

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 14th July, 2004

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

NATIONAL SURVEY ON WOMEN'S NEEDS AND INEQUALITIES

Ms. Mwau: Mr. Deputy Speaker, Sir, I beg to give Notice of the following Motion:- THAT, in view of the commitment by the NARC Government to uplift the status and welfare of women in Kenya; concerned that previous economic surveys and plans have not adequately appreciated women's contribution to the national economy, particularly in caring for children, HIV/AIDS victims and orphans and other dependants and particular needs and inequalities faced by women, this House urges the Government to immediately conduct a national survey to measure and better understand the extent of women's participation in the workforce, and submit a yearly report to Parliament on the short and long-term plans for addressing women's needs and inequalities.

ORAL ANSWERS TO QUESTIONS

Question No.295

POSTING OF APs/REGULAR POLICE TO BURA CONSTITUENCY

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

- (a) whether he is aware that Saka, Bura, Mbalambala and Harimani locations have operated without administration or regular police since 1991; and,
- (b) what arrangements he is making to ensure adequate security in the areas.

Mr. Deputy Speaker: Is there anyone here from the Office of the President?

The Assistant Minister, Office of the President (Mr. Shitanda): Mr. Deputy Speaker, Sir, this is Prof. Kibwana's docket and I think he is coming.

Mr. Deputy Speaker: You know, Mr. Shitanda, we all know that this is a Question addressed to the Minister of State, Office of the President. How you arrange your affairs in your office should not concern us. Anyway, we will come back to the Question. I hope you will be able to answer it.

Next Question!

Question No.340

NEW HOUSES FOR BUTERE/
MUMIAS POLICE OFFICERS

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

- (a) whether he is aware that the current police houses at Butere/Mumias District Headquarters were constructed before Independence; and,
- (b) when he will construct new houses for the police officers at the headquarters.

Mr. Deputy Speaker: Is there anyone from the Office of the President? Mr. Shitanda, is that in your docket?

The Assistant Minister, Office of the President (Mr. Shitanda): No, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Next Question!

Question No.351

GOVERNMENT GUARANTEES TO
ORGANISATIONS/STATE CORPORATIONS

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

Next Question!

Question No.250

RECONSTRUCTION OF NKARE-NTULELE ROAD

Mr. Angwenyi asked the Minister for Roads and Public Works:-

- (a) whether he is aware that the 9-kilometre Nairage Nkare-Ntulele section of Road B3 is completely in disrepair and requires urgent reconstruction; and,
- (b) whether he could inform the House when this reconstruction will commence and how much it is estimated to cost.

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

(a) I am aware that Nairage Nkare-Ntulele section of Road B3 is in a bad condition.

(b) The section of the road that is in a bad condition is about 10 kilometres long. Repairs are under way and will cost Kshs1.6 million. It is expected that the repairs will be completed by the end of this month.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I get shocked every time I get an answer from this Ministry. This is a main road to Maasai Mara National Reserve, which generates a lot of foreign exchange and other income for this Government, yet the road cannot be repaired. For the last two years, I have asked three Questions on this same road and every time we are told that money has been allocated and that this road would be done. It has not been done---

Mr. Deputy Speaker: Ask your question.

Mr. Angwenyi: How can Kshs1.6 million re-carpet a 10-kilometre road?

Eng. Toro: Mr. Deputy Speaker, Sir, this section of the road is part of the Narok-Mai Mahiu Road, which is about 90 kilometres long. In previous answers, I said that the Narok-Mai Mahiu Road is to be financed by KFW of Germany. The Ministry tendered for consultancy services

contract and awarded the consultancy services for design of this road to Gulf Consulting Engineers. But BCOM Consulting Engineers appealed to the Public Procurement Appeals Board. This issue went to court and has taken long because this road cannot be started until the issue of the consultancy has been finalised. When this issue went to court, the court disallowed the award of the consultancy contract to Gulf Consulting Engineers.

Now we are back to square one; we cannot proceed to repair this road. It will not be practical for us to repair the section the hon. Member is talking about back to bituminous standard because the whole road will be worked on as one unit and before that its design will have to be done. We will re-tender the consultancy services for the preparation of the design of this road. The delay was, therefore, caused by the consultants going to court.

Mr. Mbai: Mr. Deputy Speaker, Sir, what plans does the Assistant Minister have to repair roads which are in bad state, for example, the Thika-Garissaa Road. It is now becoming impassable.

Eng. Toro: Mr. Deputy Speaker, could the hon. Member be more specific on what he wants me to answer?

Mr. Mbai: Mr. Deputy Speaker, Sir, what plans does the Assistant Minister have to repair roads which are in bad state, for example, the Thika-Garissa Road?

Mr. Deputy Speaker: Mr. Mbai, you are repeating the question!

Eng. Toro: Mr. Speaker, Sir, I got his question.

Mr. Deputy Speaker: Very well!

Eng. Toro: Mr. Deputy Speaker, Sir, we are patching up potholes on the Thika-Garissa Road. There is a section around Gatwanyaga which was done an overlay, but it is peeling off. This section is inconveniencing motorists. However, we are in the process of procuring bitumen to patch up those holes that are inconveniencing motorists. I am aware of that section of the road that the hon. Member has talked about and we are doing something about it.

Mr. Gitau: Mr. Deputy Speaker, Sir, I do not know if Mr. Gachagua and I look alike. However, at the beginning of this year, the President said that the Government has enough money to work on the roads in this country. For example, if you look at the newspapers today, they are talking of about Kshs15 billion to reconstruct the Mombasa-Malaba Road. Is it true that there is money to construct roads?

Eng. Toro: Mr. Deputy Speaker, Sir, we should differentiate between donor-funded programmes and the money that the Minister for Finance allocates for construction and repair of roads. The Mombasa-Malaba Road, which is the Northern Corridor, is basically being financed by donor-funding. The money is coming in bits. At the moment, the Sultan Hamud-Mtito Andei Road is under reconstruction through the same programme. Next, we will be reconstructing Mai Mahiu-Naivasha-Lanet Road. We have also been promised by the World Bank, the International Monetary Fund (IMF) and the European Union (EU) that they will be funding the programme all the way to Malaba. So, that money is there as long as the donors give it to us.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I do not know why the Kenyan Government, since Independence, gives a raw deal on roads to all Maasai-inhabited areas. For example, the roads to Amboseli National Park, Mau Narok and Samburu are not done. Could the Assistant Minister engage his own people in the Ministry to work on this 10-kilometres road for the time being while he is haggling about with his contractors in the corrupt courts of this country?

Eng. Toro: Mr. Deputy Speaker, Sir, as I said, the 10 kilometres will be attended to before the end of July. As for the 90 kilometres, as soon as the issue of the court is over; once we receive the money to the tune of about Kshs3 billion from the German Government, the entire road will be reconstructed. The roads leading to Maasai Mara Game Reserve and other roads in the tourist areas of this country, will be catered for.

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

Question No.314

IMPORTATION OF GM FOODS

Mr. Ndolo asked the Minister for Agriculture if he could inform the House the amount of genetically modified foods which have been imported into the country since 2002.

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

I am not aware of any importation of genetically modified food in the country. However, genetically modified materials are only on experimental basis at the Kenya Agricultural Research Institute (KARI) and still under confinement and may only be released after satisfactory precautionary measures are put in place.

Mr. Ndolo: Mr. Deputy Speaker, Sir, the Assistant Minister is misleading this House. The genetically modified foods are now being sold secretly in this country. If the House could allow me, I could table samples of this food which is being sold secretly in some of our supermarkets, I could do so.

Hon. Members: Table it!

Mr. Deputy Speaker: Mr. Ndolo, what is your question?

Mr. Ndolo: Mr. Deputy Speaker, Sir, the Assistant Minister says he is not aware of the sale of these foods, but I have evidence here with me to show that these foods are being sold in our supermarkets.

Hon. Members: Table it!

*(Mr. Ndolo moved from his place
to table samples of the food)*

Mr. Deputy Speaker: Order, Mr. Ndolo! You take action as the Chair directs, but not as other hon. Members direct!

Mr. Akaranga: Mr. Deputy Speaker, Sir, you have heard the hon. Member say clearly that those genetically modified foods that are being sold in our supermarkets enter into this country secretly. Indeed, if that is so, I urge the hon. Member to bring that information to our attention. As a Government, we are taking every precautionary measure to ensure that these genetically modified products are not sold in this country.

Mr. Munya: Mr. Deputy Speaker, Sir, the Assistant Minister says the genetically modified foods come into this country secretly, but they are being sold in the supermarkets. If something is being sold in the supermarkets, that is not secret! That means the Government has already sanctioned these foods that are very dangerous to Kenyans.

Mr. Deputy Speaker: By the way, Mr. Akaranga, Mr. Ndolo had some foods which, first of all, I do not even know how they found their way into the Chambers.

Mr. Ndolo, what kind of foods do you have there? Could you table them?

*(Mr. Ndolo laid some samples
of GMF on the Table)*

Mr. Ndolo, what are they?

Mr. Ndolo: Mr. Deputy Speaker, I have an apple, an orange and spinach.

Mr. Deputy Speaker: Mr. Ndolo, what makes you believe that, that orange you are holding is genetically modified?

Mr. Ndolo: Mr. Deputy Speaker, Sir, I went to the shops and asked them and they told me that they have these foods.

Mr. Deputy Speaker: Continue, Mr. Akaranga! Mr. Ndolo, just leave them there.

Mr. Akaranga: Mr. Deputy Speaker, Sir, as the hon. Member has just displayed these foods, we should take them to the Kenya Bureau of Standards (KBS) to prove that, indeed, they are genetically modified products. However, we cannot just rely on information from a hawker that they are genetically modified products.

Hon. Members: Mr. Ndolo is not a hawker!

Mr. Deputy Speaker: Order, hon. Members! Order! First of all, the Chair is not an expert. By seeing an orange, I cannot distinguish if it is a genetically modified product or not. So, I would like these foods to be handed over to the Assistant Minister, so that he is able to look at them and, probably, give to those who have the knowledge to determine whether they are actually genetically modified or not. However, for me, I cannot stand here and say: "That is genetically modified", nor can you. Capt. Nakitare, what would you like to say in regard to this?

Capt. Nakitare: Mr. Deputy Speaker, Sir, genetically modified foods have been banned in most countries. We have the knowledge and the scientific backing; we have documents we can table in this House. This demonstrates that, already, Kenya has accepted an entry of these foods. I would like to have these foods banned from entering our country. Zambia and the European countries have banned them. South Africa is the only country that is using Kenya as a conduit to bring these foods here. If I was given time, I would like to ask the Assistant Minister---

Mr. Deputy Speaker: You are now giving a speech! You are not asking a question!

Capt. Nakitare: I am asking the Assistant Minister to ban those foods!

