the likes of them!

(Laughter)

Mr. Deputy Speaker: Mr. Sambu, ask your question now!

Mr. Sambu: Mr. Deputy Speaker, Sir, when I demanded a Ministerial Statement on 18th June regarding the same issue, the then Assistant Minister, Mr. Tarus, said he had discussed the matter with the Commissioner of Police and he confirmed that, after investigations, he found that, indeed, there was an attempt to cover up the circumstances of this particular case. He further confirmed that the culprits; the Officer Commanding Police Station (OCS), who booked the lady at Kapsabet Police Station and the officers at Kabiyet Police Station, would be disciplined. Is it enough to deduct money from the salaries of these officers when somebody's life has been lost?

Mr. Mungatana: Mr. Deputy Speaker, Sir, if the hon. Member had not interrupted me I

would have finished what I was saying. The number of officers who were involved were put through the normal police tribunal and they were disciplined with offences that ranged from negligence and neglect of duty. I stated that the convictions and punishment ranged from deductions from salaries, transfers, demotions and outright fines because that is what is provided for under the Act. Apart from that, the suspect was actually charged.

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

Question No.411

INCREASE IN PRICE OF MAIZE MEAL

Mr. Wario asked the Minister for Finance:-

- (a) whether he is aware that since February 2003, to date, the retail price of a two-kilogramme packet of maize meal has almost doubled from Kshs38 to Kshs70;
- (b) what occasioned this unprecedented price increase; and,
- (c) what he is doing to reverse this dangerous trend.

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

(a) I am not aware of the fact that the retail price of a two-kilogramme packet of maize meal has doubled from Kshs38 to Kshs70 between February 2003 to date. I am, however, aware that the retail price of the same has ranged between an average of kshs41.50 in February, 2003 to kshs54.35 in April 2004.

(b) The Government decontrolled the last items in 1994. This ushered in an era of free market economy where the forces of demand and supply determine the prices of goods and services. These forces have partly occasioned the price increases I have referred to above. Secondly, price increases have also resulted from worldwide price increases in petroleum products which have pushed up the prices of farm inputs, such as fertilizers and others, which have in turn increased the prices of maize production locally and abroad.

(c) To keep prices down, the Government has created and maintained the right macro-economic conditions in the country; by maintaining low inflation and lowering and stabilizing interest rates, among others. In addition, the Government has been encouraging fair competition through enforcement of the Restrictive Trade Practices Monopolies and Price Control Act, Cap.504.

Mr. Wario: Mr. Deputy Speaker, Sir, I cry for common Kenyans! Definitely, the Assistant Minister will not know the price of *unga*. I have heard his beautiful terminologies, which are; "free market economy and the forces of demand and supply." Unfortunately, this will not put food on the table for common Kenyans. What is he doing, as an Assistant Minister, to enable the common *mwananchi* afford the price of a packet of *unga*?

Mr. Katuku: Mr. Deputy Speaker, Sir, I want to dispute the fact that I do not know the price of *unga*. I want to confirm to this House that I did a survey as late as today to confirm the truth. I found out that the prices are, as I said. However, as I indicated, the price of *unga* has gone up because of the factors that I have explained. We, as a Government, are doing our best to ensure that inflation does not hit the roof. However, I would want to hear suggestions from the hon. Member, if he has any. But we are doing our best.

Mr. O.K. Mwangi: Mr. Deputy Speaker, Sir, the prices of day-to-day commodities used by Kenyans have rocketed, including those of kerosine, *unga et cetera*. When will the Assistant Minister impose the price controls so that we can have the poor Kenyans living a day-to-day life?

Mr. Katuku: Mr. Deputy Speaker, Sir, I sympathise with the situation Kenyans are facing in view of the increment of prices. But on the suggestion being brought up here, we have left the era

of controls and it is not possible to go back again to that era. The only way forward is to put measures in place to ensure that we can control what we can. Some of the facts I have given here are beyond our control. For example, the prices of oil have doubled within the same period. If we had a way to control the prices, we would do it. But these are matters beyond our control. The other factor which is attributed to this is the drought which we have. We have no control over such factors.

Mr. Twaha: Mr. Deputy Speaker, Sir, the Assistant Minister talked about the liberalisation of the economy and the free market. Is he aware that the so-called friendly countries were the instigators of these free market policies and liberalisation and that they themselves subsidise their agriculture and protect their farmers from the so-called free market economy?

Mr. Katuku: Mr. Deputy Speaker, Sir, I am aware of so many things,

including what the hon. Member says. However, we, as a Government, are doing our best to ensure that farm inputs are cheaper. We are also trying to protect the farmers through the policies we have put in place. We hope they will yield fruits and we will have a lower cost of production.

Mr. Billow: Mr. Deputy Speaker, Sir, the glaring inequalities between the rich and the poor that was released yesterday is as a result of the failed market policies in this country. Recent studies which have been done by renowned economists like Stiglie who was the former Vice-President of the World Bank have demonstrated that pure market economy has adversely affected the living standards of people in Sub-saharan Africa, and that there is need for guidance by the states in the economy. Could the Government consider subsidising the price of the basic foodstuffs to make them affordable by eliminating the taxes, levies and duties which are charged on inputs and other goods? This happens in many countries in the region, where basic prices of basic foodstuffs do not rise.

Mr. Deputy Speaker: Order, Mr. Billow! You asked a very good question. Let the Assistant Minister answer it. You are now giving him a lecture on why it happened.

Proceed, Mr. Katuku!

Mr. Katuku: Mr. Deputy Speaker, Sir, you know very well that Mr. Billow is the Shadow Minister for Finance, and that is how Shadow Ministers behave! I appreciate his suggestions and we will put them into consideration.

Mr. Deputy Speaker: Last question, Mr. Wario!

Mr. Wario: Mr. Deputy Speaker, Sir, on the same issue of subsidy, may I ask the Assistant Minister to consider subsidising farm inputs to enable farmers to produce crops at a cheaper price?

Mr. Katuku: Mr. Deputy Speaker, Sir, we will consider that.

Mr. Deputy Speaker: Very well! Next Question by Mr. Korir!

Question No.680

DISBURSEMENT OF FUEL LEVY FUNDS

Mr. Korir asked the Minister for Roads and Public Works how much of the 24 per cent Fuel Levy for 2001/2002, 2002/2003 and 2003/2004 financial years was disbursed to the districts.

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Deputy Speaker, Sir, I beg the indulgence of the Chair to defer this Question to Tuesday next week.

Hon. Members: Why? Why?

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Deputy Speaker, Sir, as you can hear the reaction from the hon. Members, this is a very sensitive issue involving 24

per cent of the Fuel Levy. We are currently working on the list of areas where the money was sent during the above period. That list is not yet complete.

Mr. Deputy Speaker: Mr. Korir, that sounds reasonable! Is it okay with you?

Mr. Korir: Mr. Deputy Speaker, Sir, that is okay, so long as it will come on Tuesday as he has promised.

Mr. Deputy Speaker: Very well! The Question is deferred to Tuesday afternoon!

(Question deferred)

Next Question by Mr. Francis Kagwima!

Question No.771

PENSION DUES FOR MR. NJERU KWARIA

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

Let us move on to the next Question by Ms. Mwau.

Question No.637

GOVERNMENT POSITION ON
GENETICALLY MODIFIED SEEDS

Ms. Mwau asked the Minister for Agriculture:-

- (a) what the Government position is with regard to genetically modified seeds; and,
- (b) what measures the Government has instituted to protect farmers from the devastating effects of those seeds, as witnessed in other countries.

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

(a) The Government recognises the potential benefits that genetically modified seeds would have on food security and poverty reduction in the country. However, I wish to inform the House that, we have not released genetically modified seeds into our environment at the moment. The official position is to develop human and material capacity and infrastructure within our research institutions and relevant Government departments for our research scientists to conduct research in a safe and judicious manner on biotechnology in general, and genetically modified seeds in particular.

(b) The Kenya Plant Health Inspectorate Services (KEPHIS) oversees the safe introduction and use of genetically modified plants, including genetically modified seeds, and the provisions of the Seeds and Plant Varieties Act (Cap.326) of the Laws of Kenya and Plant Protection Act (Cap.319) of the Laws of Kenya. KEPHIS routinely inspects any form of plant material arriving at the seaports, highway border crossings and airports. It also issues permits the application of genetically modified seed material for testing or for research, based on conditions set by the National Biosafety Committee, which is based in the National Council for Science and Technology.

Mr. Deputy Speaker, Sir, the enactment of the Biotechnology and Biosafety Bill to be introduced in this House soon, will provide additional stringent measures on the development and use of genetically modified products, including genetically modified seeds. The Bill establishes a National Biosafety Board that will supervise the introduction and application of all genetically

modified products. It will also ensure that concerned institutions conform to the set standards, conditions and regulations.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: I would like to request Ministers to issue short answers, just like the way I insist that hon. Members should ask short questions. I think you get what I mean.

Ms. Mwau, please, proceed!

Ms. Mwau: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for that elaborate and long lasting answer. Studies have shown that the introduction of genetically modified seeds has brought health hazards, destroyed agricultural land and life too. It is not true that genetically modified seeds benefit food security and reduce poverty. In the Bill that the Ministry is planning to bring to this House, what measures are being taken to protect farmers, particularly from patent seeds? That is the direction we are going. Farmers will be forced to use patent seeds and not their own.

Mr. Deputy Speaker: Madam Mwau, you are as guilty as the Assistant Minister! You have asked so many questions! I do not know whether the Assistant Minister got them!

Mr. Akaranga: Mr. Deputy Speaker, Sir, the hon. Member has asked a question and answered it. The Bill will be brought to this House and hon. Members will have the right to scrutinise it. They can either pass or reject it.

Mr. Weya: On a point of order, Mr. Deputy Speaker, Sir. If I heard him correctly, the Assistant Minister said that they have not released any genetically modified seeds into the market. We are very much aware that we have genetically modified trees and sugar-cane stems. Is the Assistant Minister in order to tell the House that there are no genetically modified seedlings in the market?

Mr. Akaranga: Mr. Deputy Speaker, Sir, I am not even aware that we have those genetically modified trees in the market!

(Laughter)

Mr. Deputy Speaker: Last question, Ms. Mwau!

Ms. Mwau: Mr. Deputy Speaker, Sir, what policy does the Ministry have on organic farming? That is the way farmers should be going.

Mr. Akaranga: Mr. Deputy Speaker, Sir, in fact, organic farming is included in the Bill that will be brought before the House.

Mr. Deputy Speaker: Next Question by Prof. Oniang'o!

Question No.748

MEASURES TO ENSURE ADEQUATE
FOOD RESERVES

Prof. Oniang'o asked the Minister for Agriculture whether he could inform the House what measures he is taking to ensure that the country has adequate food reserves for the year 2004/2005.

The Assistant Minister for Agriculture (Mr. Akaranga): Mr. Deputy Speaker, Sir, I beg the indulgence of the House to answer this Question next Wednesday.

Hon. Members: Why? Why?

The Assistant Minister for Agriculture (Mr. Akaranga): Mr. Deputy Speaker, Sir, the

Question was re-directed to another Ministry. We have held discussions with the Minister concerned and agreed to answer it on Wednesday next week.

Mr. Deputy Speaker: It is true that this Question had been directed to the Office of the President. I now understand that there is an agreement that it should be re-directed to the Ministry of Agriculture. Therefore, the Assistant Minister is justified in requesting more time. Is that okay, Prof. Oniang'o? Which day do you prefer?

Prof. Oniang'o: Mr. Deputy Speaker, Sir, Kenyans are really dying and the answer is required urgently! But, it is okay.

Mr. Deputy Speaker: So, the Question is deferred to Tuesday next week!

(Question deferred)

For the second time, Question by, Mr. Ndambuki!

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I apologise for coming late.

Question No.740

CONSTRUCTION OF KOLA/
MUKUYUNI POLICE POSTS

Mr. Ndambuki asked the Minister of State, Office of the President whether he could inform the House when the Government will construct Kola and Mukuyuni Police Posts.

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

The Government will embark on the construction of Kola and Mukuyuni Police Posts once the land and funds become available. Currently, Kola Police Post is on a piece of land earmarked for the Ministry of Roads and Public Works while Mukuyuni Police Post is on a private rented plot at Mukuyuni Trading Centre.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for that answer. In fact, I am just from looking for land in Kola and that is why I came in late. However, we have found a piece of land. So, could the Assistant Minister assure this House that the Government will now construct the police post now that we have found a piece of land?

Mr. Mungatana: Mr. Deputy Speaker, Sir, once we have the land, we shall set aside the necessary funds for the construction work.

Maj. Madoka: Mr. Deputy Speaker, Sir, what is the Government's policy in terms of constructing police posts because there are very many areas which require police posts and yet it appears that there is no policy with regard to construction of the same?