Mr. Deputy Speaker: Order! Let me hear from Mr. Khamasi.

Mr. Khamasi: Mr. Deputy Speaker, Sir, I would like to seek some clarification from the Chair. Of late, we have not had an opportunity where items have been laid on the Table. Some of those items could be very dangerous. Is it in order for the hon. Member to lay unknown items on the Dispatch Box? We are not aware of what they contain!

Mr. Deputy Speaker: In answer to that, I think the Chair would be concerned with offensive weapons. I looked at that orange and do not see how offensive it can get. But, anyway, whatever the case, we are dealing with a very important matter. We are dealing with food which could be dangerous to the wellbeing of Kenyans. The Chair would like to defer this Question, so that the Assistant Minister could be given these items and come back to the House when he is prepared. He has been given the items which are clearly marked. He should have them tested and report back the findings to this House.

The Assistant Minister for Finance (Mr. Obwocha): On a point of clarification, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is your point of clarification, Mr. Obwocha?

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, would it be a good idea that before the Chair allows some of these items to be laid on the Table of this House, they are left with the Serjeant-at-Arms? That is because some of them could be dangerous! We do not know what is in some of those items?

Mr. Deputy Speaker: Very well! I believe this is a serious matter.

Prof. Oniang'o: On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Prof. Oniang'o, there is no point of information during Question Time. Who are you informing?

Prof. Oniang'o: I would like to inform the Chair.

(Laughter)

Mr. Deputy Speaker: What do you want to say?

Prof. Oniang'o: Mr. Deputy Speaker, Sir, that is my field. I just want to clarify that when it comes to plants, in terms of genetic modification, it falls under the docket of the Ministry of Agriculture. When it comes to actual foods, it falls under the Kenya Bureau of Standards (KEBS). So, they can tell us whether there are regulations or not. So, before the Assistant Minister brings the answer, we would like him to consult widely, so that Kenyans can be informed of what is going on.

Mr. Deputy Speaker: That is why the Chair said the Assistant Minister should consult the scientists, so that he could bring an authoritative answer next week. When do you want to answer it, Mr. Assistant Minister?

Mr. Akaranga: On Thursday, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Okay. Thursday, next week. The Serjeant-at-Arms has taken possession of those items. Please, collect them on your way out.

The Assistant Minister for Trade and Industry (Mr. Miriti): On a point of order, Mr. Deputy Speaker, Sir.

Deputy Speaker: The matter is finished. What is it, Mr. Miriti?

The Assistant Minister for Trade and Industry (Mr. Miriti): Mr. Deputy Speaker, Sir, before KEBS handles those products, would it be in order for the hon. Member to tell us where he got them from? Was it from a supermarket or where? Could we know where he got them?

Mr. Deputy Speaker: I see nothing wrong with that. Mr. Ndolo will liaise with the Assistant Minister on that matter.

(Question deferred)

Next Question, Mr. Khamisi! Is Mr. Khamisi not here?

Mr. Khamisi: I am here, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: I was looking on the other side!

(Laughter)

Question No.330

MEDICAL SUPPLIES/PERSONNEL
FOR MTEPENI HEALTH CENTRE

Mr. Khamisi asked the Minister for Health:-

(a) whether she could inform the House why Mtepeni Community Health Centre in Mtepeni Ward, Mtwapa, in Bahari Constituency, has not been supplied with drugs and medical personnel posted as promised by the Ministry; and,

(b) when the facility will be opened for public use.

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

(a) Mtepeni Community Dispensary in Bahari Constituency has not been furnished with drugs and medical personnel as promised by the Ministry of Health, since the project is still incomplete. However, plans are now under way to finalise the remaining work at the facility.

(b) Mtepeni Dispensary will be operational before 30th July, 2004, as soon as work is

completed. A nurse has already been identified to be posted to the facility immediately. In the meantime, the area residents seek for medical assistance at Mtwapa Health Centre.

Mr. Khamisi: Mr. Deputy Speaker, Sir, the Assistant Minister is certainly misleading the House! That is a community project and not a Government project. It was completed way back in February this year. For the information of the Assistant Minister, drugs and furnishings have already been provided for the dispensary. What we are waiting for is the nurse. Could he tell this House when that nurse will report to the dispensary? Everything is ready at the moment.

Mr. Konchella: Mr. Deputy Speaker, Sir, I do not know why the hon. Member is saying that I am misleading the House and yet, the process of providing the medicine and the nurse was as a result of his Question. That has already been done and it is only the nurse who is yet to report. We have already instructed the Medical Officer of Health (MoH) to immediately send the nurse, so that work could start before the end of this month.

Mr. Kingi: Mr. Deputy Speaker, Sir, the MOH in charge of Kilifi District is very hesitant to post nurses and clinical officers to dispensaries and other health centres in the district. He always complains of shortage of personnel. Could the Assistant Minister assure this House that he is going to take care of that shortage, so that staff could be sent to dispensaries like Mtepeni, Mirihini and others which are not operational because of lack of staff?

Mr. Konchella: Mr. Deputy Speaker, Sir, I am aware that in the last posting, when we posted nurses last year, Kilifi District was not considered. But this year, we are posting another 1,100 nurses and Kilifi District will be given priority. We would, definitely, increase the number of nurses there.

Mr. Khamisi: Mr. Deputy Speaker, Sir, when the community conceived that project, the intention was to have it elevated to a full-fledged health centre with maternity facilities. Could the Assistant Minister tell us, now that the project is completed, whether he could commit the Government to expand it to a full-fledged health centre?

Mr. Konchella: Mr. Deputy Speaker, Sir, that is a very small facility with three rooms; consultation, treatment and a store. It requires a substantial amount of money to elevate it to a health centre. I would like to ask the hon. Member to involve the District Development Committee (DDC) in the planning of the project. That is because it was done by the community itself. If the DDC prioritises it, it will be allocated funds in future financial years.

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

Mr. Masanya: Mr. Deputy Speaker---

Mr. Deputy Speaker: Sorry! I skipped Mr. Muiruri's Question.

Question No.265

NCC REVENUE FROM NGETHU
WATER WORKS

Mr. Muiruri asked the Minister for Local Government:-

- (a) how much money has the Nairobi City Council (NCC) realised from the sale of water from Ngethu Water Works in Gatundu North for the last five years; and,
- (b) how much the council has donated to the residents of Gatundu North and what plans the council has to supply the local populace with water.

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

(a) The council has realised Kshs3 billion for the last five years and used it as follows:-

- (i) Salary, Kshs700 million; operation cost, Kshs1.8 million; maintenance cost, Kshs456

million, and capital expenditure, Kshs150 million.

(b) The council has not donated in cash, but it has donated the following:-

(i) The council has built Ngethu Primary School.

(ii) The council has also built a social hall in that particular area.

(iii) The council has supplied area residents with treated water through 30 projects; among them, Ngorongo, Gachugi, Kamwangi and Kihingo.

The council is no longer a water undertaker. That function is now under the Nairobi Water Company.

Mr. Muiruri: Mr. Deputy Speaker, Sir, the world is round. It is interesting that my friend, hon. Kamanda, is answering this Question. However, Kshs3 billion is a lot of money to come from a small area of the community of Ngethu in Gatundu North. The salaries that the Assistant Minister is quoting are salaries to the Nairobi City Council employees, the operations fees go to the Nairobi City Council employees, maintenance is for the project, capital expenditure is on the project. But the question is, the free supply of water to the residents has never been there. The Assistant Minister has quoted Ngorongo, Gachugi, Kamwangi and Ngethu. Could he quote the balance of the 28 other projects, despite the fact that these four projects are home-based projects? They are financed by the people themselves; they pay water rates to the Nairobi City Council. The social hall also belongs to the Nairobi City Council. Could the Assistant Minister consider that the residents of that area be supplied with water?

Mr. Kamanda: Mr. Deputy Speaker, Sir, first of all, I want to tell the Member that there are other sources of water for Nairobi City; it does not come from Ndakaini alone. We have water from Sasumua Dam which also consists of 30 per cent of Nairobi water. We also have water from Ruiru Dam which consists about 15 per cent, and Ngethu Treatment Plant, which is not even the source. The source of Nairobi water from Ngethu is Ndakaini, which is not even in his constituency. Ngethu is just a treatment plant. These people in Gatundu were compensated by the World Bank and Nairobi City Council many years back, and there is no provision of supplying water to the residents of Gatundu through Nairobi City Council.

Mr. Oparanya: Mr. Deputy Speaker, Sir, you have noted that the people of Gatundu North generate income of Kshs3 billion to the Nairobi City Council. Water is a natural resource for these residents and they are getting peanuts from this natural resource. Could the Assistant Minister consider giving a monthly royalty to the people of Gatundu North for their development?

(Applause)

Mr. Kamanda: Mr. Deputy Speaker, Sir, we have taken that into consideration and that is why those people were compensated. Besides that, Nairobi City Council has connected water to 30 groups, and they pay minimal rates to the Nairobi City Council. As we are talking, they have not paid the Nairobi City Council millions of shillings that they owe.

Mr. Muiruri: Mr. Deputy Speaker, Sir, with due respect to my friend, hon. Kamanda, there has never been any compensation. What happened is that the people who owned the land in 1967/68 were the ones who were compensated because their land changed ownership to the Nairobi City Council to facilitate this project. There has never been any compensation. Could the Assistant Minister be kind enough to go and visit the site because it has caused a lot of deaths when they are cleaning their pipes? The people of this area have never benefited from this project, yet the Nairobi City Council has collected Kshs3 billion from this project! Surely, could he be kind enough to come with me, with his officers, and visit the site and see how it is and how it operates so that the residents could benefit from this project which is a big---

Mr. Deputy Speaker: Order, Mr. Muiruri, that is enough!

Mr. Muiruri: Thank you, Mr. Deputy Speaker, Sir. I think he has got the point.

Mr. Deputy Speaker: Yes, he has got it.

Mr. Kamanda: Mr. Deputy Speaker, Sir, the Ministry is willing to visit the site. But I am saying that Ngethu is not the only source of water for Nairobi City Council. If we paid Gatundu people and we do not pay the people who live near Sasumua Dam, where we get 35 per cent of our water, then we would be applying double standards.

Mr. Kembi-Gitura: On a point of order, Mr. Deputy Speaker, Sir. This is a matter of Government policy. It does not matter that it is not only Ngethu that supplies Nairobi City Council. We know Ndakaini and other sources---

Mr. Deputy Speaker: What is your point of order?

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, maybe, I should have asked a question. What is the Government policy, if people are not benefiting at all from this project?

Mr. Deputy Speaker: Mr. Kembi-Gitura, that is a question, it is not a point of order! Mr. Kamanda, had you finished?