Mr. Mungatana: Mr. Deputy Speaker, Sir, that is a good question. The policy that the Government has adopted is that, once there is need for construction of a police post or a police station, it is the responsibility of the District Security Committee in the area to prioritise that as an important development agenda. The same is forwarded to the Provincial Security Committee and then taken to the Commissioner of Police for approval in accordance with the available funds. However, the problem has been that a lot of times we have been forced to construct police posts in areas like the hon. Member's place because of emergency cases. Also, we do not have proper procedures being followed. As a result, you will find police stations being constructed where they are not supposed to be. Other problems like the ones facing Kola and Mukuyuni also crop up.

Mr. Karaba: Mr. Deputy Speaker, Sir, supposing the police posts are put up by the community, would the Government provide enough policemen to man the posts?

Mr. Mungatana: Yes, Mr. Deputy Speaker, Sir. Every time a community, through its own efforts, puts up a police post, we always ensure that we man those police stations. However, it is important that the Ministry and the Police Headquarters are informed of such a step so that when we gazette an area as a police post or station, then, proper procedures are followed and policemen are sent to man those stations.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to tell us whether the Government will continue meeting the rent in Mukuyuni where the police officers are housed in somebody's building. Since the policemen started staying there, the owner of the property has never been paid rent and he cannot even buy seeds for himself!

Mr. Mungatana: Mr. Deputy Speaker, Sir, we shall get details from the hon. Member and ensure that the money is paid.

(Mr. Kamama stood up in his place)

Mr. Deputy Speaker: Mr. Kamama, you have been trying to catch my eye. Is it a point of order or a question?

Mr. Kamama: Mr. Deputy Speaker, Sir, it is a point of order. My good friend, the Assistant Minister, is misleading this House. Most police stations and posts were established during the colonial era and those that exist presently were established by *wananchi*.

Mr. Deputy Speaker: Order, Mr. Kamama! A point of order means that some order has been breached and you would want to draw the attention of the Chair to that.

Mr. Kamama: Mr. Deputy Speaker, Sir, is the Assistant Minister in order to mislead this House by telling us that police posts have been established by the Government while we know for sure that most of them were established during the colonial era and those that exist at the moment were established by *wananchi*? For the last ten years, the Government has not established any police stations or posts.

Mr. Mungatana: Mr. Deputy Speaker, Sir, it is true that the bulk of police stations in this country were set up in the old colonial days. However, in accordance with the plan that we have, those police stations that are coming, be it through the efforts of the community or not, we have increased the numbers. We shall continue to increase the number of police stations and posts as funds become available.

Question No.771

PENSION DUES FOR MR. NJERU KWARIA

Mr. Deputy Speaker: Mr. Kagwima is still not here? The Question is dropped!

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

REPAIR OF ATHI RIVER BRIDGE

Mr. M. Maitha: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Roads and Public

Works the following Question by Private Notice.

(a) Is the Minister aware that the bridge along Nairobi-Kangundo Road across Athi River is about to collapse?

(b) What steps is the Minister taking to have the bridge repaired?

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

(a) No, I am not aware that the bridge along Nairobi-Kangundo Road across Athi River is about to collapse. I am, however, aware that the elements that assist in the proper functioning of the bridge require to be repaired. The independent concrete structures that retain the soil-fill on the sides of the end of the bridge structure from the Kangundo side have been displaced from their positions and have virtually collapsed due to foundation failure and motor-vehicle accidents. The wingwalls, in their design, are not connected to the abutments. Joint materials of the five-bridge expansion joints have been eroded leaving the joints open. Replacement of 120 metres handrails and flexbeams of 40 metres in length on the approaches to the bridge require replacement.

(b) My Ministry will provide budgetary allocation of Kshs1 million in the next financial year for the rehabilitation of the bridge. The wingwalls will be replaced with gabions; expansion joints will be filled with joint filler and sealant; 120 metres of handrails will be replaced; and 40 metres of flexbeam adjacent to the bridge will be replaced.

Mr. M. Maitha: Mr. Deputy Speaker, Sir, the answer given by the Assistant Minister is not correct because, if you stand across the bridge, you will see so very many cracks. In fact, when vehicles pass over the bridge, the cracks open thereby making the bridge very dangerous for use by motorists. Are there no emergency funds from the Ministry for the repair of the bridge to avert this looming disaster?

Eng. Toro: Mr. Deputy Speaker, Sir, to the ordinary layman, when you stand on the bridge, it appears to be structurally unstable. The five-bridge expansion joints are the ones that are about four to five centimetres apart. They need to be filled with some sealant so that one does not see through down the river. At the moment we do not have Kshs1 million that the hon. Member is requesting because we are overstretched by the budgetary allocation for this financial year. However, I promise that in the next financial year, we shall be able to repair the bridge.

Mr. Kombe: Mr. Deputy Speaker, Sir, could the Assistant Minister undertake to confirm to this House that for anything that will happen as a result of that bridge collapsing, he will offer compensation?

Eng. Toro: Mr. Deputy Speaker, Sir, the bridge will not collapse.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I do not think the Ministry is aware that the motorists on that road are very worried, unless he will assure them one by one. In fact, Kshs1 million is very little money. Could he consider providing Kshs1 million and repair the bridge?

Eng. Toro: Mr. Deputy Speaker, Sir, I am taking the opportunity to reassure the motorists that the bridge is safe and that nothing will happen to it, structurally. The repairs that we need to do are those that are subject to misuse by motorists. Once a motorist veers off the road, he hits the guardrails. As a result we have to keep on replacing them. I can assure the hon. Member that the bridge is structurally safe and he should not fear. However, I do not want to promise that I will get the Kshs1 million this financial year. I can assure him that the Kshs1 million for repair will be available next financial year.

Mr. M. Maitha: Mr. Deputy Speaker, Sir, Let me thank the Assistant Minister for saying that he will take responsibility if anything happens across that bridge. Could I further ask him to send his team to repair the cracks which are along the bridge?

Eng. Toro: Let me assure the hon. Member that those are not cracks. They are called

expansion joints. When you have a concrete deck when constructing a bridge---

Mr. M. Maitha: They are cracks!

Mr. Deputy Speaker: No! Mr. Maitha, we do not operate that way.

Mr. M. Maitha: But I know what he is talking about!

Mr. Deputy Speaker: Mr. Maitha, let the Assistant Minister finish.

Eng. Toro: Mr. Deputy Speaker, Sir, we normally leave room for expansion when we are constructing a bridge on a concrete deck. You cannot have one complete structure because it will fall. Those expansion joints for this particular case are bigger than normal. They are not cracks. They are expansion joints. Those are the ones I am saying we will repair next financial year with a sealant fill that will cover them so that motorists or pedestrians cannot see through the cracks to the river.

IMPLEMENTATION OF NSHIF PILOT SCHEME

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

(a) How many hospitals have commenced the pilot National Social Health Insurance Fund programme in anticipation of the conversion of the National Hospital Insurance Fund to a social insurance scheme?

(b) What improvements have been carried out in those hospitals to make the pilot project a success?

Mr. Deputy Speaker: The Minister for Health did communicate to the Chair that you had agreed that the Question be deferred. Is that so, Dr. Khalwale?

Dr. Khalwale: Mr. Deputy Speaker, Sir, that is what she suggested, but she confirmed that she wanted to have it deferred to Tuesday.

Mr. Deputy Speaker: So, by agreement, it is deferred to Tuesday?

Dr. Khalwale: Yes, Mr. Deputy Speaker, Sir. But may it be on record that this is a very important Question and could the Minister herself personally come and answer it?

Mr. Deputy Speaker: The Minister did tell me that you had agreed that the Question be deferred to Tuesday. So, it is so deferred to Tuesday afternoon.

(Question deferred)

EVICITION OF SMALL-SCALE FARMERS IN ISIOLO

Dr. Kuti: 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 the School of Infantry near Isiolo is evicting small-scale farmers from their farms claiming ownership of the land?

(b) What is he doing to ensure that these peasant farmers are not left landless?

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

(a) I am aware that the School of Infantry near Isiolo is evicting small-scale farmers.

(b) The land where the small-scale farmers are farming belongs to the military which is the Kenya School of Infantry. In the normal military exercises, sometimes they use live ammunition which would be dangerous to the small-scale farmers around. It is for their own safety that they are

being evicted. These peasant farmers can be settled elsewhere within Isiolo District since land in Isiolo has not been adjudicated.

Dr. Kuti: Mr. Deputy Speaker, Sir, I think that is a very insensitive answer from the Assistant Minister. There are four army barracks surrounding Isiolo Town and it has taken over 60 per cent of the land for practice. These four army barracks also release about 800 askaris into the town every weekend. Most of our girls have been taken by these army officers. Due to this the prevalence of HIV/AIDS has gone up from 7 per cent in 1997 to 10 per cent now. These loud booms are causing miscarriages to women and domestic animals. As if that is not enough---

Mr. Deputy Speaker: Order, Dr. Kuti! What are you asking about because you started with the eviction of farmers---

Dr. Kuti: As if that is not enough, the only arable strip of land---

Mr. Deputy Speaker: Order, Dr. Kuti! I am in the process of advising you because you were specific about the eviction of farmers. Now you have gone into the issues of HIV/AIDS and women. What do you want the Minister to answer? Can you ask a question?

Dr. Kuti: Mr. Deputy Speaker, Sir, the piece of land which is being claimed by the School of Infantry is the only arable narrow strip on Isiolo River. Even if these people are given the wide land in Isiolo they will not survive because it is not arable. Can the School of Infantry remain as it is now instead of annexing peasants' land? Can it not move to the larger area which is not arable? This is the only arable land there.

Mr. Deputy Speaker: Now you have asked a question!

Mr. Mungatana: Mr. Deputy Speaker, Sir, first of all, the arable land that the hon. Member is talking about is not being annexed. It is land which has always belonged to the School of Infantry. As I said before, because of the intensified military exercise going on right now, we think that it is not safe for the small-scale farmers to be within the area. We request the understanding of the hon. Member and the people because if somebody gets injured, then the responsibility falls on us.

Mr. Waithaka: Mr. Deputy Speaker, Sir, the Assistant Minister said that land in Isiolo has not been adjudicated. How does the School of Infantry then own that land if the adjudication has not been done?

Mr. Mungatana: Mr. Deputy Speaker, Sir, even in an area which has not been adjudicated, you can actually annex an area and obtain titles. Any land which is under trustland is adjudicated upon. But Government land---

Hon. Members: How!

Mr. Mungatana: Just hang on! In an area which the Government has earmarked, titles can be obtained. Areas which have not been adjudicated are outside the land that we are talking about.

Mr. Bahari: Mr. Deputy Speaker, Sir, this is a very unfortunate case. Over 70 per cent of land within and around Isiolo has been taken over by the military without compensation to the people. Those people have lived there since time immemorial. The military has superimposed itself without any compensation. Could the Assistant Minister undertake to fully compensate the people in Isiolo who have been displaced?

Mr. Mungatana: I share the concern of the hon. Member, but the Government has the power to annex land for purposes of establishing military camps, police stations, schools and public facilities. When the annexation is done, there are some procedures which are followed. If somebody has structures or properties, he or she is compensated following the laid down procedures. I know that no person claimed ownership of that particular land. Land in Isiolo has not been adjudicated and nobody had a title deed at that time. That land was taken by the Military for the good of this country.

Mr. Deputy Speaker: Mr. Sambu, your had risen on a point of order.

Mr. Sambu: Mr. Deputy Speaker, Sir, it was raised by----

Mr. Deputy Speaker: Was it raised by Dr. Kuti?

Mr. Sambu: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: I encourage hon. Members to ask questions!

(Mr. Ethuro stood up in his place)

Mr. Ethuro, is yours a point of order?

Mr. Ethuro: Mr. Deputy Speaker, Sir, it can be either way. It depends on how I frame it.

(Laughter)

Mr. Deputy Speaker: It is Question Time!

Mr. Ethuro: Mr. Deputy Speaker, Sir, which one will you grant me? Should I ask a question, or a point of order?

Mr. Deputy Speaker: Ask your question!

Mr. Ethuro: Thank you, Mr. Deputy Speaker, Sir. You have just heard the Assistant Minister make reference to the land in Isiolo District as being trustland; that it has not been adjudicated. He is using the failure by the Government to adjudicate the land against the wishes and interests of the pastoralist communities. If there is one case in which the Government has to prove its commitment---

Mr. Deputy Speaker: Is that a speech or a question?

Mr. Ethuro: Mr. Deputy Speaker, Sir, I am building up that so that the Assistant Minister can know because I know he understands. If there is a case in which the Government can prove its commitment to ASAL areas, then it is on this particular one. Trustlands are held by local county councils on behalf of the people.

Mr. Deputy Speaker: Order, Mr. Ethuro! You are now debating. You are a member of the Chairman's Panel and you know that better. You are now debating! Ask him a question.

Mr. Ethuro: Mr. Deputy Speaker, Sir, when will the Assistant Minister compensate the people of Isiolo District, through their local county council?

Mr. Mungatana: Thank you, Mr. Deputy Speaker, Sir. I would like to say that the Government followed all the necessary procedures to acquire that land for the purposes of public safety and establishing the Military barracks. I am not aware of any infringement on the laid down

[Mr. Mungatana]

procedure when that land was being acquired.

Mr. Deputy Speaker: I know that this is a very important and sensitive matter. I want to give it all the time there is.

I will give this chance to Mr. Leshore!

Mr. Leshore: On a point of order, Mr. Deputy Speaker, Sir. I think the Assistant Minister is misleading this House because I also suffered the same fate in Samburu East Constituency. The Military has acquired a lot of land in that constituency. When I asked what procedure they used to acquire the land, or the decree by the President, nobody showed me. Is the Assistant Minister in order to mislead this House that the Government or the Department of Defence (DOD) has followed the right procedure to acquire the land in Isiolo District?

Mr. Mungatana: Mr. Deputy Speaker, Sir, I would like to tell the hon. Members, again, that we follow the laid down procedures when we do compulsory acquisition of land. The Government did not breach the procedure as far as Isiolo District is concerned. If there is a

particular issue, like the one which the hon. Member has raised, in terms of allowing the small-scale farmers for a particular season---

Mr. Billow: On a point of order, Mr. Deputy Speaker.

Mr. Deputy Speaker: Order! Let the Assistant Minister finish answering first.

Mr. Mungatana: Mr. Deputy Speaker, Sir, on a case to case basis, we are willing to discuss with the farmers, but the Government followed the laid down procedure in the acquisition of that land.

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

Mr. Deputy Speaker: Dr. Kuti, could you ask your question? Hon. Members, you cannot continue rising on a point of order now and then.

Dr. Kuti: Mr. Deputy Speaker, Sir, could the Assistant Minister lay on the Table the Gazette Notice or the Legal Notice which shows that, that procedure was followed to acquire this land? Considering that Isiolo District is a semi-arid area, and food security is a very sensitive issue, could the Military avoid that narrow strip? The Military is extending the area they have been occupying for many years now. This is a new move to annex that land. Could the Military stop moving further and making people poorer by chasing them out of their arable land? This is a very sensitive issue to the people of Isiolo District.

Mr. Mungatana: Thank you, Mr. Deputy Speaker, Sir. I am willing to lay on the Table the Gazette Notice or the procedure which we followed later on because I did not carry it. I am willing to let the hon. Member have that information.

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

Mr. Deputy Speaker: Order! Mr. Assistant Minister, as you can see from the interest the hon. Members have shown on this Question, this is a genuine concern. If there is a lot of unoccupied land in Isiolo District, why does the Military want that particular piece of land? May I give you more time to go and consult?

(Mr. Billow stood up in his place)

Mr. Deputy Speaker: Order, Mr. Billow! You are being disorderly because I am speaking and you are standing! Could I propose to the Assistant Minister that in view of the seriousness, interest and the concern that hon. Members have shown, particularly for the poor farmers; and that being the only arable land which small-scale farmers can utilise, the Military can be relocated to other dry areas? I give the Assistant Minister an opportunity to go and consult further. Therefore, I defer this Question to Thursday next week!

(Question deferred)

(Applause)

LACK OF EDUCATION OFFICERS IN
MT. ELGON DISTRICT

Mr. Serut: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that Mr. Elgon District is facing a crisis in the education sector due to lack of Assistant Education Officers (AEOs), inspectors of schools and subject inspectors?

(b) Is he further aware that the above and the resultant poor performance has led to a mass exodus of students to other districts?

(c) What measures is the Minister taking to remedy the situation?

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

(a) I am aware that Mt. Elgon District has a serious shortage of education offices and inspectors of schools. However, there is no real crisis caused by the shortage. The Ministry has put in place some measures to address the situation.

(b) Information available does not reflect mass exodus of pupils and students to other districts. We are, however, aware that there is low participation by female students, especially in secondary schools, but the scenario has been changing. In the overall, there has been an upward trend in enrolment even though it is not as good as we would have expected. There has been an improvement in examination performance in primary schools. The district has improved from a mean grade of "D+" to a "C" plain.

(c) We are doing a number of things not only in that district but also in the whole country to address the shortfall.

We are rationalising positions which are available for AEOs and inspectors of schools to ensure that those areas which do not have adequate officers get more. We hope to advertise the positions which are available and fill them according to the criteria which is clear. We are also using the provincial and national inspection panels to supplement the work of the DEOs in view of the problem. But more importantly, the Ministry is in the process of advertising the vacancies, as I have said. The free primary school education and the provision of bursaries are being used to help rectify the situation.

Mr. Serut: Mr. Deputy Speaker, Sir, I get surprised when the Assistant Minister talks about shortage of staff in a district which is supposed to have eight AEOs, but has none. This is a crisis. However, the national examination results are normally used as indicators for achievement of good education in this country. Good examination results can only be achieved through close supervision. What has the Assistant Minister done to improve the national examination results in this particular district which is always either in position seven or eight in a province composed of eight districts?

Dr. Mwiria: Mr. Deputy Speaker, Sir, we are doing a lot about this issue as it is a crisis in many, many districts of this country. But, in fact, I would like to confirm that the shortage is more serious than you said. Your district is entitled to have 12 assistant educational officers, but you have five. So, it is not as if you have none. So, we are taking measures, including the creation of acting inspections panels, seeking ways of recruiting inspectors and educational officers, provision of bursaries, offering schools facilities in areas experiencing poverty, the distribution of laboratory equipment; we are taking many measures. But these measures are being taken across the board because it is a problem all over the country. We also need the support of hon. Members, parents and all other relevant stakeholders.

Prof. Oniang'o: In his presentation of the Budget Vote, the Minister told us that they were going to issue motorbikes for inspectors of schools to facilitate the closer monitoring of schools. Can we be told how many such motorbikes are going to Mt. Elgon District?

Dr. Mwiria: Well, we are going to release 200 motorbikes right now and a further 200 later in the year. I do not have the figure of how many motorbikes are going to Mt. Elgon District as this is not one of the issues I came here to address today. But I will be quite happy to make sure that

your district gets a motorbike.

Mr. Kagwima: In view of this great shortage, not only in Mt. Elgon District, but throughout the country, and considering that in 1992, very many inspectors of schools were retrenched, could the Assistant Minister consider reinstating those inspectors who were removed from the payroll so that they can help reduce this shortfall in the Ministry?

Dr. Mwiria: Rather than bring back officers who have been retrenched when we have a lot of young people looking for jobs, we are opening up and making the positions of assistant education officers and inspectors of schools more interesting. With the current rise in the salaries of Civil Servants, we expect to attract many more people, even from the teaching profession. Very soon, after rationalizing, we are going to advertise these positions and recruit many more inspectors of schools and education officers.

Mr. Deputy Speaker: Last question, Mr. Serut!

Mr. Serut: The reason why we have a shortage of inspectors and assistant education officers in Mt. Elgon is because of the perception by certain communities that Mt. Elgon is a remote area. Can the Assistant Minister now consider promoting the senior teachers within the local community to the rank of inspector of schools and assistant education officers?

Dr. Mwiria: First of all, we are saying that we should see this country as a nation, and I do not think that there is any perception that Mt. Elgon is any more remote than some of the remote districts of this country. But the point is, rather than arguing for the promotion of the people of Mt. Elgon, who are not qualified to take up those positions, it is better to argue for the promotion of educational standards in Mt. Elgon, so that those teachers who *merti* can be promoted.

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

Mr. Deputy Speaker: Order, Mr. Serut! Sit down!
Proceed, Dr. Mwiria!

Dr. Mwiria: Those who are qualified---

Mr. Deputy Speaker: Order, Dr. Mwiria! You see, Mr. Serut, if the Assistant Minister says something that you do not like, you do not have to shout at him. You should wait and look for an opportunity to catch my eye, then you can prove your point. But now, it is the Assistant Minister's chance to speak.

Proceed, Dr. Mwiria!

Dr. Mwiria: If there are, indeed, I would prefer to---

(Mr. N. Nyagah consults Mr. Serut)

What the hell?

Mr. Deputy Speaker: What is it now, Mr. Serut?

Mr. Serut: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say that the people of Mt. Elgon are not qualified to be promoted to the rank of assistant education officers or inspector of schools?

Dr. Mwiria: Mr. Deputy Speaker, Sir, I did not say that. I could not say that. However, we still have to check, and if we find that there are people in Mt. Elgon who are qualified then, of course, they will be **[Dr. Mwiria]**

the first ones who will be given the chance. But they must compete along with the other Kenyans who are qualified. There will be no favouritism, if you are used to that, Mr. Serut, I am sorry. If your people are qualified, we will recruit them.

Mr. Deputy Speaker: Very well. Next Question, Eng. Karue!

ARREST OF NYANDARUA COUNTY
COUNCIL CLERK

Eng. Muriuki: Mr. Deputy Speaker, Sir, I beg to ask the Attorney-General the following Question by Private Notice.

(a) Is the Attorney-General aware that the High Court has issued an order for the arrest of the Clerk to Nyandarua County Council for opening a disputed road which was actually done by the Lands Department and not the county council?

(b) What action is he taking to ensure that the matter is handled transparently?

Mr. Deputy Speaker: The Attorney-General is not there. Who has the brief for the hon. Attorney-General? Is this the same Question we had yesterday?

Eng. Muriuki: Mr. Deputy Speaker, Sir, this Question has been on the Order Paper and it is the third time it is being called now, and the Attorney-General has not come to answer it. In the meantime, the people of this area are suffering because a public road has been closed.

Mr. Deputy Speaker: Yes, I remember that yesterday I ruled that this Question be deferred until today and a Minister undertook to pass the information to the Attorney-General.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, the Attorney-General was supposed to be here today, but we have information that he, in fact, missed an important Public Service Commission meeting because he was stranded in Arusha. He will be here later this evening and, I am sure, he can answer this Question on Tuesday, next week.

Mr. Deputy Speaker: Very well. Could you, please, pass on the information to him that this Question has now been deferred to Tuesday for the last time and that we expect him to answer the Question.

Eng. Muriuki: Could you also kindly order that it becomes the first Question, because the circumstances are that a public road has been closed and we do not know---

Mr. Deputy Speaker: Eng. Muriuki, it is a Question by Private Notice, therefore, it will be there! Whether it will be the first or the last Question, it will be answered, provided that the Attorney-General avails himself. Is that all right?

Eng. Muriuki: Its all right.

(Question deferred)

Mr. Deputy Speaker: Fine. We have now finished with Question time, and we now proceed to Ministerial Statements, and they are quite many. We will first start with Mr. Wetangula and then we will move on from there.

MINISTERIAL STATEMENTS

ISSUANCE OF VISAS BY
BRITISH HIGH COMMISSION

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Deputy Speaker, Sir. The hon. Member for Kajiado Central, hon. Gen. Nkaisery demanded a Ministerial Statement in relation to visas at the British High Commission, and this is the Statement.

Like all Governments, the British Government has an obligation within the limits of international law to regulate the flow of people into its territory in an effort to control crime, terrorism as well as illegal immigration. The High Commission introduced the finger printing

requirement in September, 2004, and informed the Government of Kenya through the normal channels as well as the public through a media advertisement. The requirement is applied to an expanding number of countries, including Kenya. The purpose of finger-printing, as I understand, is to combat fraud, and it is not intended to humiliate applicants. There are many cases of people travelling to the United Kingdom and Europe in general who, upon arrival, promptly destroy their travel documents to avoid deportation. Finger-printing helps to identify such cases. We all recall the recent case of a woman who claimed to be a Jamaican national, but whose family members turned out to be Kenyans residing just outside Nairobi.

The requirement also applies to foreigners resident in Kenya who wish to travel to the United Kingdom. The Government of the United Kingdom only exempts the following from finger-printing:- Holders of diplomatic passports, children under five years, holders of official passports. Kenya does not have official passports.

It is my humble wish that, subject to the parliamentary management through the Speaker making a formal request, all Members of Parliament should be afforded and be given diplomatic passports.

(Applause)

I wish to advise Members of Parliament and senior Government officials travelling to the United Kingdom to carry introductory letters from their departments or institutions. If you are a Member of Parliament, try and get a letter from the office of the Speaker. This, I believe, may lead consular officials to relax some of the stringent conditions that are considered humiliating. Kenya's consular office in London does not require finger-printing of British visa applicants, whether they are Members of Parliament or not.