Mr. Kamanda: Mr. Deputy Speaker, Sir, I had finished. But I would like to inform the hon. Member that Nairobi City Council is no longer running the water services. It is being done by a private company.

Question No.218

GOVERNMENT EXPENDITURE ON
ADULT EDUCATION TEACHERS

Mr. Masanya asked the Minister for Education, Science and Technology:-

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

(b) whether he is satisfied that the money is sufficient to carry out and promote the adult education programme.

Mr. Bifwoli: On a point of order, Mr. Deputy Speaker, Sir. I want to know whether this Question falls under the Ministry of Education, Science and Technology?

Mr. Deputy Speaker: That is a frivolous point of order, Mr. Bifwoli. Minister, could you answer the Question?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I would like to agree with the hon. Member that this Question actually should be directed to another Ministry, and we have written to the Ministry of Gender, Sports, Culture and Social Services, and the Clerk of the National Assembly has been informed of the same.

Mr. Deputy Speaker: But you know, the thing would have been for the Minister to come and say what he has just said, but not before the Minister even stands up to answer, someone just stands on a point of order. So, the Question has been re-directed to the Ministry of Gender, Sports, Culture and Social Services, and the Clerk is aware.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. That same Question was referred to that Ministry ten days ago. So, how many times will you refer that Question to that Ministry before they can answer? You know when you defer a Question, we take away time for new Questions in the future.

Mr. Deputy Speaker: Mr. Angwenyi, I do not know what you are saying. If the Question was referred to the right Ministry, how come it is now in the wrong Ministry? I do not understand! If it was re-directed, how come it is here? The Clerk is ordered to check the records and make sure that the Question is re-directed to the right Ministry.

(Question deferred)

Question No.529

CONSTRUCTION COMPANIES WHICH SUED
THE GOVERNMENT IN 2002/2003

Mr. Khamasi: Mr. Deputy Speaker, Sir, I have just received the answer; a minute ago, and I am unable to prepare supplementary questions. This is a Question which involves billions of shillings and I would prefer that I be given time to prepare for supplementary questions.

Mr. Deputy Speaker: Mr. Attorney-General, do you have any objection to that?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I have no objection. I am ready for him anytime!

(Laughter)

Mr. Deputy Speaker: The Question will be deferred until Tuesday, next week!

(Question deferred)

For the second time, let us have the Question by Mr. Wario!

Question No.295

POSTING OF APS/REGULAR POLICE TO
BURA CONSTITUENCY

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

(a) whether he is aware that Saka, Bura, Mbalambala and Harimani locations have operated without Administration or regular police since 1991, and;

(b) what arrangements he is making to ensure adequate security in the areas.

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Deputy Speaker, Sir, I wish to apologise for coming late. However, I beg to reply.

(a) I am aware that the areas have no permanently stationed police officers due to lack of houses.

(b) Security patrols are provided by the nearest Administration and regular police posts and stations, and the Kenya Wildlife Service (KWS). In the meantime, arrangements have been made with the KWS to put up houses for both APs and KWS personnel at Mbalambala, but this has not been implemented yet, due to lack of funds.

Thank you.

Mr. Wario: Thank you, Mr. Deputy Speaker, Sir. I hope the House will recognise how unconcerned these Ministers are to hon. Members of the Official Opposition. The Assistant Minister has said that he is aware that the national flag has not been hoisted in this location for 13 good years. He is aware that a 13 year-old child has not seen a national flag in its life. Unfortunately, he has said that now there are police patrols. I want to ask him the distance of the nearest police station and the number of vehicles these police officers are using to patrol these areas?

Prof. Kibwana: Mr. Deputy Speaker, Sir, there used to be a police post until the *El Nino*

rains washed away the houses of these police officers. Let me also say that those 13 years were during the reign of the hon. Member's previous Government. It is only now within one-and-half years that we are looking at this matter. However, I will concede that the nearest AP camps at Mboka and Bangele are about 16 kilometres and 80 kilometres away from Mbalambala and Bura locations respectively. Security for Saka is provided by police and AP patrols from Madogo Division, which is 20 kilometres away. Harimani is served by AP and police patrols from Bura, which is 16 kilometres away. This is why we have indicated that we are considering very seriously, rehabilitating the previous posts.

Mr. Abdirahman: Thank you, Mr. Deputy Speaker, Sir. It is unfortunate that very inefficient Ministers use this kind of opportunity to heap blame on past Governments when they should plan properly for people.

(Applause)

However, my point is that we know that even where we have armed Administration Police officers or regular police, they live in dilapidated buildings. What I want to know from the Assistant Minister is: What initiatives will they make in the meantime, even to provide what they call UNIHADS? These people can live like ordinary people or citizens in our locations.

Mr. Deputy Speaker: Order, Mr. Abdirahman! I gave you permission to ask a question.

Mr. Abdirahman: Mr. Deputy Speaker, Sir, I apologise. My question is: Could the Assistant Minister consider providing UNIHADS to these administration police officers in the locations in this country?

Prof. Kibwana: Mr. Deputy Speaker, Sir, it is a fact that since 1991 to 2002 there were no houses constructed for those Administration Police officers and that is why they were not in those places. That is not trying to blame KANU. That is a fact! The Government, now, is trying to move away from UNIHADS because they are really not very habitable. However, as we have indicated within the Budget proposals, this is one area which is being seriously considered.

Mr. Kamama: Mr. Deputy Speaker, Sir, I have always said that there are places in this country where the Government's presence is required. The area which is being mentioned at the moment is the size of Kiambu District alone and we are saying that there are no security men in that place. Could the Assistant Minister promise this House that he will send security men in the next one month so that people can actually feel safe in this country? This is because the situation now---

Mr. Deputy Speaker: Order! The question is asked; let us get the answer now!

Prof. Kibwana: Mr. Deputy Speaker, Sir, the Government wants to be everywhere in this country. We are seriously considering making security available in those areas as well as other areas where we have not properly done so.

Mr. Deputy Speaker: Last question!

(Mr. Poghismo stood up in his place)

All right, I will give you an opportunity, Mr. Poghismo, because you seem to be---

Mr. Poghismo: Mr. Deputy Speaker, Sir, I really get concerned when Ministers even go so far as misleading the House on information. This is because in these areas, nobody goes there. They do not care about these areas! The distances mentioned by the Assistant Minister and the actual distances are totally different.

(Applause)

Mbalambala-Madogo is 90 kilometres, while Mboka-Mbalambala is 60 kilometres. Could the Assistant Minister tell us how, feasibly, patrols can be done without a vehicle?

Prof. Kibwana: Mr. Deputy Speaker, Sir, Mr. Poghio cannot say that I am lying and we pray together!

(Mr. Poghio stood up in his place)

Mr. Deputy Speaker: Order, Prof. Kibwana! Mr. Poghio never used the word "lie". He said that you are misleading.

Prof. Kibwana: Mr. Deputy Speaker, Sir, he also cannot say that I am misleading the House because I actually quoted the very kilometres which he has quoted; 60 and 80 kilometres. Really, we have indicated that this is an area where, within this Budget cycle, we are seriously considering putting up accommodation so that there can be regular police. This is a major interest of the Ministry.

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

Mr. Wario: Mr. Deputy Speaker, Sir, I would like to seek the indulgence of the Chair. This Question has not been answered. If we look at part "b" of the Question, the Assistant Minister is talking about arrangements by the KWS while I took this Question to him as the Assistant Minister in charge of security. I know that the KWS is in a different Ministry. He again went further to mislead the House by giving distances which are not in existence. If the Government has failed to hoist a national flag in this location, could it afford to give a vehicle to patrol this area? I beg you indulgence!

Mr. Deputy Speaker: No, the Assistant Minister will answer the question!

Prof. Kibwana: Mr. Deputy Speaker, Sir, I did not say that it is only the KWS which provides security services. I said the nearest Administration and regular police posts and stations and the KWS. However, I accept that subject to availability of funds, we will, indeed, consider a vehicle for purposes of assisting in ensuring there is security in these important areas.

Mr. Deputy Speaker: Next Question by Mr. Oparanya!

Mr. Oparanya: Mr. Deputy Speaker, Sir, this is the second time I am rising to ask this Question. I have not received a written answer.

Question No. 340

NEW HOUSES FOR BUTERE/
MUMIAS POLICE OFFICERS

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

- (a) whether he is aware that the current police houses at Butere/Mumias District headquarters were constructed before Independence, and;
- (b) when he is going to construct new houses for the police officers at the headquarters.

Mr. Deputy Speaker: Mr. Assistant Minister, could you address yourself to that issue of the answer?

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Deputy Speaker, Sir, an answer was supplied to Room No.8. However, I beg to reply.

- (a) Police houses at Butere/Mumias District headquarters; that is 26 stone UNIHADS, were

built in 1958 together with the station block. The 26 houses were for 26 officers but now they are accommodating 75 officers.

(b) When Butere/Mumias became a District, an extension to accommodate the Officer Commanding Police Division (OCPD) and his staff was constructed on a *Harambee* basis. The station block and the officers' houses have cracked and are not suitable for human habitation.

Mr. Oparanya: Mr. Deputy Speaker, Sir, the answer to part (a) is misleading. The Assistant Minister has said that the houses are stone units. The correct position is that the houses are made of tin. As you know, tin is not environment-friendly. It becomes very hot during the day and very cold at night. Furthermore, the units are only 26, housing 75 police officers. There is a provision of Kshs100 million for police housing in the current Budget. Could he consider using part of that money to construct temporary houses, probably timber houses, as the Government plans for a permanent solution to this problem?

Prof. Kibwana: Mr. Deputy Speaker, Sir, because I have conceded that the current houses are unfit for human habitation, the hon. Member's request is reasonable.

Maj-Gen. Nkaisery: Mr. Deputy Speaker, Sir, the Assistant Minister said that he is very much aware of the conditions of the police houses at Butere/Mumias District Headquarters. Why did he not include the money that is required for putting up new housing units, or for repairs of the existing houses, in the current Budget?

Prof. Kibwana: Mr. Deputy Speaker, Sir, as the hon. Questioner has indicated, sometimes there are global budget lines from where you can undertake repair works. That is why I said that we will consider doing some "first aid" work within the current financial year before the matter is conclusively dealt with.

Mr. Oparanya: Mr. Deputy Speaker, Sir, the Assistant Minister said that the house of the Officer Commanding Police Division (OCPD) was constructed on Harambee-basis. Police officers at that district headquarters are suffering. I have decided to mobilise the community on Harambee basis to construct these houses, and I would like him to be the chief guest during that Harambee. Could he accept my invitation?

Prof. Kibwana: Mr. Deputy Speaker, Sir, I am really happy that the hon. Member wants to supplement the provision of security through community effort, but I am sure that he does not want me to break the law and get imprisoned.