The company, Visa Handling Company Ltd, is a Kenyan registered firm that won the contract to offer the services to the British High Commission. It operates in Nairobi, Mombasa, Kisumu and Uganda, and the Government of Kenya has nothing to do with it. The Governments of Kenya and Britain are in constant dialogue on the issue of visas. We are particularly concerned on the issue of students going to the United Kingdom and, who sometimes are made to apply for visas three, four or five times and, for each application, they pay some money which is not refundable. We are talking to the British High Commission to see, subject to taking out administrative costs, if visa fees, especially for students, can be refunded every time the applications do not go through.

Maj-Gen. Nkaiserry: Mr. Deputy Speaker, Sir, I am very disappointed at the way the Assistant Minister gave the Statement. It is shameful that the Assistant Minister read the Statement as if he is a British Government Minister, not a Kenyan Government Assistant Minister. It is a tragedy for this country to have our Government behaving like a British Government when Kenyans are being treated like second class citizens in their own country by the High Commission of a foreign country.

The Assistant Minister has said that the Kenyan High Commission in London does not require finger-printing for British citizens travelling here. He also said the British High Commission in Kenya requires finger-printing for Kenyans travelling to Britain because of terrorism, illegal immigration and so on. Are Kenyan Parliamentarians terrorists? Are they people who can go and remain in Britain? I think we needed a better answer than this. If we are going to be subjected to this treatment, our Government should also reciprocate by demanding the same to be done to British visitors to Kenya.

Secondly, the Assistant Minister said the company which is handling the finger-printing for visa applicants is a Kenyan registered company. Is that company owned by Kenyans or it is only

registered here? This Assistant Minister should respond to those issues as a Kenyan and not as a British Minister.

Mr. Omingo: Mr. Deputy Speaker, Sir, the Assistant Minister has told Members of Parliament to arm themselves with letters from the Speaker so as to insulate themselves against this kind of embarrassment, leaving the other ordinary Kenyans, who actually voted for us, to be mistreated.

Mr. Deputy Speaker, Sir, last week, I was going to France. I was required to have a transit visa. I could not even go for a call of nature in London, because we had a 30 minute stop-over since they demanded that I get a visa.

Now, could the Assistant Minister tell us where we belong; whether there is reciprocal treatment, or we are still a colony of Britain?

Mr. Sungu: Mr. Deputy Speaker, Sir, I want to question the role of Government. Is it not the role of the Government of Kenya to protect the interests of Kenyans? If so, why is the Ministry of Foreign Affairs not taking up this issue properly with the foreign embassies, because it is not just the British High Commission? Our people are suffering. In fact, we have become a beggar nation. I always thought that internationally, Kenya was close to Britain and the USA and the Western world. Why are they mistreating our people, including Members of Parliament? If they can do this to Members of Parliament, what about the ordinary Kenyans? Our people have got a right, as much as their people, to go to Britain as they come here.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, for the avoidance of any doubt, I want my friend, Maj-Gen. Nkaiserry to know that I owe no allegiance to Britain or any other country, but Kenya. I am not a British Minister, I am a Kenyan Minister.

I said that holders of diplomatic passports, children under five years and holders of official passports, which unfortunately we do not have here in Kenya, are exempted from the finger-printing process.

I also said that Members of Parliament and other senior Government officials who would want to avoid these hiccups should carry introductory letters from their departments to the visa application centre.

The company that is handling the visas is Kenyan registered. If Maj-Gen. Nkaiserry wants to know who the directors are, whether they are foreign or Kenyan, the public registry is open; he can look at it.

The Government has a duty to protect and will continue protecting Kenyans from any humiliation or harassment from any quarters. We however, do not want to impose the rules of reciprocity on matters that will not benefit this country. I want to assure Messrs. Sungu and Omingo that the Government has never relaxed in its duty to protect its nationals.

I would also want to make it very clear that the issue of transit visas or imposition of visa conditions is entirely the business of any Government, including our own. As a Ministry, we have summoned the American Embassy and discussed the issues of visa complications that our people experience. We have also summoned the British High Commission and discussed with them. I am happy to hear your concerns so that they are able to enrich the level of discussions that we will have with them.

I want to apologise to Maj-Gen. Nkaiserry for the humiliation he may have gone through, but I am afraid those are the rules imposed by a country and Kenya cannot dictate the rules to any country.

UNIVERSITY VICE-CHANCELLOR

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, Prof. Olweny had asked for a Ministerial Statement on the appointment of the Vice-Chancellor of the University of Nairobi. I would like to, very quickly, go through the event.

First, the Vice-Chancellor, Prof. Kiamba, requested to step down. Following that request, it was decided that the position would be advertised, which is what the Universities Academic Staff Union (UASU) and other people who believe in transparency and merit, were asking for. This advertisement was put up in both local and international media. It was calling for two major characteristics; one, an academic of international and local repute, and one also who has some business and managerial experience.

The University of Nairobi Act does not restrict the method that the Council should use in terms of appointing a Vice-Chancellor. But it talks about the need by the Chancellor to consult with the Council before appointing.

I would like to conclude by saying that in view of the type of institution that the University of Nairobi is, in terms of the large population of the students as well as the lecturers; in view of the fact that we are now talking about the merit and the need to have the very best people running our institutions; in view of the fact that universities do not get nearly as much as they would like to get from the Government, in terms of the resources that they need, and that they have therefore, to go out and fund-raise; and in view of the fact that we are also concerned about efficiency in the use of the resources that are available, I think you will agree that it is important to have a manager of a university who is not just an outstanding academic, but one who is also able to manage those resources effectively.

Prof. Olweny: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for that Statement. But I wish to get a clarification on whether the University Council actually met to make a decision that the Vice-Chancellor should be an individual with a business bias. The advertisement that we have seen indicates that the person should have a business biased background, rather than academic; in fact, very little on the academic side.

Mr. Deputy Speaker: Dr. Mwiria, just take note of that. Let me give a few more hon. Members chances to seek clarification.

Mr. Munya: Mr. Deputy Speaker, Sir, I would like to get a clarification from the Assistant Minister on whether Prof. Kiamba's decision to step down was motivated by any undue pressure from a Chancellor who is over stepping his responsibilities at the university?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to deny that Prof. Kiamba was forced out? It has become the practice of this Government to do away with Kambas in the Civil Service. They did away with Kamba judges. Now they have done it again with this particular Vice-Chancellor. Are we not wanted? If so, let me know.

Mr. Deputy Speaker, Sir, I would also like to know from the Assistant Minister whether the Chancellor is not supposed to share an office with Kambas? If so, is he also supposed to be paid allowance? If this position was to be advertised, why was Prof. Kiamba not given a chance to continue working as a Vice-Chancellor as they look for somebody to replace him instead of throwing him out? I have evidence and information with me that he was forced out.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, I have seen the advertisement for this position. I do not know who will meet those qualifications. The job of a Vice-Chancellor of any university is very clear; to steer and manage the intellectual and academic programmes, but not to become a business person going around looking for funds. In fact, I thought that as Chancellors were brought in, the Vice-Chancellors' jobs would be in public relations. They are already self-sufficient in

funding and they will help get more funds for the university. I would like to be told whether this Government intends to source a Kenyan, an outsider or whether it is becoming a business entity rather than an academic institution.

Mr. Marende: Mr. Deputy Speaker, Sir, from the Ministerial Statement, the Assistant Minister indicated that the university is seeking to ensure that persons who are appointed are competent and that they are appointed purely on merit. However, it is now within public domain from the latest information filtering through that, in fact, PriceWaterHouseCoopers will not pick the final candidate, but that they will go through an exercise of short listing three candidates and the President will still appoint one. Therefore, that defeats the intention that the Assistant Minister has very well articulated because patronage will still continue in that case. Could he clarify that?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, first of all, I would like to disagree with hon. Members who say that the bias is towards a business manager. It is clearly stated on the advertisement that one must have 15 years experience as an academic. So, academic qualifications are still very important.

Secondly, we are all talking about efficiency in the public service. This does not exclude universities. We are talking about resources that have been mismanaged. If we can get people that can manage institutional resources better, I wonder why we have a quarrel with that? So, if we can get someone who is good in academics and also who can manage resources, this will be a very good compromise.

Mr. Deputy Speaker, Sir, thirdly, if Prof. Kiamba was pressurised to leave, I do not think he has said that. If a person is pressurised to leave his job and he is a professor and he does not say so, it is very unfortunate that other people have to say it on his behalf.

On the issue of being forced to depart again, there is no evidence, but we know he volunteered to do so. We are past those days of the KANU Regime when one would be forced to do something and accept it.

Mr. Deputy Speaker, Sir, fourth, I do not know if it would be true to say that Kambas are not wanted. How many Ministers in the Cabinet do we have that are Kambas? We have got quite a number and in very key Ministries! Where does the Deputy Minister come from? Who is being touted around as the next President, yet Kambas say they are not wanted?

Hon. Members: A Kamba!

(Laughter)

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, there is no evidence at all to show that Kambas are not wanted. We have a President who is very detribalised in terms of the way he does his appointments.

In terms of qualification, it is very sad for Prof. Oniang'o to ask if any Kenyan will meet those qualifications. If we do not have a Kenyan who can meet those qualifications, it is terribly unfortunate. I do believe there are qualified Kenyans who will compete with internationals. When we have a senior job like this one, Kenyans should not be afraid to compete with internationals. If an international candidate got that job, so much the better if that will improve our institutions. However, I am very confident that we have Kenyans who can compete.

Mr. Deputy Speaker, Sir, in addition to believing in transparency and efficiency, we are past those days when people were being appointed to be Vice-Chancellors or Permanent Secretaries on the basis of their ability to sing songs of praise or be sycophants. It is important that we respect merit. Many of the Vice-Chancellors we had before and even many of the sitting ones, were not appointed on the basis of qualifications. Their closeness to the President and their ability to sing

songs of praise mattered much more than the qualifications. In this regard, therefore, we find a lot of Vice-Chancellors who are only associate professors and yet, the University Act stipulates clearly that one has to be a full professor.

Finally, the procedure of---

Mr. Shaaban: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is giving us a Ministerial Statement which is cumbersome. Could he ensure that, indeed, at the end of the day, he will recruit the best Vice-Chancellor?

Mr. Deputy Speaker: Now, Mr. Shaaban, that is not a point of order! You just stood there, to catch the Speaker's eye on something which is not a point of order! You are not a new hon. Member of this House. So, I could I ask that you apologise to the House for rising on a non-existent point of order?

Mr. Shaaban: Mr. Deputy Speaker, Sir, I apologise, but the Assistant Minister's statement is cumbersome.

Mr. Deputy Speaker: Very well! You do not have to qualify your apology.

Dr. Mwiria, you may now finish up.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I would like to assure the hon. Member that we will go for the best. That is why we advertised. If we did not want to go for the best, we would not have made it public.

Mr. Deputy Speaker, Sir, on the process, PriceWaterHouseCoopers has advertised locally and internationally. They will get a pool of candidates. It is being agreed that the process has to be more consultative, including involving university people. Their business is to submit a number of candidates that will then be scrutinised by a committee appointed by the University Council. That committee will submit three names to the Chancellor. I think I was misquoted when I appeared on Up Close and Candid. The President has devolved that authority to the Chancellor. So, it will be between the consultation of the Council and the Chancellor. This time the Chancellor happens not to be the President.

Mr. Deputy Speaker: Next Ministerial Statement, Mr. Kamanda!

LEADERSHIP CRISIS IN LODWAR MUNICIPAL COUNCIL

The Assistant Minister for Local Government (Mr. Kamanda): Mr. Deputy Speaker, Sir, on 13th October, 2004, Mr. Ethuro, the Member of Parliament for Turkana Central sought a Ministerial Statement on the leadership crisis of Lodwar Municipal Council with regard to the position of the mayor. I have the following facts:

The Minister announced the countrywide council elections to be held between 30th June, 2004 and 15th August, 2004, as stipulated by Section 75 of the Local Government Act Cap.265. Accordingly, Lodwar Municipal Council held their elections on 20th July, 2004, at which Councillor John Ekuru was elected the mayor and took oath of office for a term of two years, up to the second Annual General Meeting of the council to be held between 30th June, 2006 and 15th August, 2006. It came to our attention, through the Town Clerk, that at a meeting of the town planning committee, held on 13th October, 2004, it was reported that a coup was staged and the mayor replaced against the advice of the Town Clerk. I, therefore, want to confirm that the said coup is unlawful. My Ministry has written to the clerk informing him of his legal position in this matter, and

directed the council to maintain the status of the Mayor as legally elected on 28th July, 2004. The Council should proceed in an orderly manner under the leadership of his Worship the Mayor, John

Ekuru. I take this opportunity to inform all the councillors that my Ministry will not entertain illegal elections. We shall, therefore, enforce the law to the letter in all election matters. I want to assure the hon. Member that on 7th November, 2004 officials of the Ministry of Local Government and I shall be visiting Lodwar Municipal Council. I expect His Worship the Mayor and the area Member of Parliament to receive us.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for a very elaborate statement that has clarified the issue. However, I want him to clarify two other issues. The matter has taken over two weeks to be pursued. There has been confusion. We want the rule of law to be maintained at all times. We want the Assistant Minister to ensure that even before he goes to Lodwar on 7th November, the District Commissioner (DC) and the Officer Commanding Police Division (OCPD) are informed accordingly.