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

Question No.351

GOVERNMENT GUARANTEES
TO ORGANIZATIONS/STATE CORPORATIONS

Mr. Muturi: On a point of order, Mr. Deputy Speaker, Sir. Mr. Wamunyinyi had requested me to seek the indulgence of the House on his behalf. He is unavailable today, being an ardent student of distant learning. He is sitting for an examination today. So, he requested that the Question be deferred to next week.

Mr. Deputy Speaker: Minister for Finance, I think that is a reasonable request. The hon. Questioner is sitting for an exam today. We should wish him well. Would you like us to defer this Question to Wednesday next week?

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, I have no objection. However, as a matter of courtesy, Mr. Muturi should have apologised if he was given these instructions because, the first time you called out the Question, he was not here. However, I

have no objection. I am also ready to face the hon. Questioner.

Mr. Deputy Speaker: Very well! The Question is deferred to next Wednesday on account of Mr. Wamunyinyi being involved in an examination.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

FAMINE IN GANZE CONSTITUENCY

Mr. Kingi: 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 many people in Ganze Constituency are now living on wild herbs and fruits due to lack of food occasioned by the prolonged drought?

(b) Is he further aware that this famine has caused many students to drop out of school in order to look for the said herbs and fruits for survival?

(c) Could he consider sending emergency food supplies before the people begin to starve?

Mr. Deputy Speaker: Minister of State, Office of the President! I can see that we have two Assistant Ministers.

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Deputy Speaker, Sir, this Question falls under the Special Programmes docket.

Mr. Deputy Speaker: Order! Order! Mr. Assistant Minister, before you came in, Mr. Shitanda had told us that a Question that was asked here was not in his docket, but in yours. You are now telling us that this Question falls under the docket of the Special Programmes. I said then that this House is least concerned about the arrangement in the Ministries. So, once a Question is directed to a Ministry, we want it answered. We do not want to be given excuses. So, please, if you have no answer, let us know so that we can defer the Question. Be cautioned that, in future, you should sort out your things in your offices, so that when you come to this House, you give us the answers.

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Deputy Speaker, Sir, after the recent re-organisation of the Government, there was a circular, which states clearly the functions of each Ministry.

Mr. Deputy Speaker: Mr. Assistant Minister, that circular did not reach this House. So, let us not argue about this matter. The Chair has already ruled that, first of all, it was a mistake for the answer not to be available because of failure by the Office of the President to make appropriate arrangements for it. I will, therefore, defer the Question to tomorrow afternoon because this is a Question by Private Notice, with a caution that you sort out your issues before coming here. So, the Question is deferred until tomorrow afternoon. We expect an answer then.

(Question deferred)

Mr. Mwandawiro: Hoja ya nidhamu, Bw. Naibu wa Spika. Swali hili linahusu watu ambao wameathiriwa na ukame na huenda wakafa kwa njaa. Je, ni nidhamu kwa Serikali kupuuza maisha ya binadamu?

Mr. Deputy Speaker: Bw. Mwandawiro, nimeamuru kwamba Swali hili litajibiwa kesho. Kwa hivyo, mambo yamekwishia hapo.

Eng. Muriuki: On a point of order, Mr. Deputy Speaker, Sir. The issue of Ministers

disowning Questions and saying that they belong to other dockets has been recurring. Could I, therefore, humbly, request the Chair to rule that from now onwards, we direct all our Questions to the Leader of Government Business, so that he refers them to the appropriate Ministries?

(Applause)

Mr. Deputy Speaker: No, we have already stated clearly that Questions will continue to be directed to the Ministries, but Ministers will be responsible. I would like to repeat that this House does not care whose docket a Question is related. So long as it is directed to the appropriate Ministry, we will be expecting an answer.

Next Question, Mr. Mutiso!

FAMINE IN MAKUENI DISTRICT

Mr. J.M. Mutiso: Mr. Speaker, Sir, I beg to ask the Minister Education, Science and Technology, the following Question by Private Notice.

(a) Is the Minister aware that famine is ravaging Kilome and Kasiku Divisions of Makueni District?

(b) Is he further aware that pupils in primary schools in the divisions are not attending school due to the discontinuation of the school feeding programme?

(c) Could the Minister consider suspending payment of school fees in secondary schools until the famine is over in the district?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I would like to seek the indulgence of the House. We got the information relevant to this

Question only this morning from Makueni District. I have discussed the matter with Mr. Mutiso and agreed that I request that I be allowed to answer the Question tomorrow afternoon. There is also the issue of whether or not the Question actually belongs to my Ministry, because it is about famine. Nevertheless, I request that we answer it tomorrow.

Mr. Deputy Speaker: Yes, Mr. Mutiso?

Mr. J.M. Mutiso: Mr. Deputy Speaker, Sir, we have agreed on the same with the Assistant Minister.

Mr. Deputy Speaker: So, the Question is deferred until tomorrow afternoon.

(Question deferred)

Mr. Poghiso: On a point of order, Mr. Deputy Speaker, Sir. This is just because you have just ruled that this Question be deferred to tomorrow afternoon. Since the Question touches on more than just the schools in that particular constituency - it generally touches on the drought-stricken areas - could he consider taking the opportunity to provide direction for all schools affected in the country?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Yes, Mr. Deputy Speaker, Sir. I did hear that and I was anticipating questions from elsewhere in the country would be asked anyway, which we were going to respond to as well. So, the point is well taken.

Mr. Deputy Speaker: Very well! Last Question by Private Notice by Mr. Muriungi!

IMPRISONMENT OF MASTER MISHECK MWITI

Mr. Muriungi: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State, Office of the Vice-President and Ministry of Home Affairs the following Question by Private Notice.

(a) Is the Minister aware that Master Misheck Mwiti aged 15 years, a pupil at Ntuui Primary School is serving a one year jail term at Kangeta G.K. Prison?

(b) Is she further aware that before the incarceration, the boy had his index finger amputated by one, Elijah Muua, who is still a free person?

(c) When will the minor be released from prison and sent back to school?

The Assistant Minister of State, Office of the Vice-President and Ministry of Home Affairs (Mr. arap Too): Mr. Deputy Speaker, Sir, I would like to kindly ask for the indulgence of the House that this Question be deferred because I have been let down by my officers. They have---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! We are listening to the Assistant Minister.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Mr. arap Too): Mr. Deputy Speaker, Sir, my officers have not given me the answer to this Question and I have been struggling since morning when I got to Parliament to get to know what happened to the answer. I have discussed with the hon. Member and we have agreed that I answer this Question tomorrow.

Mr. Deputy Speaker: Well, did you hear what the Assistant Minister said? He has been let down by his officers. This House cannot be held at ransom by public officers. The Chair takes this matter very seriously. Again, we are deferring this Question and note that we have deferred all Questions by Private Notice this morning. Therefore, let this not happen again. The Question is deferred until tomorrow.

(Question deferred)

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

Mr. Deputy Speaker: Hon. Members, that is the end of Question Time.

Next Order! Mr. Kembi-Gitura!

POINT OF ORDER

APPOINTMENT OF GOVERNMENT SPOKESMAN

Mr. Kembi-Gitura: Thank you very much, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement. I need your guidance here because I am seeking a Ministerial Statement on the Government Spokesman. I do not know under which Ministry he falls and so, I would like to seek a Ministerial Statement from the Leader of Government Business. Lately, about two or three weeks ago, a person was appointed as the Government Spokesman. We read about him in the newspapers and we watched him on television. We have watched television and read newspapers and the so-called Government Spokesman does not seem neither convincing nor does he seem convinced about what he is saying. It is a very serious matter because a lot of us thought that when a Government Spokesman was appointed, the wrangles in the Ministries and amongst Cabinet Ministers would end because we thought that there will be only one person issuing statements pertaining to Government policy.

However, of late we have seen situations where for instance, the Government Spokesman has told us that Kshs4.5 billion of the Anglo Leasing scam has been returned by "ghosts". He even used that word. He then corrected himself and told us that Kshs300 million has been returned. The following day, the man charged with that docket, the Minister for Finance, said that no such amount of money had been returned and what the Government Spokesman had said was *porojo*. The Ministerial Statement I want to seek is this: Who appointed this person as a Government Spokesman? Secondly, what are his terms of reference and qualifications for employment? Thirdly, if he is speaking on behalf of the Government like we were told he is, why are we getting contradictory statements on matters that pertain to the same Government when we have only one spokesman?

(Applause)

Mr. Deputy Speaker: Fine. That is it. Mr. Kembi-Gitura, that Ministerial Statement you are seeking should not be directed to the Leader of Government Business. It should be directed to the Office of the President. I suppose that we have three Assistant Ministers here from the Office of the President.

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, I have not quite finished.

Mr. Deputy Speaker: What is remaining?

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, it is very important for me as a Member of Parliament, to know the reasons behind the appointment of the Government Spokesman. I do not know about the other hon. Members.

Hon. Members: Even all of us need to know!

Mr. Deputy Speaker: Order! Mr. Kembi-Gitura, could you then finish?

Mr. Kembi-Gitura: Thank you, Mr. Deputy Speaker, Sir. We are getting extremely concerned as Members of Parliament because in the morning, we read of a very scathing attack on the Kenyan Government by the British High Commissioner. Are we going to get a response on what he said? Secondly, will the response come from the same Government Spokesman? Lastly, when he does so, shall it indeed be a Government statement on that aspect that was raised today?

(Applause)

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

Mr. Deputy Speaker: Mr. Wanjala, you had not seen the Chair on any matter of seeking a Ministerial Statement. So, I am sorry you have not seen me. Have you?

(Mr. Wanjala stood up in his place)

Mr. Deputy Speaker: Order! Order, hon. Members! We have to keep some order in the House. You do not just jump up and start saying something. This is the Kenya National Assembly. Next Order!

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

Mr. Deputy Speaker: Mr. Gitau, you will see me later. Next Order!

MOTIONS

ESTABLISHMENT OF SELECT COMMITTEE

ON PUBLIC DEBT

THAT, considering the serious socio-economic implications of Kenya's heavy public debt burden which currently stands at Kshs648.3 billion constituting 65.9 per cent of the country's Gross Domestic Product (GDP); convinced that most of the resources that constitute the country's total debt stock were improperly procured and utilised for purposes that resulted in little value to this country and acknowledging the urgent need to institute a legal policy and structural framework necessary to correct the lapses that led to the mortgaging of the country; taking due cognisance of the continued exclusion of the National Assembly from the process of incurring debt and appropriating borrowed resources; this House resolves to establish a Select Committee on Public Debt to establish the extent of the debt, the exact purposes for which it was incurred and utilized, to examine the existing procedures on public borrowing both external and domestic and to facilitate a forum for the people of Kenya to suggest ways of dealing with this problem and recommend legislative and policy interventions that may be necessary to avoid past mistakes and guard against its recurrence; and that the following shall be members of the Committee:-

The Hon. Omingo Magara, M.P.