Mr. Serut: Thank you, Mr. Deputy Speaker. I want a general response from the Minister on the election of mayors and chairpersons of county councils. Of late, elections of mayors have been characterised by abductions of councillors by would-be-mayors in this country. Does the Ministry recognise the election of aspirants who abduct and hold councillors hostage until elections are carried out?

The Assistant Minister for Local Government (Mr. Kamanda): Mr. Deputy Speaker, Sir, the position is that once there is a quorum, an election takes place regardless of whether one has been put in a boot or has been put on a chair. What matters is the quorum.

Mr. Deputy Speaker: Mr. Assistant Minister, you touched on Mr. Serut's question but you did not address Mr. Ethuro's.

The Assistant Minister for Local Government (Mr. Kamanda): Mr. Deputy Speaker, Sir, we shall communicate to the DC.

Mr. Deputy Speaker: That is the end of Ministerial Statements. It is now time for requests for Ministerial Statements.

Mr. Sambu!

POINTS OF ORDER

LOSS OF NANDI CO-OPERATIVE SOCIETY MONEY

Mr. Sambu: On a point of order, Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State, Office of the President, in Charge of Security, regarding the loss of Kshs8 million yesterday. The money belongs to Nandi Tea Growers Cooperative Society. It belongs to tea farmers in Nandi District. The money was being transferred from a bank in Eldoret Town to the Cooperative Society's building in Kapsabet. It is understood that the car which was carrying the money had two armed Administration Police (APS) officers. It is strange that a vehicle carrying armed APs could have been stopped and the money stolen. We need a Ministerial Statement regarding this issue. Secondly, could the Government tell us what action it is taking? The Government should also ensure that the concerned bank, or the insurer of the money in transit, refunds the stolen money as soon as possible, so that farmers can be paid.

Mr. Deputy Speaker: Could Mr. Kiunjuri take brief on behalf of the Minister of State, Office of the President, on that matter?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I shall do that.

Mr. Wario: On point of order, Mr. Deputy Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from the Minister for Regional Development Authorities concerning---

Deputy Speaker: Is the Minister for Regional Development Authorities around?

An hon. Member: No.

Mr. Deputy Speaker: Fine; could we ask Mr. Kiunjuri to again take brief for him?

Mr. Wario: Mr. Deputy Speaker, Sir, I want a Ministerial Statement concerning the proposed Kshs24 billion sugar project in Tana River District. I want him to say if there was any environmental impact assessment done for this project. If there was any assessment done, I would like the Minister to table the report. Since the Ministry has only Kshs600,000 in this year's budgetary allocation, who is the financier of this project and how will the Ministry source the Kshs24 billion. The project is to be built on a wetland. How will it impact on the ecological system of that area? Will the project displace the already existing projects of the pastoral community?

Mr. Muriungi: On a point of order, Mr. Deputy Speaker. I had asked for a Ministerial Statement and was expecting the response today from the Office of the President.

Mr. Deputy Speaker: What was it about?

Mr. Muriungi: Mr. Deputy Speaker, Sir, it was about the problems between---

Mr. Deputy Speaker: Mr. Mungatana told us that he was running out of time, and that you had agreed he would present the Ministerial Statement next week. Did you agree on that?

Mr. Muriungi: I was not aware of that, Mr. Deputy Speaker.

Mr. Deputy Speaker: Mr. Mungatana, I believe that, with your concurrence, will come with the statement next week. Could we agree on Tuesday next week?

Mr. Muriungi: Yes, Mr. Deputy Speaker, Sir.

BILLS

First Readings

THE TOBACCO CONTROL BILL

THE HIV AND AIDS PREVENTION
AND CONTROL BILL

THE WITNESS PROTECTION BILL

*(Orders for First Readings read -
Read the First Time - Ordered to
be referred to the relevant
Departmental Committees)*

MOTION

ADOPTION OF PAC SPECIAL REPORT ON
PROCUREMENT OF PASSPORT
ISSUING EQUIPMENT

That, this House adopts the Report of the Public Accounts Committee on Special

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

(Mr. Omingo on 4.8.2004)

*(Resumption of Debate interrupted on
14.10. 2004)*

Mr. Deputy Speaker: Hon. Members, you will recall that on 14th October, 2004, the Chair ruled that this Motion be deferred pending clarification of what transpired when the Debate was adjourned on 7th October, 2004. Confirmation has already been obtained from the HANSARD. It is confirmed that Ms. Karua had moved an amendment, which was seconded by Mr. M. Kariuki. Debate ended at 6.30 p.m. before Mr. M. Kariuki finished seconding the amendment. Therefore, the amendment had not been proposed from the Chair. If Ms. Karua wishes to continue with the amendment, it will be fine for Mr. M. Kariuki, in a minute or two, to finish seconding the amendment, so that the Chair can propose the Question of the amendment.

Ms. Karua, do you wish to continue with this amendment?

The Minister for Water and Irrigation (Ms. Karua): Certainly, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Very well. Mr. M. Kariuki, you have the Floor for two minutes.

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Thank you, Mr. Deputy Speaker, Sir. At the time when the House rose, the Speaker had agreed to make a formal ruling as to whether summons had been issued to the Minister in this case, or whether he was merely sent a letter of invitation.

I do not wish to say more, but would seek guidance of the Chair as to whether any summons had, indeed, been issued.

With those remarks, I beg to second.

Mr. Deputy Speaker: Before I propose the Question, it is true that the Chair stated that a ruling on the summons or invitation issue would be forthcoming. I have just seen the HANSARD, and will be referring the matter to Mr. Speaker to make a ruling from the Chair on that specific issue, namely whether the Minister was summoned or invited.

*(Question of the first part of the
amendment, that the word to be
left out be left out, proposed)*

Mr. Sungu: On a point of order, Mr. Deputy Speaker, Sir. We need your guidance with respect to the issue raised by Mr. M. Kariuki, whether the Minister was summoned or invited. This is significant and we may not continue with debate until that matter is clarified and a ruling made. Only then will we know what we are debating and whether facts are true or not. We need your guidance on that.

Mr. Deputy Speaker: Mr. Sungu, the HANSARD reads as follows, just before the Adjournment, for the benefit of hon. Members.

"The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! Mr. Muturi has made a formal request for a formal ruling. That is a ruling regarding that matter, and it shall be done.

Hon. Members, time is up!"

That was the end of debate on that day. Perhaps, the matter has not been drawn to the attention of Mr. Speaker, but this will be done. However, that does not mean that we cannot continue debating the Motion pending Mr. Speaker's ruling. Unless there are other issues, I want to give Mr. Billow the Floor.

Mr. Omingo: On a point of order, Mr. Deputy Speaker, Sir. This august House needs to observe its rules of procedure. There are two issues that are supposed to guide this debate today. The first one is as to whether summons were issued or not, before a certain recommendation was made. If we continue with debate we will be going round in circles as fundamental matters have not been decided on yet.

Secondly, there is also another ruling that Mr. Speaker was supposed to give the last time we were in this House. It was as to whether this amendment is legitimately before the House. This is because it was moved, but its seconding was not completed as the House adjourned. On the subsequent Sitting Day, the Seconder was not in this House. If this House has to be led by rules of procedure, could we also have that ruling so that we can know whether the amendment you have proposed is legitimately before the House?

Mr. Deputy Speaker: I thought I made this clear. First of all, I have put the issue of the ruling about summons to rest. I do not wish to go back to it, because a ruling from the Chair will be forthcoming.

As far as the ruling by the Speaker is concerned, I have said, and I want you to listen very carefully, that we were unable to continue with debate because of a technicality - seconding was not completed. It is, therefore, presumed that the amendment was seconded because it was not the hon. Member's fault. He was contributing when time ended and debate was interrupted. We will start it from where we stopped, and that is when Mr. M. Kariuki was seconding the amendment. The Speaker deferred the matter till today. The ruling is that it is presumed to have been moved. Mr. M. Kariuki has just concluded seconding the amendment and I have proposed it. Debate continues and I have given Mr. Billow the Floor.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. I stand under Standing Order No.21 and move that this debate be adjourned to have time to clear all these matters.

Mr. Deputy Speaker: Order, Mr. Angwenyi! We have to dispose of the amendment first before you go into that. My ruling still stands! Mr. Billow continue!

Mr. Sungu: On a point of order, Mr. Deputy Speaker, Sir. With due respect, I am just concerned about one thing. This House must proceed on proper rules, so that we do not set a wrong precedent. If debate on this Motion is concluded now and we vote, what then will be the relevance of the ruling of Mr. Speaker later on?

(Applause)

This House cannot be seen to be making a mistake! If it is in any doubt, we can always move to the next Order, so that we proceed properly. I am not saying that we proceed one way or the other, but I want this House to follow the laws of this country, the Constitution and Standing Orders. This will ensure that we do not make a mistake as a House. If we make one, it will be terrible for this country.

Mr. Deputy Speaker: Mr. Sungu, I appreciate your concern but you are pushing the Chair to make a ruling on a matter that I have deferred. The fact that there was an omission when the Temporary Deputy Speaker said that he would make a ruling but did not does not mean that we stop debate on this matter until a ruling is made. I have said that we are going to continue with debate, notwithstanding the fact that the ruling on summons or no summons has been made. However, it

will be communicated from the Chair on Tuesday.

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Deputy Speaker, Sir. In view of your ruling, would I be in order to ask the Chair to assure us that we will not conclude debate on the amendment? This will ensure that hon. Members vote on it knowing the position on the issue of summons. This is because when we will be voting on this amendment, we will be deciding whether the Minister was summoned or not. Therefore, we want you to give us an assurance that we will not conclude this matter if we still have to debate it.

Mr. Deputy Speaker: The Chair cannot assure you of that! It is you hon. Members who have to decide on a matter. I cannot assure you of that!

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. The validity of this Report depends on whether this Minister was summoned or not. So, to continue discussing the Report before we are clear about a summons, we will be discussing a Report which is not based on the facts given in it. I am, therefore, seeking your indulgence that we adjourn. We will then come back and discuss this Report. Maybe, even the Committee may take into consideration the new developments on this matter. As we know, other Government agencies have got into this matter, and have done their reports.

Mr. Deputy Speaker: Mr. Angwenyi, you stood on a point of order, but you are moving into other things. I know that there is a pending Motion, which you are holding. I have asked you to hold on until we dispose of this matter, and then we move on to your Motion. However, do not try to twist things around.

Mr. Kipchumba: On a point of order, Mr. Deputy Speaker, Sir. Hon. Members will recall that this is a Special Audit Report. This Report should have been discussed urgently, but we have postponed it for the last three months. That defeats its urgency. So, your ruling is in order; that we continue to discuss this Report. We already have the Report. Whether the Minister was summoned or not, that will not change this Report in a very big way.

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

Mr. Deputy Speaker: Hon. Members, Mr. Maore's point of order will be the last one on this matter.

Mr. Maore: Mr. Deputy Speaker, Sir, there is a jargon in the legislative agenda, called filibustering. In my opinion, all these points of order and attempts to adjourn or defer the business before the House are filibustering. So, I would plead that we continue with the debate because, whether the name was inserted there properly or improperly, it is part of the Report.

Mr. Deputy Speaker: Very well. My ruling is that---

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

Mr. Deputy Speaker: Order, Mr. Omingo! Hon. Members, for now, let us continue with the amendment. The promised ruling will be forthcoming.

Yes, Mr. Billow!

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

Mr. Deputy Speaker: I have already ruled you out of order!

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

Mr. Deputy Speaker: Overruled!

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

Mr. Deputy Speaker: Mr. Omingo, you are disorderly! So, you are excluded from this Chamber for the rest of this afternoon!

(Mr. Omingo withdrew from the Chamber)

Proceed, Mr. Billow!

Mr. Billow: Mr. Deputy Speaker, Sir, I rise to oppose the proposed amendment to this Report. As a Member of the Public Accounts Committee (PAC) that was involved in the preparation of this Report, I am actually shocked that a Member of the Government can stand up and move a Motion to expunge from this Report paragraphs relating to a specific Minister, who was deemed to be responsible, in one way or the other, by the PAC. In my understanding, this is only the second time in the history of this House that parts of a PAC Report are being expunged to protect an individual. The first time that happened---

The Minister for Water and Irrigation (Ms. Karua): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to mislead the House that the paragraphs being expunged relate to an individual? They relate to the Minister and also to the entire Government. If you look at the paragraphs, you will realise that they are about the conduct of the entire Government; that, when a messenger steals in my Ministry, I be held responsible. Is it in order for this hon. Member to mislead the House?

Mr. Deputy Speaker: Hon. Members, if we go on like this, we will not make progress. An hon. Member says something; another one does not like it; he stands up on a point of order, and the other hon. Member replies. If we go on that way, we will never dispose of the business before us.

Continue, Mr. Billow, but, please, observe the rules of the House.

Mr. Billow: Mr. Deputy Speaker, Sir, I understand that the first time something like this happened, the same people who are now sitting on the Government side called it the list of shame. We are creating a bad precedent in this House and in this country. If every time the Government, or a Ministry official, is mentioned in a PAC Report, that name has to be expunged, we will not only be creating a bad precedent, but in this era when the Government is committed to fighting corruption, we will be undermining the fight against corruption itself. That shows clearly that there is no commitment by this Government to fight corruption.

(Applause)

We have been told by none other than the President that he is committed to fighting corruption from the top. We understand the top to be none other than Ministers, Permanent Secretaries and other officers at that level. We cannot sit in this House and pretend that we are fighting corruption when we sit here and say: "Let us expunge a paragraph from this Report", because a Ministry official has been mentioned.

Mr. Deputy Speaker, Sir, there are no sacred cows in this country. There are no sacred cows in this Government. If we are going to have sacred cows in this Government, there is no point having the PAC. I have sat in that Committee, and we have been told by none other the Permanent Secretary, who has been delegated to sign that contract, that, indeed, the Minister was not only briefed, but he was given a complete brief in writing, which he presented to us in our meeting. If the Minister was given a brief in writing, explaining the circumstances relating to that project, and he authorised the Permanent Secretary to sign that contract, he cannot sit here and tell us that he was not responsible. If he was not responsible directly, he was responsible indirectly because he delegated to an officer in his office.

I do not think the issue of summons will belittle the point we are making. As an officer who is responsible, whether he had been summoned properly or not, it did not matter. He was, indeed, invited in writing to come as a friend of the Committee. He should have come and rebut what the Permanent Secretary had said. He declined to come, and it was not once. We wrote twice, pleading with him to come as a friend of the Committee.

The Minister for Finance (Mr. Mwiraria): On a point of order, Mr. Deputy Speaker, Sir. Could the hon. Member on the Floor produce the two letters they wrote to me? It is very unfortunate that hon. Members come here and tell untruths.

Mr. Billow: Mr. Deputy Speaker, Sir, we have letters from the office of the Clerk and we shall table them before I finish. What I am saying is that, with or without a summon, the Minister has to take his responsibility seriously. If we have got a claim by an officer in his Ministry that, indeed, he was actually informed, the least he should have done was to come before the Committee and give evidence. If he did not, our Committee had no choice but to state in its report: "That, on the basis of the information that was provided to us by the Permanent Secretary, we, in fact, believe that he has the responsibility in that scandal. He has a responsibility for failing to stop it, failing to prevent it and for authorising the Permanent Secretary to sign!"

Mr. Deputy Speaker, Sir, it is going to be a shame that in an era when we are trying to create accountability and transparency in this Government, we are being told that a Minister is not responsible for what his messenger does. Who is going to be responsible for a Ministry or a corporate entity, if the person in charge says he is not responsible? We have to learn to take responsibility. That is why this country has ended up where it is for the last 40 years.

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Deputy Speaker, Sir. My point of order is not on the Member on the Floor, but on the conduct of Mr. Keter. He came to the Chamber running. Is that in order?

Mr. Deputy Speaker: I noted that. I did not understand why Mr. Keter was running.

Mr. Billow: Mr. Deputy Speaker, Sir, as I was saying, we are concerned about accountability and transparency. Yesterday, the Government stated in this House that there are not less than 10 institutions that have been set up to fight corruption. If those institutions are not permitted to work, and names are expunged from their reports, which are thrown in the dustbins, then it is going to be an embarrassment and shame to this country. We will go back to where we came from. The Government that we have here said it wants to break from the past. You cannot break from the past if you want to do things the same way they have been done for the last 40 years.

I would like to state very clearly that the Permanent Secretary and the officers we talked to clearly said that the Minister was briefed to the best of their ability with regard to that project. That is why we think the Motion to expunge that paragraph is not acceptable and is without basis. I would like to table here, not only the letter that we sent to him, but the Minister's own reply to the Clerk of the National Assembly. He says in the letter dated 25th June, 2004:-

"I have received your letter dated 17th June, 2004, which reads--- In the letter, you did not inform me what information the Public Accounts Committee (PAC) would require from me, although I am willing to talk to the Committee as a friend of the Committee. I would rather have the Committee visit me in my Ministry, where I will have access to all the information."

Mr. Deputy Speaker, Sir, in other words, the point that I am making is that the Minister was, indeed, invited or summoned, but he preferred the PAC to go to his office, take tea with him and decide that when we go back, we would say that the Minister should not have been mentioned. We are saying that, that is not acceptable. You cannot operate like that as a Government. The Standing Orders of this Committee are very clear. If somebody is mentioned, we invited him or her as the PAC and he should come. We invited him as a friend.

With those remarks, I would like to oppose the amendment. I want to say that it has no basis whatsoever.

Mr. Wamwere: Bw. Naibu Spika, nasimama kupinga mabadiliko yanayofanyiwa Ripoti ya Kamati ya PAC. Mimi nilikuwa mwanachama wa Kamati hiyo. Ikiwa kuna kasoro katika Ripoti ya

Kamati hiyo, siyo kwamba tuliweka jina la Waziri katika mapendekezo yetu, bali hatukuweka majina ya Mawaziri wote wanaostahili kuwekwa katika ripoti. Naamini ya kwamba tulihitaji pia kumweka Makamu wa Rais na Waziri wa Mambo ya Ndani. Lakini kusema kwamba kuna makosa kumweka Waziri katika Ripoti hii na kuna ufisadi katika Wizara yake, ni kukosea ambako hakuna kifani. Hatuwezi kupigana na ufisadi katika nchi hii mpaka ikubalike kwamba Mawaziri wetu wana jukumu kubwa la kuhakikisha kwamba ufisadi haufanyiki katika Wizara zao.

Wakati nilikuwa naunga mkono Hoja ya kutoa ripoti hii, nakumbuka Waziri alisimama na kutaka kujua kwa nini nilisema kwamba alipitisha mkataba wa Anglo Leasing kama kipofu, pasipo kuuchunguza. Tulipobishana, alisimama na kusema kwamba aliletewa huo mkataba na akauona, akausoma, akaulewa na akautolea kibali.

(Applause)

Huwezi kufanya hayo mambo manne, halafu useme ya kwamba huna lawama. Una lawama sana! Ikiwa Waziri hana lawama, hakuna mtu mwingine ambaye ana lawama.

Bw. Naibu Spika, lazima ieleweke kwamba Mawaziri wetu wanapokea mshahara kusimamia Wizara zao. Ikiwa watakuja hapa watuambie kwamba kazi yao ni kula mshahara pekee yake, na hawana kazi nyingine ya kuhakikisha kwamba makosa hayafanyiki chini yao, basi waje hapa waseme kwamba wao ni wakora na wanapokea mshahara kimakosa. Ubishi wa kusema kwamba Waziri asilaumiwe ufisadi ukifanyika katika Wizara yake, lakini apewe hongera mazuri yakifanyika, ni kupumbaza Bunge hili, nchi hii na dunia kwa jumla.

Bw. Naibu Spika, ningetaka kuwapa mfano mmoja wa Bw. Ali Hassan Mwinyi. Yeye alikuwa Waziri anayesimamia magereza katika nchi ya Tanzania. Katika gereza moja, wafungwa walikufa kama vile walivyokufa katika gereza la Meru. Wakati hayo yalifanyika, Bw. Mwinyi alikuwa hodari wa kusema: "Wafungwa hawa wamekufa katika Wizara ambayo nasimamia, na jukumu la makosa hayo ni langu. Kwa sababu hiyo, najiuzulu!" Rais Nyerere hakumtetea na badala yake, alimtuma ng'ambo kama balozi. Lakini nchi nzima ya Tanzania ilijua kwamba, Bw. Mwinyi ni mwanaume, shujaa na bingwa kwa kukubali makosa yake. Wakati ulipofika wa Mwalimu Nyerere kung'atuka kwenye urais, alimsimamisha Bw. Mwinyi kuwa rais! Mawaziri wetu wanaweza kufikiria kwamba tunawafanyia makosa tunapowaambia wawe wanaume au wanawake kiasi cha kukubali makosa yao. Lakini wanasahau kwamba tukipata ndume ambao wanaweza kusema: "Nakubali makosa yangu! Naomba msamaha", tukitafuta rais, basi wao watakuwa wa kwanza.

Watu walikufa Meru na Makamu wa Rais na Waziri wa Mambo ya Ndani hakuomba nchi hii msamaha aseme: "Haya yalifanyika chini yangu!" Hao ni watu wasiostahili kutawala. Hawa ni watu ambao hawastahili kuongoza. Kwa hivyo, hatuwezi kukubali kuwa na Mawaziri ambao kazi yao ni kupokea shangwe na kutuzwa mishahara mikubwa, lakini hawakubali makosa yakifanyika chini yao.

Bw. Naibu Spika, katika Kamati yetu tulimwalika Mkuu wa Wafanyakazi wa Serikali, Balozi Muthaura, na tukamuuliza atuambie ni nani anayefaa kulaumiwa kuhusu makosa yanapofanyika katika Wizara za Serikali. Alituambia kuwa muongozo na msimamo wa Serikali hii ni kwamba makosa yakifanyika katika Wizara, maofisa waliohusika na hayo makosa wanachukua lawama yao, lakini Waziri ambaye ndiye msimamizi mkuu wa hiyo Wizara, pia ana lawama yake ambayo ni lazima aichukue.

Mr. Maore: On a point of order, Mr. Deputy Speaker, Sir. When we have a debate like that from Mr. Wamwere, who was an hon. Member of the Committee, we would like to him to enlighten the House under what circumstances the Committee expunged the name of the Vice-President when

it had been short-listed by the Committee when they were making recommendations?

Mr. Deputy Speaker: That is fine, but, Mr. Maore, you stood on a point of order and you have asked Mr. Wamwere a question.

Mr. Maore: Mr. Deputy Speaker, Sir, I was asking whether Mr. Wamwere is in order to stand on a high moral ground to complain about how the name of the Vice-President missed, when he was part of the group that removed it?

Mr. Wamwere: Bw. Naibu Spika, Kamati ilipitiwa, lakini badala ya mhe. Maore kulalamika kwamba jina la Waziri mwingine liliwekwa katika Ripoti, angeuliza ni kwa nini hatukuliweka jina la Makamu wa Rais.

Mr. Maore: Mlilitoa!

Mr. Wamwere: Bw. Naibu Spika, hakuna mtu ambaye alitoa jina la Makamu wa Rais. Ripoti iliandikwa mara ya moja. Kama Ripoti haikuandikwa mara ya pili, hakuna kitu ambacho kingetolewa ndani yake.

Nilikuwa nikisema kwamba makosa, hasa ya ufisadi, yakifanyika katika Wizara, ni lazima Mawaziri wetu wajue kwamba watapokea lawama. Tunajua kuna maofisa ambao walistaafishwa kwa sababu ya kashifa hii ya Anglo Leasing and Finance, lakini namna walivyostaafishwa, ndivyo ingestahili Mawaziri waliohusika pia wastaafishwe.

Bw. Naibu Spika, ukweli ni kwamba, kashifa ikitokea katika nchi hii, wananchi watawalaumu maofisa ambao wamehusika, Mawaziri na mwishowe, watamlaumu hata Rais mwenyewe. Kwa hivyo, ni muhimu kwetu sisi ambao tunachunga Serikali hii ya Rais Kibaki na kumlinda kuhakikisha kwamba haturuhusu ufisadi kufanyika katika Wizara zetu. Huko ndiko kumlinda. Hatufai kukuja hapa kusema kuwa Mawaziri hawafai kulaumiwa. Ni lazima walaumiwe. Itakuwa ni aibu kubwa, na dunia nzima itajua kwamba msimamo wa Serikali hii wa kupigana na ufisadi umeregea, kama tutapitisha hayo mabadiliko ambayo yameletwa na Ms. Karua.

Bunge hili linafaa kujua kwamba leo hii tunamlikwa na watu wanataka kujua kama ufisadi ukifanyika watakoadhibiwa ni watu wadogo peke yao. Ufisadi ukifanyika, ni lazima watu wadogo na wakubwa ambao wamehusika waadhibiwe, na mwishowe, ufisadi unastahili kuangusha Serikali. Serikali isipozuia ufisadi, ni lazima itaanguka na kama haitaanguka, hatutaweza kupigana na ufisadi katika nchi hii.