The Hon. Joseph L. Kipchumba, M.P.

The Hon. Dr. Julia Ojiambo, M.P.

The Hon. Dr. M. A. Kuti, M.P.

The Hon. Joel Onyancha, M.P.

The Hon. Mutinda Mutiso, M.P.

The Hon. Joe Khamisi, M.P.

The Hon. C. Mbarire, M.P.

The Hon. P.O. Owidi, M.P.

The Hon. M. Mukiri, M.P.

The Hon. Prof. R. Oniang'o, M.P.

(Mr. Omingo on 7.7.2004)

*(Resumption of Debate interrupted
on 7.7.2004)*

Mr. Deputy Speaker: Who was on the Floor? Mr. Wario was on the Floor. You have two minutes.

Mr. Wario: Bw. Naibu Spika, asante kwa kunipatia fursa hii. Hii Hoja inajulisha watoto wa Kenya na taifa kwa jumla, kwamba asilimia 70 ya utajiri wetu imetekwa nyara kwa minajili ya kulipa deni **[Mr. Wario]** ya umma. Kufikia mwezi wa pili mwaka huu, taifa hili linadaiwa Kshs708 bilioni. Hii ni asilimia 70 ya GDP yetu na kulipa hii---

(Loud consultations)

Mr. Deputy Speaker: Order, Mr. Wario! Order, hon. Members! Every time after Question Time, I do not know what happens. Hon. Members, could you consult quietly since there are many movements here and there? I think the Chair has said many times that this is the time when business of the House is beginning. So, please, shall we consult quietly and those who want to leave the

Chamber, do so quietly? Mr. Wario, you still have your two minutes.

Mr. Wario: Asante Bw. Naibu Spika. Nimesema deni hili la Kshs708 bilioni linataka asilimia 70 ya bajeti yetu kulilipa. Matamshi yalioletewa na Balozi wa Uingereza leo asubuhi kuhusu ufisadi uliotanda katika nchi ni haki kwa sababu taifa hii ni taifa hohe hahe. Kwa sababu ya ufisadi wao, tunatumia vibaya pesa tulizoomba kwa wafadhili na wafadhili, kamwe hawatakubali senti zao kutimiwa vibaya ndio kwa sababu leo asubuhi, mmepeva kifungua kinywa.

(Applause)

Bw. Naibu Spika, taifa hili halina sera ya kusimamia pesa ya mikopo kwani kila dola tunayoiomba, kila euro tunayoiomba, kila yen tunayoiomba, taifa linalipa mara tatu na zinaenda kununua magari aina ya Range Rover kwa wale ambao hawajakaa kwa Range Rover zamani.

(Applause)

Bw. Naibu Spika, swala la Anglo Leasing and Finance Company ni swala ambalo liko kwa macho ya dunia. Hata kama wanang'ang'ana kulificha, limejulikana ufisadi umetanda, na suluhisho la kukomboa nchi kutokana na deni hili ni lazima Serikali hii ijitolee na itaje ni nani anayehusika. Msiende ng'ambo kutafuta nani anayehusika na Anglo Leasing and Finance Company. Yule mtu wa ng'ambo ni lazima awe na mwenyeji aliyemkaribisha. Serikali ni lazima ichunguze katika taifa hili ndio iende nje, ili ipate kusafisha na kuomba pesa za kulipia gharama tunayodaiwa.

Kwa hayo, nasimama kuunga Hoja hii mkono.

Capt. Nakitare: Thank you, Mr. Deputy Speaker, Sir. I stand to support the financial allocation Motion that is in front of us. We know that the Office of the President is a very important organ of the Government and this Government---

Mr. Deputy Speaker: Order! Mr. Nakitare, do you know what we are debating?

(Laughter)

Capt. Nakitare: Mr. Deputy Speaker, Sir, I apologise.

Mr. Deputy Speaker: No! Order, Mr. Nakitare! What are you apologising about because we have a different Motion before us? Your contribution is irrelevant.

Capt. Nakitare: Mr. Deputy Speaker, it is a misconception. I must apologise. I will prepare to contribute later on.

(Laughter)

[Mr. Deputy Speaker left the Chair]

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

Mr. Oloo-Aringo: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to make a contribution to this very important Motion, first, by congratulating the Mover. However, I want to argue also that the prescription in this Motion is not the solution. I want to suggest that the solution to the debt problem in our country will not reside in an *ad hoc* committee of this House. It will not reside in a structured Select Committee such as the Public Accounts Committee (PAC) and the

Public Investments Committee (PIC). As I have said in this House before, what we need to create is a Budget Committee. The Budget Committee will then have the power to look at the entire management of finance in this country and, therefore, provide a long-term solution to the problem of debts. So, much as I agree with my colleagues that debt is a crisis, I want to say that the solution is not an *ad hoc* committee.

For that reason, therefore, I will plead with this House that while we accept the objectives of this particular Motion, let us settle for a select committee of the House, and call it, Budget Committee. It is this Budget Committee which will supervise the Budget Office. It is the Budget Office which will have experts on finance, fiscal policy and the economy. This office, therefore, will advise this House on a whole range of issues including the debt problem.

The Mover is very right to point out that the debt of this country has run haywire. Sixty four per cent of the Gross Domestic Product (GDP), to me, is extremely high. We must do something about it. It is also true that this House has no powers at all in the Constitution and Standing Orders. Therefore, we must address the question of the Constitution. I am very pleased, indeed, that the Public Finance chapter in the draft constitution removes all those obstacles which prevented the democratisation of the Budget process. I would really plead with my colleague, and I want to congratulate Mr. Billow because he was the chairman of the Finance Committee at the Bomas of Kenya. This book I am holding is a super work. In this, there is a solution to the issue of the democratisation of the Budget process because it makes open, for the first time---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Oloo-Aringo! What are you waving at us?

Mr. Oloo-Aringo: I am talking about the Draft Constitution of Kenya, 2004, prepared at the Bomas of Kenya.

(Applause)

If this draft is adopted by this House, restrictions on the Budget process will be removed once and for all. I congratulate, not just the Bomas process, but also the chairman of that Committee.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Oloo-Aringo! I have to caution that you are using this Motion to discuss other things.

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, what I am saying is as follows. The debt problem is part and parcel of the management of public finance in our country. It has come about because of the restrictions in the present Constitution. In fact, we have advocated in the past few years that the answer to this problem is the creation of a select committee called the Budget Committee. It is this Budget Committee which will ensure that public finance of Kenya is democratised and that Parliament has a role to play. At the moment, Parliament has no role! For example, Section 48 of the present Constitution does not allow this House to amend any money Bill. For example, Sections 101 to 104 of the Constitution, restrict this Parliament. In addition to the Constitution we have laws which also restrict this Parliament. I have a few examples. For example, the Internal Loans Act allows the Minister to borrow any amount of money without any restrictions and he does not even have to report to this House. In addition, under the External Loans and Credit Act the Minister has full powers to raise money and to use it without informing this House. That is how the Budget originates and that is the core problem! Let us not go to the surface. We also have our own Standing Orders. We must address the restrictions on this House in the Constitution. That is why I am advocating that the present draft Constitution actually answer some of the problems which are included in this.

It is very rarely that I would opposed a Motion advocated by my friend. The answer is not in an *ad hoc* committee. The answer is for this Parliament to create a Budget Committee and a Budget Office!

The Minister for Transport (Mr. Michuki): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Oloo-Aringo to refer to Section 104 of the Constitution which has absolutely nothing to do with loans? Section 104 of the Constitution deals with constitutional offices and not loans.

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, I am sorry that my good friend has not grasped what I am trying to explain. I am saying that the actual restrictions on this House is what makes it possible for the Minister to borrow randomly and unlimitedly without reporting to this House. In fact, the present Constitution is the problem. I am also saying the various laws are the problem. The solution, therefore, is for this House to proceed along the way we have already done; that is to create a Budget Committee and a Budget Office. These two will permanently be part and parcel of this House and will assist us in scrutinising---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Oloo-Aringo! I have no problem with what you have to say. It is just that you are moving the question and the decision to something else. The question is either you are supporting this Motion or opposed to it and, therefore, debate to convince your colleagues in particular, or move an amendment. You cannot use a question as a pretext to discuss another question. As you very well know, the Budget Office is a question on its own.

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, you are right. However, I am suggesting as follows. We reject this particular Motion and instead move towards creating a Budget Office and the Budget Committee as a permanent solution. This is because this will be an *ad hoc* solution. The other Committees such as the PAC and the PIC, are permanent features of this House. They continuously appraise and report to this House. When we create that particular Budget Committee working smoothly with the Departmental Committee on Finance, Planning and Trade we shall have within this House an oversight of the debt question of Kenya.

It is for that reason, therefore, that I am suggesting that, as Parliament, our role is to get permanent institutions which address this problem. I am not seeking to amend this particular Motion. I am suggesting that we reject this particular Motion and instead proceed along the lines we have proceeded in the past.

Let me, therefore, say something else because I realise now that you have understood what I am trying to do. I am not opposing this Motion for the sake of it. I am opposing it because the structures should be created separately and on a permanent basis to look at this problem. Indeed, it is the present structures of the financial management of this country that have created the problem. Therefore, the solution is in overhauling the law; the Constitution. It is for that reason that I am saying that we should bring, as a matter of urgency, the draft Constitution to this House. This is because on the area of the Budget and public debt, the draft constitution has provided solutions. That is why I was waving this draft Constitution because if you read the relevant chapter, the issues which my colleague has brought to this House are properly taken care of in the draft Constitution.

Mr. Temporary Deputy Speaker, Sir, it is my duty to point out some of those things, so that we do not just accept it because it is a Motion. We should find a long-term solution. The long-term solution is to reject this particular Motion, not in malice, but in order to allow us to create a more permanent feature.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to oppose.

The Temporary Deputy Speaker (Mr. Poghisio): Who is the official Government responder?

*(Mr. Katuku and Mr. Michuki stood
up in their places)*

I will give one person the chance.
Proceed, Mr. Michuki!

The Minister for Transport (Mr. Michuki): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. In the first place, I would like to inform this House that this Motion is based on the wrong premises. I will show that if you give me enough time. The conclusion of the Motion is also erroneous.

Two issues are raised in this Motion. One of them is that the country has been mortgaged and the second one is that the Government has at the exclusion of the National Assembly, proceeded to create public debts. If the two aspects are looked at carefully, it will be realised that they do not hold water. First, borrowing by the Government is based on its own reputation. That is why all the papers that the Government issues in order to borrow are referred to as "gilt-edged". They are referred to that way because they would be decorated with gold because of their importance. Given the fact that no Government would allow itself to default in repaying such a loan--- Therefore, there is no time that either this Government or any previous Government has ever mortgaged this country in order to borrow.

Secondly, if you look at Section 99 of the Constitution of Kenya, you will find that it deals with Government finances. Section 99(1) refers to the way in which monies would be appropriated. It is through the Constitution that money is voted, like in Section 104, where we have constitutional offices for which this House has no authority either to withdraw or vote money. The Constitution votes the money which becomes the priority in terms of allocation of resources. At the same time, the same section says that either the Constitution appropriates money or an Act of Parliament. Therefore, if you look at the books which we have here, you will find that they contain laws passed by this House which authorise the Government of the time to borrow not only externally, but also internally. Therefore, at no time, has Parliament ever been excluded in the process of borrowing. To that extent, the conclusion which leads to the setting up of the Select Committee is erroneous. These are the points I want to put across.

I would also like to say that there is a Departmental Committee on Finance, Planning and Trade and I have served in it for many years. This Committee does summon any officer and the Minister to account for whatever he intends to do. Therefore, this Motion should not have been brought before this House because it ignored the laws passed by this House. The Motion has a conclusion which is erroneous.

Mr. Temporary Deputy Speaker, Sir, I oppose the Motion.

Mr. Muturi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this time to contribute to this Motion. From the outset, as a matter of principle, I wish to state that I am opposed to this Motion because it is based on wrong premises; among others, because it says that the National Assembly has been excluded from the process of incurring debt by the Government. The Motion seems to ignore our Standing Orders, and specifically, Standing Order No.151 which gives Departmental Committees and other Select Committees of the House mandate. It is imperative to observe that the Mover of the Motion, being the current Chairman of the PAC, indeed, has powers to summon officers from the Ministry of Finance to investigate among other things how Government incurs debts. In that process, the Committee has the powers under the National Assembly Powers and Privileges Act to summon and compel the production of whatever document, including documents relating to the stock of debts in this country. Therefore, in principle, I feel that

the Motion is misplaced. We should look at the Motion Mr. Oloo-Aringo proposed; one in which Parliament should look into an institutionally well-organised system through which Parliament will get involved in the procurement of debts, whether internal or external.

Under the current legislation, and specifically, the Internal Loans Act, CAP.420, it is very clear that this Act of Parliament provides for borrowing by the Government within Kenya. The mechanism is provided for in the Act. More specifically, Section 5, for the avoidance of doubt reads:-

"The Minister shall report to the National Assembly in writing by way of Appropriation Accounts or otherwise, the amount of indebtedness outstanding at the end of each financial year in respect of each manner of borrowing specified in Section 3."

So, if we, as Members of Parliament, have not been looking at what the Minister lays on the Table here, then we should say so. We are the ones who have not been efficient in the way we have handled Government borrowing. At any time, even in the course of our financial year, the Departmental Committee on Finance, Planning and Trade is at liberty to call for whatever document which relates to public debt, incurred internally or externally. The External Loans and Credits Act, CAP.422, again, is clearly an Act of Parliament which authorises the Government to raise loans or credit facilities outside Kenya, provides for negotiations by the Government and provides for matters incidental thereto.

Again, the requirement here is that the Minister will lay on the Table, Appropriations Accounts showing the stock of debts. This has always happened. I think we are saying that we have not been appreciating our laws as Members of various Committees. Indeed, as hon. Members of Parliament, we are at liberty to appear before any Committee of the House, to participate in the deliberations in those Committees and raise whatever issues we think we should, in order to inform ourselves fully on the issues such as the one we are raising in this Motion.

Even as much as I oppose this Motion, I am concerned at the level of public debt. I am concerned that so many Kenyans, children, the aged and the able-bodied, including hon. Members of Parliament are, indeed, burdened by this stock.

Mr. Temporary Deputy Speaker, Sir, like I said earlier, the way to tackle this problem is to propose a legislation. If we want to amend the existing laws, we can propose that they be amended on a quarterly basis and Parliament, through the relevant committees, be informed of whatever negotiations that are taking place. Why would we even need to do that, if we all support the creation of the Parliamentary Budget Office? It is that office, through the personnel that Parliament is going to engage, which will, at all times, keep Parliament informed of what is happening in the process of the Government acquiring credits or debts, either internally or externally.

Mr. Temporary Deputy Speaker, Sir, according to the existing legislations, the stock of national debts is available for inspection by Parliament. What is it that has happened, that we are now saying that in the past, debts were improperly procured? Have we been shown evidence of impropriety in the procurement of that debt? I think it is not fair to assume. As far as I am concerned, for the short period that I have been in this House, I have seen successive Ministers of Finance lay before this House the Appropriations Bill, as required by law. Parliament too, has continued to pass the Bill. I may read Section 6 of the External Loans and Credits Act:-

"The total indebtedness, for the time being, outstanding in respect of the principal amounts of monies borrowed or credit obtained, shall not exceed the figure of K£650 million."

Mr. Temporary Deputy Speaker, Sir, I recall that when Mr. Okemo was the Minister for Finance, he tabled an amendment to this very Section 6 whereby, we increased the figure from

K£650 million to K£500 billion. So, when we say that Parliament has been excluded from the process of procuring debts, are we really being honest with ourselves? Is it not the case of seeing the specks in our neighbour's eyes, and failing to see the logs in ours?

With those very few remarks, I beg to oppose.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Mwenje, you have only two minutes to contribute. Please, proceed!

Mr. Mwenje: Thank you, Mr. Temporary Deputy Speaker, Sir. I hope I will be very fast. I beg to support this Motion because it is very important. Today, we read in the newspapers - I do not know whether it is correct, that, already, Kshs15 billion has been stolen within a period of one year and six months. If that is the case, then that is the need--- I am assuming it is so.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. You have just heard what the hon. Member has said, that the Government has stolen Kshs15 billion! Would I be in order to ask him to substantiate who has stolen that money?

Hon. Members: Yes! It is true!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, unfortunately, these new Assistant Ministers do not even know the law. I said I read it from the newspapers. He should know that it is in the headlines of newspapers that are sold here.

(Applause)

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Mwenje! If, indeed, you used unparliamentary language, I would have an issue with that! I do not know whether you used the word "stolen"!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I said I read in the newspapers today that---

(Several hon. Members stood up in their places)

Mr. Temporary Deputy Speaker, Sir, reading newspapers has nothing to do with the Standing Orders. So, I support that we need to establish---

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member has said that he read newspapers! Is it in order for an hon. Member to bring issues of newspapers in this House? Could he bring facts?

The Temporary Deputy Speaker (Mr. Poghisio): Newspaper reports are not admissible in this House!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, you know very well I am in order when I say: "I read!" I am not saying it is factual or not. But, I read it! It is there and it is written in the newspapers. I am not a journalist for those who do not appear to know!

(Applause)

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Mwenje!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, if the situation is that we have borrowed all that money--- It is true because I am a banker myself!

An hon. Member: You were, once!

Mr. Mwenje: Yes, I was once a banker. The Government used to borrow from local banks.

That is what we referred to as local borrowing. Then, we have foreign borrowing. We need to know how that money was spent. It is important!

With those few remarks, I beg to support.

(Applause)

The Temporary Deputy Speaker (Mr. Poghiso): I now call upon the Official Government Responder!

The Assistant Minister for Finance (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, with your permission, I would like to donate five minutes of my time to Mr. Okemo to make his contribution.

Mr. Okemo: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I rise to oppose this Motion. The way it is worded does not really make much sense. You cannot talk of the Government having improperly borrowed when it borrowed within the existing laws, even if those laws had loopholes within the provisions. Many hon. Members have quoted the Internal Loans Act and External Loans Act. The provisions contained therein are very clear. The Minister has the power to borrow. The law gives him that power. The same Acts also specify what the Minister ought to do. He has to report, at the end of the financial year, about the borrowings, the classifications of the various borrowings and what the money was used for. But that is after the fact.

The reason why I oppose this Motion is because we need to go the route of Mr. Oloo-Arango, that is to create a Budget Office, to be the basis of information to Parliament. We should go ahead and amend both the Internal Loans Act and External Loans Act to provide for Parliament to have an input before the finalisation of any borrowing.

(Applause)

I think that is the most constructive route, rather than to form an *ad hoc* Select Committee to do what the Public Accounts Committee (PAC) and the Finance Committee are supposed to do. So, that Select Committee will have no value and, therefore, there is no need to create it. Let us amend the existing laws and create a Budget Office. That will give Parliament enough teeth to interrogate the borrowings.

Thank you.

The Assistant Minister for Finance (Mr. Katuku): Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to thank those who have opposed this Motion. My position, as the Official Government Responder is that, this Motion is misguided and should be rejected by this honourable House. That is because, one, we have a legal framework where borrowing of monies to finance budgets is stipulated. It is also important to note that, in the previous borrowings, the Minister for Finance, as expected by law, came to this House and reported. That has been done by all previous Ministers for Finance and to establish that committee would be to duplicate the already existing Committee on Finance, Planning and Trade and the PAC. Both committees have a duty to scrutinise Government spending and borrowing.

Mr. Temporary Deputy Speaker, Sir, with regard to the already existing framework, the first time we amended the External Loans and Credit Act, Cap.422 which was passed in this House in 1968, was in 1983. This Act allows the Minister for Finance to negotiate conditions and terms of external loans and credit for Kenya. Of course, this Act sets a ceiling up to which the Minister can negotiate for any funding or loan on behalf of our country. To say that the Minister has been borrowing without following any regulations, is to mislead Kenyans.

We have another legal framework which was also established by this House. The Guarantees Act, Cap.451 which was established in 1980, controls Government borrowing from domestic sources and gives details on how it should be done so that the Minister does not have too much leeway. In any case, borrowing is also safeguarded by that particular Act.

Mr. Temporary Deputy Speaker, Sir, you will agree with me that the Foreign Investments Protection Act, which is administered by the Central Bank of Kenya is another regulation that was passed by this House. If anything, hon. Omingo should have moved that the existing legal framework be improved so that he could capture whatever he wanted. To say that the Minister has been borrowing without any authority of this House, is meant to mislead us. It is also important to point out that every year the Minister has been reporting to this House through the Appropriation Accounts which are tabled in this House. It is only that Members of Parliament have not been keen enough to go through the Appropriation Accounts which, of course, the Controller and Auditor-General has always been auditing. I have served in the Public Investment Committee (PIC) and I know what I am talking about. The Controller and Auditor-General normally audits the accounts and brings the reports to this House.

Mr. Temporary Deputy Speaker, Sir, I would also like to point out, for the benefit of hon. Members, that the reports of Appropriation Accounts which are tabled in this House show how much the Government has borrowed and for what the money was borrowed. Each year on Budget Day, this House passes the Appropriation Accounts. So, putting up another Select Committee of this House is to waste resources for Kenyans because already we have Committees which are competent enough to handle this problem.