Bw. Naibu Spika, ninashangaa sana kuwa sisi tunaopigana na ufisadi, kitu ambacho ni muhimu kwetu ni kutetea majina yetu. Ufisadi katika nchi hii umepita mizizi kwa sababu, badala ya viongozi kupigana na ufisadi, wanatetea majina yao.

Kwa hayo machache, ninaomba kupinga.

Mr. Sungu: Mr. Deputy Speaker, Sir, I speak with a very heavy heart because we are talking about my friend, a man I respect a lot. He is a man that we used to be in the Opposition with. He was a very straightforward man and has been a Chairman of the Public Accounts Committee (PAC).

We are all hon. Members and before we become hon. Members, we cannot be Ministers unless we are nominated. As hon. Members, we must understand the law, practice and procedures of Parliament. We must understand and protect the supremacy of Parliament. We must also understand the role and the importance of Committees. We have even attended many seminars to make Parliament stronger through Committees. The Minister should never ignore a Committee of Parliament by whatever method he is summoned to appear before that Committee. A Committee works on behalf of Parliament. It is set up to do a job that Parliament, as a whole, cannot do. This could be an investigation, an inquiry or to collect information on behalf of the whole House, because the whole House cannot sit together to collect that information.

Mr. Deputy Speaker, Sir, when you defy a Committee of Parliament, you are defying none

other than Parliament itself. Being an hon. Member, I disagree with the Minister. The duty upon the Minister in charge of the Treasury is onerous. This is the only Minister who is both in the Executive and in the Legislature. He is in the Executive because he has signing authority on behalf of this nation for moneys to be spent. He can never pass the buck! The buck will always stop at the Minister's door for whatever goes wrong. If we were to say that an officer made a certain mistake, the Minister must still be held accountable. Therefore, I see nothing wrong in this recommendation because the responsibility of the Minister is there in black and white. You cannot tell this House that you did not see certain things, or you gave the responsibility to so-and -so. That can never be acceptable to Parliament if we are to fight corruption. We cannot accept excuses because this House is charged with the responsibility of making sure that this country is governed according to the laws of the land.

Mr. Deputy Speaker, Sir, I want to appeal to this Government to stop paying lip service to the fight against corruption. There is a reluctance in this Government, which was elected on the platform of fighting corruption among other things. We are not serious in the fight against corruption. Even the donor community has now seen that we are not serious in fighting corruption. If I were the Minister today, I would honourably resign, so that investigations can be carried out when I am not there. No one person can be seen to be more important in this Republic or to be stopping in the way, so that we cannot get funding from the donor community. Our people are going hungry. As we speak, there is a food shortage in the country. We are importing food and appealing to the World Food Programme to give us food, and yet we have money that is being stolen by people who are in charge of the Government. Whether the Minister did it or not, he is still accountable. That is why I stand to oppose this amendment.

This House and the Government should not be protecting anything to do with corruption if we are still going to be a beggar nation, begging day after day for donor funding.

With those few remarks, I beg to oppose.

Mr. Deputy Speaker: I will give a chance to Mr. Ethuro and Mr. Kipchumba before I put the Question.

Proceed, Mr. Ethuro!

Mr. Ethuro: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this particular Motion. I want to state from the outset that I was a Member of this Committee. I want to start by paying glowing tribute to the immediate former Chairman of the Public Accounts Committee (PAC), Mr. Omingo. I think in the history of the PAC in Parliament, we have never been as productive as this particular time.

I also want to pay tribute to the Members of the Committee who spent their precious time to make this report. It was a real setback for us to burn the midnight oil when some hon. Members started accusing us of being bribed and given money. As a result, this report has taken this long to come before the Floor of the House. There is lack of co-ordination between the urgency of a special audit report and the urgency that the House Business Committee allocates to some of this work. If it was that important, it should have come immediately and be given priority.

Mr. Deputy Speaker, Sir, I oppose this amendment on two accounts. One, the buck stops at the Minister's office. Somebody has to take the responsibility. The Minister should not refuse to take responsibility just because there are messengers, clerical officers and other officers in the office. Ministers drive in sleek vehicles and when it is time for responsibility, they do not want to take it. I oppose the amendment because this House cannot be taken in vain. We gave the Minister an opportunity to appear before the Committee.

I would want to even concede here that some Members of the Committee would have been very favourable to the Minister, but he wanted us to relocate from the Committee Room to

Treasury. We are not responsible to Treasury. A Committee of the House acts on behalf of the whole House. I do not understand why Ministers are willing to come before this House to answer Questions, and not to do the same before the Committees of this House. We are even going to the extent of some academic arguments of whether a Minister was summoned or invited. We were advised by the Clerk that a Minister, being a Member of this House, could be invited as a friend of the Committee, and in good faith we summoned the Minister! When one is given a chance to defend himself and he does not come to do so, what kind of ruling does he expect a judge to make? The Minister denied himself the opportunity to give us his views. So, we had to rely on what the accounting officer told us. He told us that he briefed the Minister, who then gave him a written authority to sign the contract and documents were produced to that effect.

I want to thank the Government for acting. This is corruption where money was recovered, except for the interest; the loss of foreign exchange. That was not lost on the Committee. This is the Kibaki Government and not the Moi Government! This is a Government that was elected on a platform of reforms. This is a Government that should appreciate the concepts that we apply in justice. Justice should not only be done, but must be seen to be done! Zero tolerance to corruption is not what we learn in differential calculus; that, when the factor is pending infinity, it never reaches there. Zero tolerance is not approaching zero. It is being above board. It is taking action at the time a crime has been committed. We have lost money through Anglo Leasing at a time when this country has famine. Up to now, we cannot deliver food to the starving people of Turkana, Baringo and all other districts facing drought!

Mr. Deputy Speaker, Sir, we are happy the Permanent Secretaries were dismissed. However, we want further action taken. During Kenyatta's administration, even his good friend, Mr. Paul Ngei, who was detained with him, was suspended at the height of the maize scandal. He got back his job after being exonerated. We are not after anybody's job. We have a lot of respect for Mr. Mwiraria, but systems and procedures must be followed. We are not asking for any favours. We want the dignity of this House to be maintained. The Committees have a right to summon Ministers. The habit has to change. Ministers are either part of us, or they want to treat us as part of the Executive. We are not part of the Executive! The doctrine of separation is very clear. It is surprising that when the same Ministers were on the Opposition side, they always implored on the Government to respect what Parliament was all about. Now they have an opportunity and they have failed the test of the time.

Mr. Deputy Speaker, Sir, I am surprised that the Government side is mobilising hon. Members to come and defeat a good effort of its own Committee. It is a shame and I will not participate in it! I will oppose it to the bitter end!

With those few remarks, I beg to oppose.

Mr. Kipchumba: Mr. Deputy Speaker, Sir, I must from the outset inform the House that I was also a Member of the Committee. I wish to oppose this amendment with the following reasons. We are dealing with an Executive Minister of the Government. It is very difficult to believe that a Minister who was well briefed could delegate that responsibility to sign contracts worth billions of shillings to somebody else. Unless we can say this is an incompetent Minister, then we have no other option, but to conclude that he was part and parcel of the scheme.

Mr. Deputy Speaker, Sir, I will not take a lot of time because we want hon. Members to vote either against corruption or for it. Members of Parliament will be counted today. This Government came in on the platform of zero tolerance to corruption. The time is now to show whether we really support corruption, or we condone it. It is up to us to decide because Kenyans are watching. We cannot say that if a watchman commits a crime, we should not blame a Minister. We are not talking of a watchman. We are talking of a job that was supposed to have been done by the Minister

himself. But, in his own wisdom, he decided to delegate it to his Permanent Secretary. So, we are not even talking of a job that he should have been a watchman of. We are talking of a role that the Minister should have played himself. But going through the report, we could not get many of these signatures that he delegated. This was a very special case! He decided to delegate to his Permanent Secretaries transactions worth billions. This is unacceptable to this House, and one wonders how many of such blunders he has done and where he will take us. It is time that the Minister actually resigns for the good of this country. When the Permanent Secretaries were sent on compulsory leave, the Minister should have also followed suit. I do not understand when Members of Parliament would want to protect one of their own. What happens to the others who have been mentioned in this Report and are not in this House? How will the members of public view this Parliament when we want to remove the name of one of our own after he has been mentioned, and leave the rest of--

Archbishop Ondiek: On a point of information, Mr. Deputy Speaker, Sir. I would like to inform the hon. Member that the Minister for Finance is the Accounting Officer of the Ministry.

The Minister for Finance (Mr. Mwiraria): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to stand here and say that the Minister is the Accounting Officer, when it is clearly spelt out in the law that, it is only Permanent Secretaries who can be appointed Accounting Officers?

Mr. Deputy Speaker: Archbishop Ondiek, you gave very erroneous information.

Proceed, Mr. Kipchumba!

Mr. Kipchumba: Mr. Deputy Speaker, Sir, I was just saying that this must be a lesson to Kenyans. When you delegate responsibility, you must be aware of what you are delegating. You cannot tell us today that you delegated responsibility without adequate knowledge and without knowing the consequences, and then come here and tell us that you are a clean man. You must carry your own cross! It is a lesson to the rest of the Ministers that, at the end of it all, each of them must carry his or her own cross.

Mr. Deputy Speaker, Sir, when the economy performs very well, we will always applaud the Minister concerned. But when corruption is condoned in the Government, the Minister responsible must carry his own cross. You cannot push it to anybody else. I am saying that when the permanent secretaries were sent on compulsory leave, there is no reason why we should not have started with the Minister himself! It is not too late for Mr. Mwiraria to save himself by resigning immediately, so that nobody blames the Kibaki Administration.

(Applause)

That is because President Kibaki, himself, has always advocated zero-tolerance to corruption. But as long as he condones his Ministers, the likes of Mr. Mwiraria, he will have problems. He cannot perform. He will always be let down by those kind of Ministers.

Mr. Deputy Speaker, Sir, Ministers must not be seen to protect their own. It is shameful that a Minister in the same Government wants to move an amendment to protect a Minister just because he is a colleague!

(Applause)

The Minister for Water and Irrigation (Ms. Karua): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the debate to be personalised? The amendment is before the House for discussion. I gave my reasons for the amendment. Is it in order for the hon. Member to personalise

the issue and launch a direct attack on my person?

Mr. Kipchumba: Mr. Deputy Speaker, Sir, I have not said "Ms. Karua"! I have said "a Minister"! A Minister does not belong to Ms. Karua. We are talking of "a Minister". Therefore, I beg to continue.

Mr. Deputy Speaker, Sir, we are saying that there must be no sacred cows in this country. We must start the war against corruption from the top. The President told us that his Government will never condone corruption. He formed anti-corruption authorities. There is no point for us to pay Kshs2.5 million to the Director of Kenya Anti-Corruption Authority if, at the end of it all, the Ministers involved will not be touched, including those mentioned by a report of the Public Accounts Committee (PAC). We asked the Minister to appear before our Committee, but he told us to go to his office, when he knows he has no answers. How were we to be believed if we went to his office, had a cup of tea and wrote a report which was not objective?

Mr. Deputy Speaker, Sir, I do not want to bore hon. Members with a lot of words. But we now understand that from today, every Minister must carry his own cross! Mr. Mwiraria, the buck stops at you.

With those few remarks, I beg to oppose.

The Minister for Finance (Mr. Mwiraria): Mr. Deputy Speaker, Sir, I had no intention of asking to speak, but when hon. Members come here and try to put words into my mouth--- I have not spoken, but the hon. Member who has just spoken has talked about Ministers who come here and say they are clean. I have not said that. I have not uttered a word. So, please, let us be fair. I can understand that the debate is emotional. But let us be fair to each other.

Mr. Deputy Speaker, Sir, let me now speak for myself. There are facts which are undeniable. Fact number one is that, I was summoned by hon. Omingo Magara from Kisii through the media on several occasions. I did not take that kindly. I do not believe that it is the practice of this House, and especially the PAC, to conduct business through the media.

Secondly, I was given one letter of invitation. The hon. Shadow Minister for Finance said that I was given, at least, two letters. Let us stick to the facts.

Thirdly, the letter which summoned me - I am not haggling about the words - states:-
"Following the Special Audit Report prepared by the Controller and Auditor-General on Procurement of Passport Issuing Equipment, the Public Accounts Committee (PAC) has scheduled a meeting with you on Monday, June 28th, 2004, in Committee Room No.9, Parliament Buildings, at 10.00 a.m., in order to respond to the issues raised in the Special Audit Report. This is, therefore, to request you to appear before the Committee to discuss issues raised in the Special Audit Report."