As a Government, we are looking at how we can review the financial sector so that we have programmes that will assist us in amending the existing laws for the better. We are already working on this and we have got a financier who is funding the review of the existing laws. I am aware of an NGO by the name of Council---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghiso): Order, Members! Please, let us allow the official Government responder to make his contribution on the Motion. Let us listen to him. I have noted that consultations are getting louder and louder.

An hon. Member: Amalize haraka!

The Assistant Minister for Finance (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, before I was interrupted, I was saying that I am aware of an NGO, Cancel the Debt for the Child, which has been lobbying amongst hon. Members on this matter. I think the NGO is misguided and it does not have facts. I urge hon. Members to stand above such lobbying exercises which are not properly guided in terms of the existing laws.

With regard to public debt, I can confidently say that we have been borrowing within the law and the money that was borrowed over the years was meant for capital projects which I need not go into details. However, I want to assure this House that soon we will make a review of some of the existing legislations that govern borrowing. I would urge hon. Members to oppose this Motion in the interest of the existing laws. If this Motion goes through, we will be duplicating the activities of already existing Committees. The names proposed in this Motion are the same names existing in the Public Accounts Committee (PAC) whose mandate has expired. It appears that the current Members of PAC want to create jobs for themselves.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to oppose.

Mr. Temporary Deputy Speaker (Mr. Poghiso): Order, Mr. Katuku! Do not impute

improper motives on your colleagues.

I will now call upon the Mover to reply.

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, before I reply, I wish to donate two minutes of my time to Mr. Kajwang.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, first of all I support. Secondly, if truly, the Government was following the law in borrowing, it would have, at the earliest opportunity, told us the kind of transaction, the parties involved, the circumstances arising, the amounts of money involved in the transaction, the currency, the terms of the transaction and repayment schedule. We would by now have known whoever is behind the Anglo-Leasing and Finance Company Ltd. saga. It is because the Government borrows under a cloak of darkness that we do not know who "Anglo-Fleecing" is. It is because the Government borrows under the cloak of darkness that we do not know who is behind the passport equipment acquisition and the forensic laboratory deals. So, we want to know. We want this Committee to access the Treasury since it is our granary. There are so many weevils in that granary and the proposed Committee should go there to look for the weevils and separate them from the grain. Whatever little grain that will be there, they will bring it to us.

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, I thank the hon. Members who have supported this Motion. The Kenyan child is watching this Parliament. It does not matter, whatsoever, what laws are in place and how much those laws have been followed because what we know is that those laws have not been followed to an extent that the Kenyan child is bearing the burden of a debt whose source he or she does not know.

Those opposed to this Motion have an axe to grind. Some of them have had a hand in illegal approvals in the Treasury. Some of them are past Ministers who involved themselves in illegal transactions. In the public debt box we have maggots. There are illegal items in that box. Kenyans must stand up and open up that box to stop the continuation of burdening or children. I am not opposed to the establishment of the Parliamentary Budget Office. I support that totally and I can give the Parliamentary Budget Office sufficient support in terms of information that I have with regard to illegal transactions in the Treasury. Some of the funds that are said to have been received, have come from public debts. These payments are illegal. Let us watch out and look after the Kenyan as much as we can.

Mr. Temporary Deputy Speaker, Sir, hon. Michuki said that he has not mortgaged this country. That is true. He has not even mortgaged himself, but he has mortgaged his grandchildren because the debts were given out with a ten year grace period and a 40 year repayment period. By the time our children start paying the debts, many hon. Members will have left the scene after enjoying the loot at the expense of our children. The execution of debts in itself--- **The Minister for Transport** (Mr. Michuki): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to suggest to this House that I have mortgaged my children, when I have not borrowed at all? Is he in order to imply that my children are likely to be auctioned?

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, I do not want to be drawn into personal issues, because I am only referring to his statement that we have not mortgaged this country and our children. I am pleading by saying that we must guard our future even if the past has got some rot.

Somebody asked me why we are not leaving these issues to the Committees that are in place. Remember that Goldenberg was a circus that was unable to be resolved until the Judicial Commission of Inquiry was formed to sit in the Kenya International Conference Centre (KICC) to try to unearth this scam. There are several "Goldbergs" in the public debt pot. There are several issues in the public debt pot and we must stand up as a Parliament to diagnose from the past and mirror that into the future, because our children are watching us.

A respectable hon. Member stood up to say that we are duplicating issues, and that we do

not tackle issues rightly. Now, if they were done right, why then should we be having 70 per cent of our Gross Domestic Product (GDP) in debt? We know that roads have been commissioned on paper through illegal tenders and offshore financing, and those roads have never been made. Those roads are in the public debt pot. Even if I was to lose this battle, I will lose it honourably, and the Kenyan children are watching this 9th Parliament! We must stand up to be counted. I have been implored to withdraw this Motion and surrender, but I will not!

Mr. Temporary Deputy Speaker, Sir, for the interest of hon. Members here, the Forensic Science Laboratory is not part of my report, but I must divulge this information; that the refunds we have received regarding the Forensic Science Laboratory were paid out from public debts. This is illegal!

(Applause)

We must stand up as hon. Members to be counted. I will go down fighting, and it does not matter what comes out in the future. But the laws that we are going to change are going to benefit the future! But where were we in the past? The Kshs711 billion involved is a million times more than the Goldenberg saga. Yes, we are not checking in. We must look into that pot and diagnose the public debt---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order, hon. Members!

Mr. Omingo: Thank you, Mr. Temporary Deputy Speaker, Sir. The Goldenberg scandal was worth Kshs13 billion compared to the Kshs711 billion. Kenyans cannot be taken for a ride! I am not interfering with the Parliamentary Budget Office, I am in total support of it. But we should know what happened in the past so that we can have a bright future. The children are born with a debt burden of Kshs44,000 around their shoulders for issues they do not know. We must turn around, open up the public debt and know who committed this country, for what purpose and why!

(Applause)

Mr. Temporary Deputy Speaker, Sir, it has been suggested that we are looking for jobs. Those words came from a respectable Assistant Minister of this Government. I am properly paid, and I am only sacrificing my time for the benefit of the Kenyan child. It is a shame for a Government Assistant Minister to pretend. Some of us---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Omingo! Just present what you have.

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, I can vouch for the Members of the Public Accounts Committee (PAC). We even sit on Tuesdays and Thursdays when there is no payment! We do this for the sake of this nation. So, I am not looking for a new job because I do not need a job. Let it go down honourably.

With those few remarks, I beg to move.

(Applause)

The Temporary Deputy Speaker (Mr. Poghisio): Order, Members! Order!

(Question put and negatived)

(Several Members stood up in their places)

Hon. Members: Division! Division!

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! Order! You may now sit down, you have the requisite number for division. Order!

(Applause)

Order! That means that sufficient hon. Members of the Opposition side have called for a division, and it is so ordered.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order! Order, hon. Members! The five minutes are up! Please, take your seats. There are some things which are difficult to explain. After the Chair has called the House to order a hundred times, that is when you begin to sit down and you are actually hearing this.

Hon. Members: We are sorry, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order!

The rules of Division are well known to you. I will ask that the Bar be drawn and the doors be shut. The tellers of the Ayes are Mr. Kagwe and Mr. Kicpchumba, and the tellers of the Noes are Mr. Bifwoli and Mr. Bahari. I will take you through the process. This means that nobody can enter now or leave the Chamber. Standing Order No.55(1) states as follows:-

"When the doors have been locked and the Bar drawn and the names of the tellers have been announced, Mr. Speaker shall put the question again and then direct the Ayes into the lobby on his right and the Noes similarly to his left and the doors of each lobby shall be locked ten minutes thereafter".

That means you have ten minutes to move from where you are to your lobby. Thereafter, there will be no going in. The doors should be locked. Those who abstain must register their names with the Clerks-at-the-Table since nobody is obligated to vote. Standing Order No.55(2) states:-

"Mr. Speaker or the Chairman of the Committee shall, fifteen minutes after the locking of the lobby doors, call the House to order, and any Member who shall not have voted then shall forfeit his right to vote".

This means you have fifteen minutes after the doors are locked.

DIVISION

(Question put and the House divided)

(Question negatived by 81 votes to 45)

(Division list was not availed to the Hansard)

The Temporary Deputy Speaker (Mr. Poghisio): Next Order!

WITHHOLDING OF SCHOOL CERTIFICATES
ON ACCOUNT OF FEES BALANCES

(Mr. Musila) to move:-

THAT, noting with concern that students who have sat for the Kenya Certificate of Education Examinations continue to be denied their certificates on account of school fees balance; aware that the bursaries allocated to schools are inadequate to cater for all the needy students; conscious that academic testimonials are statutory requirements for career and job opportunities; and appreciating that the schools require adequate funds to meet the cost of their maintenance; this House recommends;

(i) that all certificates held by schools on account of fee balances be released forthwith and that no more certificates shall be withheld by schools on account of fee balances in future; and,

(ii) that the Ministry finds ways and means of compensating the affected schools.

Mr. Temporary Deputy Speaker: (Mr. Poghisio): Order, hon. Members! The Motion by Mr. David Musila is deferred.

(Motion deferred)

Next Order!

AMENDMENT OF THE CONSTITUTION TO
PROVIDE FOR PARLIAMENTARY CALENDAR

Mr. Keter: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:- THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled the Constitution of Kenya (Amendment) Bill, 2004, to amend Sections 58 and 59 of the Constitution to provide for the National Assembly to control the Calendar of the Business of the House.

Mr. Temporary Deputy Speaker, Sir, the purpose of this Motion is to seek leave of the House, under Section 2 of Standing Order No.95 to bring a Bill to this House to amend Sections 58 and 59 of the Constitution. The two sections allow the President to prorogue and dissolve Parliament at any time, without reference to anybody or any authority.

Mr. Temporary Deputy Speaker, Sir, this Motion had been debated during the Eighth Parliament. In that debate, the hon. Minister for Justice and Constitutional Affairs, Mr. Murungi, described this Parliament of ours as worse than a kindergarten. He said so because of one reason; we do not have the timetable of the activities of Parliament. We are just subjected to the whims of the President, to either prorogue or dissolve Parliament.

(Applause)

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

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

Mr. Temporary Deputy Speaker, Sir, this Ninth Parliament is very important in the sense that during the Eighth Parliament, there was the creation of the Parliamentary Service Commission (PSC), which constitutes the Administration of the National Assembly. Those of us who have just joined Parliament have seen the fruits of the PSC which sets the salaries of the staff of Parliament. The PSC cannot function without Parliament having its own calendar.