Mr. Deputy Speaker, Sir, I happen to have been a member of the PAC for more than one parliamentary term. I know the law provides that when you summon somebody, you give, specifically, the information you want from that person. The report in question - and I have a copy here, does not, in any of its paragraphs, mention the Minister for Finance.

Secondly, when I got this very open invitation, I felt that, maybe, because they did not say exactly which part of the report they wanted to discuss, that they could be asking for more information than I had available to me.

Mr. Deputy Speaker, Sir, it is for that reason that I said I am prepared to act as a friend of the Committee, and asked them to come to my office, where I would have all the files. I may have erred in judgement by inviting them to my office. But the truth of the matter is that, members of the PAC know that even the people who have committed criminal acts deserve an explanation as to what they are being summoned to go and talk about before the PAC.

Thirdly, it is a fact that members of the PAC were given the document on which I gave my

approval. I accept the fact that I issued my own written approval on this document.

(Applause)

I did so in good faith and on the basis of information at my disposal. The hon. Members who sat in the Public Accounts Committee (PAC) read the document and they know what is contained in it. I hope, before we conclude the debate on this matter, I will be given the opportunity to read the whole of this document. If it were not for the fact that we are only debating a minor item now, I would read the whole document.

Mr. Deputy Speaker, Sir, however, allow me to read a few paragraphs from the summary project profile which I was given and which was made available to the PAC:

"The project that will be undertaken by Anglo-Leasing and Finance Ltd. of the UK addresses security concerns and inefficiency in the functions, systems and procedures in the Department of Immigration. The high security systems are being implemented for security purposes to address terrorism, eliminate corruption, forgery, fraud, illegal entry and exit, and criminal activities related to immigration and immigration documents."

The recommendation also talks about technical assessment and clearance. In part, the paragraph states:

"As instructed, the Government Information Technology Services (GITS) has evaluated the project's technical proposal against the terms of reference prepared for the project and found that the proposal is consistent with the terms of reference and scores highly on the technical evaluation framework set out for the project."

Mr. Deputy Speaker, Sir, the next paragraph talks about the scope of the project. It states thus:

"GITS corroborates that the project covers requirements and functionalities required by the Department of Immigration and is consistent with the needs, assessment and terms of reference set out for the project."

Please, allow me to read about what is said about Anglo Leasing and Finance Ltd. The paragraph is on qualifications of the systems provider, that is, Anglo Leasing and Finance Ltd.:

"The systems provider is one of the most reputable, outstanding suppliers of security, printing and systems services on a global basis and bringing significant experience in currency, passports, visas and other security documents on world wide basis including Africa and this region."

Mr. Deputy Speaker, Sir, the Report concludes by giving the following recommendations:

"The supplier's services and financing credit agreement for the immigration security and documents control systems project is in order. Questions and issues of various legal, technical, financial and other matters have been addressed and revisions have been made accordingly."

It is on the basis of these recommendations that I gave my approval for the project to go ahead. I gave that authority in good faith and on the strength of information given by my officials. Before we conclude this debate, I will have an opportunity to read the entire memorandum so that those people who do not know exactly what happened can appreciate the facts.

Mr. Deputy Speaker, Sir, Mr. Mwiraria is a human being. I accept that fact and human beings do err. Through hindsight, if I had known what I know today, I would not have approved this project.

(Applause)

However, let me make one point clear. The English people have a very interesting saying, which says: "Every cloud has a silver lining". Anglo Leasing and Finance Ltd. was a cloud whose silver lining is the fact that we learned a great deal of things which have been happening and which could have gone on and really embarrassed the Government. Consequently, we have taken corrective action, which I will discuss at length when I rise to respond to the debate itself. However, I rise today in this House to say that I had not spoken at all. I do not want to be blamed, and people should not put words into my mouth even before I open it. What I have already said will be in the HANSARD, and I can be accused for saying those things and I will not mind. But for someone to stand here, with due respect, and say that Ministers are coming here to call themselves "Mr. Clean", when nobody has really said that, is not fair. Once again, I have given you the facts and I wanted the House to know that there is another side to this matter. I have been a Member of the PAC before, and I respect that Committee. However, I expect the Committee, too, to respect all the witnesses it summons. Whether the witnesses are hon. Members of Parliament, Ministers or not, it is not fair to summon anybody to come before the Committee through the media.

Mr. Deputy Speaker: Hon. Members, as you are all aware, we have gone on for a long time with this particular amendment.

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

Mr. Deputy Speaker: Order! I am on my feet and I am speaking! We are dealing with an amendment. Ordinarily, it would take just two or three people to contribute and then the Chair puts the Question. However, I have allowed many hon. Members to contribute. Surprisingly, I have been told that I did not balance. I think that is a very unfair accusation because I have given equal chances to hon. Members seated on both sides of the House. This is not the end of debate on this Motion. We are only disposing of the amendment and then we shall continue with the substantive Motion. So, please, let this be very clear. We are not closing debate on the Motion. We are only dealing with the amendment and once we dispose of it, then, we shall embark on the substantive Motion.

Hon. Members we are dealing with an amendment by hon. Karua which reads as follows:
"The Motion be amended by deleting the full stop and adding the following words at the end: "Subject to deletion of all the words immediately after the word "behalf" in line five, the third paragraph on page 26 of the Report to the end."

The Motion will read as follows:

"THAT, this House adopts the Report of the Public Accounts Committee on Special Audit Report on Procurement of Passport Issuing Equipment by the Department of Immigration, Office of the Vice-President and Ministry of Home Affairs, laid on the Table of the House on Tuesday, 6th July, 2004, subject to deletion of all the words up to the word "behalf" on page 26, line five, paragraph 3 to the end."

*(Question of the first part of
the amendment that the word to be left out
be left out, put and negatived)*

Hon. Members: Division! Division!

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

Mr. Deputy Speaker: The request for Division is approved. Therefore, the Division Bell may be rung.

(The Division Bell was rung)

Mr. Deputy Speaker: Order, hon. Members! Time is up. I now order that the doors be locked and the bar be drawn.

(Mr. Angwenyi consulted loudly)

Mr. Deputy Speaker: Order, Mr. Angwenyi!

(Loud consultations)

Order, hon. Members! Every time, we talk about keeping the dignity of the House. It is out of order for many hon. Members to consult loudly when I am speaking. Even if you know the procedure, you should listen because those are the rules of the House!

DIVISION

(Question put and the House divided)

(Question carried by 31 votes to 28)

AYES: Mr. Angwenyi, Mrs. Chelaite, Messrs. Kamama, Kamanda, Karaba, G.G. Kariuki, M. Kariuki, Ms. Karua, Mr. Katuku, Mrs. Kilimo, Messrs. Kimathi, Kiunjuri, Koech, Lesrima, Magugu, Maore, Mbau, Muchiri, Mrs. Mugo, Messrs. Munya, Muriithi, Dr. Murungaru, Mr. Mwiraria, Dr. Mwiria, Capt. Nakitare, Mr. Ndiritu, Ms. Ndungu, Messrs. ole Ntimama, N. Nyagah, Obwocha and Mr. Tarus.

Tellers of the Ayes: Mr. Mbau and Prof. Olweny.

NOES: Messrs. Cheboi, Chepkitony, Ethuro, Kajwang, Dr. Keino, Mr. Keter, Dr. Kibunguchy, Messrs. Kipchumba, Muturi, Mwanzia, Ndile, Ndolo, Eng. Nyamunga, Messrs. Ojaamong, Eng. Okundi, Prof. Olweny, Messrs. Omamba, Omondi, Archbishop Ondiek, Prof. Oniang'o, Messrs. Owidi, Dr. Rutto, Messrs. Salat, Sang, Dr. Shaban, Messrs. Sirma, Wamwere and Mr. Weya.

Tellers of Noes: Messrs. Chepkitony and Muchiri.

Abstentions: Mrs. W. M. Maathai

(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, proposed)

(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question of the Motion as amended proposed)

The Minister for East African and Regional Co-operation (Mr. Koech): Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. It is high time that we, as Members of this august House, started to respect each other, and emotions should not reign but instead common logic.

Mr. Deputy Speaker, Sir, I have seen many people sacrificed on the Floor of this House because of politics and unnecessary emotions. I am very happy that logic prevailed and that we have taken the right decision in this Motion.

Mr. Deputy Speaker, Sir, we can only develop this country if we are going to be honest with ourselves, and also if we leave emotions behind us. We should be discussing Motions, not with a lot of ulterior motives, but ensure that we say what is right. The responsibility of the Minister for Finance is enormous. I must congratulate hon. Mwiraria for being very honest when he was handling this Motion. He said there was truth, he spoke from the bottom of his heart and he told the House and the nation how the things were.

I must also congratulate the Government because this is a time of transparency. When the Goldenberg Affair was being discussed, if we had such transparency like we have today, this country would have been saved from the massive losses it incurred because of the Goldenberg Scandal. At that time, information was withheld and, as a result, the citizens of this country are now living in abject poverty because of the Goldenberg affair.

Mr. Deputy Speaker, Sir, the Anglo Leasing scandal has been a very good lesson for this Government. I am very thankful to the spirit of transparency in this country because hon. Members and, indeed, members of the public, talk freely and reveal anything in the Government circles. The revelation of the Anglo Leasing scam has assisted this country. When things are revealed, we should not go further and become emotional and attack people who are assisting us overcome some of the problems in this country. Therefore, I would like to appeal to hon. Members not to be guided by emotions as we discuss this issue. There was a time in this House when some hon. Ministers were sacrificed. For example, Mr. Charles Njonjo was sacrificed right here in this House. Later on, he was absolved of all wrong-doings. The late Dr. Karanja who was the Vice-President of this country was also accused of all wrong-doings right here. At that time, most hon. Members of Parliament were shouting at the top of their voices, so that they would be heard attacking him. This was all because of emotions. There was no logic applied at all. Such behaviour is a thing of the past. We should not behave like Pontius Pilate when he was asked by the crowd who to set free between Jesus and Barabbas, and they shouted back: "Release Barabbas for us." We all know Barabbas was a murderer, but he was set free. This was because the crowd was so emotional to reason. This House should be guided by logic and common sense. It should not be guided by emotions, but by reason, which I feel is good for this nation. Hon. Members should not bring things here to settle political scores which are not necessary for this nation.

So, I appeal to hon. Members that whatever we discuss in this House, let us not be guided by emotion. Let us face the facts as they are. I must congratulate the Minister who has spoken very well---

QUORUM

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. This is a very important Motion. However, I wonder whether we have enough quorum.

Mr. Deputy Speaker: Well, there are 26 hon. Members in the House. The prerequisite number required to form a quorum is 30. Therefore, we have no quorum.

I order that the Division Bell be rung for five minutes!

(The Division Bell was rung)

Mr. Deputy Speaker: We now have a quorum. Mr. Koech, you may proceed.

The Minister for East African and Regional Cooperation (Mr. Koech): Mr. Deputy Speaker, Sir, I was appealing to this House to stop being emotional and deal with serious issues, which are relevant to us.

It is good that there is transparency in this country, which can reveal issues such as those which have been revealed today. I want to commend the Minister for being honest, and doing the right thing for this nation by returning to the country all the money which had been taken out. Were it not for transparency, the Government would have lost money the same way it did in the Goldenberg scam.

While on this point, I would like to appeal to my colleagues, especially those who are members of various committees, to respect each other. When they want a Minister to attend a meeting, they should call them on phone or give them information in an official manner, so that they can attend to parliamentary duties. I sympathise with the

hon. Minister who deals with issues at the Treasury, the World Bank and many other bodies for the good of this country. He may not have sufficient time to attend to all his duties, if given a short notice by members of Committees to appear before them and answer questions. We should be respectful to others. Let us give Ministers sufficient time to answer questions. We must also try and understand the kind of work Ministers are doing in their Ministries. If we do not do that, we will be unfair to them.

Mr. Mwiraria is in charge of the whole country's financial matters. He is also in charge of his Ministry. When we expect him to appear before a Committee immediately after he has been called, we are being unfair to him.

I do not have much to say. However, I will conclude by saying that we should respect each other in all our endeavours so as to make this House and the nation successful.

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. I want to seek a clarification from the Chair. You counted hon. Members who voted ayes as well as the noes. What happens to hon. Members who were just in the House and did not vote? What is the ruling on that?

Mr. Deputy Speaker: I am not aware of who voted and who did not.

Mr. Keter: Mr. Biwott was here and I do not see his name anywhere in the lists.

ADJOURNMENT

Mr. Deputy Speaker: I will ask you to withhold that until a later date, if you will still need to raise it.

It is now time to adjourn the proceedings of the day. The House is, therefore, adjourned until Tuesday, 2nd November, at 2.30 p.m.

The House rose at 6.30 p.m