Mr. Temporary Deputy Speaker, Sir, when Parliament is dissolved, the Speaker, the Cabinet and the President remain in office until they hand over to the next Government. For the Parliamentarians, immediately Parliament is dissolved, that is the end of everything until the next elections. It is fair for Members of Parliament also to hand over their constituencies to the in-coming Members so that only new Members can be sworn in and those who were there before can continue.

(Applause)

We cannot operate as Parliamentarians without a timetable. We need to know when we are going on recess, when we are resuming and when we are having an election. Parliament should not be used as a secret weapon as it has been used before. It is time this Ninth Parliament was charged with that responsibility of creating a Parliamentary timetable.

Mr. Temporary Deputy Speaker, Sir, we want a situation where, when we are on recess, we can say that one-fifth of Members of Parliament can recall Parliament, if there is an issue of national importance. Very many things happen during the recess period. We want a situation whereby the Speaker of the National Assembly will, after getting one-fifth of Members of Parliament petitioning Parliament to be recalled, to authorise that and not to wait for the President to announce when Parliament will resume; at his will.

(Applause)

Mr. Temporary Deputy Speaker, Sir, we know that when elections are called, the Speaker remains in office until the first Sitting day of the next Parliament when the new Speaker is elected. In essence, the Speaker is the head of the Parliamentary Service Commission. Therefore, Parliament must have the power so that it can petition the Speaker to give notice for an election, if it is a period of only one month, so that the one month is only meant for elections and nothing else, and we know when we will resume and when we will go on recess.

Mr. Temporary Deputy Speaker, Sir, empowering Parliament is practising good governance. We know that if Parliament is powerful, we would not have a lot of problems, like the Anglo Leasing and Finance Scandal and so on. Therefore, we need to empower Parliament. We cannot just sit and wait for the President to either dissolve or prorogue Parliament.

I appeal to hon. Members of this Ninth Parliament that the responsibility lies with us; to create a Parliamentary timetable. There have been incidents where some hon. Members have said that this will pave way for an impeachment of the President. I am concerned about Sections 58 and 59 of the Constitution.

Mr. Temporary Deputy Speaker, Sir, hon. Prof. Kibwana wrote a note saying that this has a financial implications. I wonder what financial implications it entails.

(Applause)

I am not a lawyer but I presume he is one and he should know that! This is only to have the calendar

of Parliament controlled.

Since I can see that most hon. Members want to contribute because we want to clear this, I beg to move and call upon Mr. Oloo-Aringo to second this Motion.

(Applause)

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, may I use this opportunity to congratulate the hon. Member for Belgut, Mr. Keter, for the able manner and the very precise way in which he has moved this Motion.

We can see that the whole House is in a carnival mood because hon. Members have fought for this thing for a long time.

An hon. Member: Do not waste time!

(Applause)

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, let me also confess and thank the Minister for Justice and Constitutional Affairs. Yesterday, he sent feelers and consulted with the promoters of this Motion. This, to me, is how it should be; that both sides of the House; the Front Bench and the Back Bench are both working for this country. When there is an issue that unites us, let us come together. That is how we created the Parliamentary Service Commission and it has made progress in improving the welfare of hon. Members and staff. This particular Bill will be a footnote, a coronary of the Parliamentary Service Commission Act and, therefore, it will complete the autonomy of Parliament.

I will leave the Minister to speak for himself. However, we have agreed that he will support this Motion. This Motion, I want to assure the Minister, was brought to this House and it was debated. Indeed, we had to support even one of my very good friend who is helping me, the Minister for Tourism or Wildlife, whatever it is.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I am saying this because we have fought for this thing for a long time. The President is elected by the whole country and that gives dignity and security to the Office of the President. He wins the majority and then he must win 25 per cent from five provinces. Hon. Members of this House too are elected on a nationwide constituency representing 210 constituencies. Every hon. Member who is here carried a majority in those 210 constituencies. The President is elected for a specific mandate; first to be Head of State and to form a Government from hon. Members of this House. He also has to lead the Government inside and outside this House in the administrative and legislative process of our country. It is the reason why the Government brings agenda here through Motions, Bills and Policy Papers so that the country can implement the promises which it made to voters.

Mr. Temporary Deputy Speaker, Sir, however, Parliament is elected with a different mandate. The mandate of Parliament, first and foremost, is to make laws and to accept and look at proposals, either policy or legislative, brought by the Executive arm of Government. We can accept; we can reject. We can even amend as that is our complementary role in the governance of this country. Therefore, the Cabinet cannot make laws. The laws have to come here. Even if the Cabinet has proposals for laws, it has to bring them here. Hon. Members of Parliament can also initiate laws. I have a good example; the Constituency Development Fund was initiated here by Eng. Muriuki.

Now, that is an example of how hon. Members can initiate laws. Once signed by the President and approved by this House, they become laws of the land.

Our role is complementary and that is why I do not see why some Ministers are bellicose.

An hon. Member: What is that?

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, why are they belligerent all the time? Why are they fearful of hon. Members of Parliament?

Hon. Members: We want consensus!

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, the hon. Minister for Justice and Constitutional Affairs yesterday crossed the bridge when he sought us out; the promoters of this Bill. That is what has affected my contribution! My contribution is not belligerent. My contribution is friendly. It is to appeal for support from both sides of the House, so that we can create an autonomous Parliament.

(Applause)

Why are we creating an autonomous Parliament? We need a strong Parliament which can supervise the Government. We have no apologies to make when we supervise the Government. Between general elections, we are the *nyapara* to supervise the Government, which should accept our criticism as representing the criticisms of the people of Kenya. We are doing it on behalf of the people of Kenya. So, we have a mutual reciprocal role to play in this House. It is for that reason, therefore, that I am asking for the unanimous support. We have fought for a long time for the calendar of this House. We have reached a stage where we can now create that autonomous Parliament. We are saying that we are creating an autonomous Parliament which is a responsible Parliament.

Hon. Members: *Tosha! Tosha!*

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, I can see that there is a lot of pressure to get this Motion over with.

I beg to second the Motion.

(Question proposed)

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion.

I want to take this early opportunity to state the Government's position on this Motion. I am happy to inform the House that the Government supports this Motion.

(Applause)

We are supporting the Motion without any amendments or reservations. We are supporting it strictly on its terms. I hope that there will be no amendment to this Motion, so that we can proceed to pass it by consensus.

Mr. Temporary Deputy Speaker, Sir, the Motion seeks to empower the National Assembly to control the calendar of the business of the House. It has been our policy, as Government, to empower institutions of democracy, including Parliament. We agree that Sections 58 and 59 of the Constitution, which empower the President to summon, prorogue and dissolve Parliament at any time, are a sad relic of the Executive control of Parliament in this country. The NARC Government wants to make a radical break with this authoritarian and dictatorial past.

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

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, all of you! I want to appeal to you, hon. Members! Every hon. Member has the right to be heard.

Proceed, Mr. Minister!

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Temporary Deputy Speaker, Sir, the NARC Government has no problem with Parliament taking control of its own calendar.

An hon. Member: Why?

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Temporary Deputy Speaker, Sir, President Mwai Kibaki and I are on record as having supported, while in the Opposition, control of Parliament of its own calendar. We have not changed our positions.

In the past, debates of this kind were characterised by politics of confrontation, acrimony, personal insults, wild allegations, shouting matches and disorderly conduct. We want to move away from all that. We want to remove the image of this Parliament as a quarrelling Parliament. We want to respect this House as the ultimate symbol of democratic governance.

Mr. Temporary Deputy Speaker, Sir, we want to pursue the path of dialogue, tolerance, negotiations and consensus-building on all important national issues. It is our hope that the remaining phases of constitutional review will also be approached through consensus-building, tolerance and listening to each other.

(Applause)

Mr. Temporary Deputy Speaker, Sir, we note that in the Zero Draft, Article 142 provides that:- "Parliament be prorogued on the 30th November every year and the next Session to commence on the first Tuesday of February every year." This will remove the uncertainty that Members faced at the end of every year because they did not know when Parliament would reconvene. We have no problem with this Article and indeed it is not one of the contentious issues in the Zero Draft.

Mr. Temporary Deputy Speaker, Sir, I know there are those of us who are feeling that this Motion could have waited for the process of the constitutional review to be completed so that Article 142 comes into force. However, if this House wants the Bill even as we go on with the process of constitutional review, we do not see any problem with that because it is within the powers of Parliament to enact any law at any time.

Mr. Temporary Deputy Speaker, Sir, as William Brackstone wrote in his commentaries on the laws of England: "The power and jurisdiction of Parliament is so transcendent and so absolute that it cannot be confined within any bounds". He said that:- "Parliament has a sovereign and uncontrollable authority in making, confirming, enlarging, restraining, abrogating, repealing, revising and expounding of laws". So, it is within the competence of this Parliament to make even this amendment of the Constitution without waiting for the review to be completed.

Mr. Temporary Deputy Speaker, Sir, I would like to support this Motion as I have said. We hope that there are no cards being played under the table and we believe that we are all interested in supporting the strengthening of Parliament and enabling it to control its own calendar. So, it is in that spirit that we are supporting this Motion.

Thank you.

(Applause)

Mr. M. Kilonzo: Thank you, Mr. Temporary Deputy Speaker, Sir. It is truly a great pleasure for me to stand up and agree with my colleague, the hon. Minister for Justice and Constitutional Affairs, hon. Kiraitu Murungi. It is important and I think this country must come to terms with the fact that true separation of powers can never be realised until we make Parliament truly independent of the Executive.

Mr. Temporary Deputy Speaker, Sir, as you are aware, one of the most cardinal principles of a true and proper democracy is separation of powers such that the Executive, Legislature and Judiciary can operate independent of each other while at the same time checking each other. So, therefore, it is amazing that this country has stayed with these two sections since Independence because, even as originally drafted, they were clearly monarchical.

Time has come for us to modernise our Constitution. I plead with those who are still slow in recognising the need for a new Constitution. What we are doing today is basically what we call first aid. We are offering first aid to this country. Through it, the country can lean towards the "new Jerusalem" which is a truly new Constitution.

You will notice that, in fact, contrary to the views expressed across the country by some people who say that by bringing this Bill, Parliament will be seeking to undermine the Presidency, the real fact is that, as long as the calender of Parliament is controlled by Parliament itself, the work of the President would be much easier. I dare say that I see the President smiling more often because he will not be under the stress of calculating the political manoeuvres that he needs to do, either to dissolve or prorogue Parliament. This is because the country will know when the calender of Parliament starts and ends.

Again, if you look at the amendment to our Constitution, there will be no financial implications beyond what Parliament already enjoys. This is because we already have the Parliamentary Service Commission. We have the necessary machinery for ensuring that the calender of this Parliament will be serving the entire country and not just a small clique of people who will sit, perhaps, even in the Cabinet, to decide which Bills to bring before this House. We will make sure that Parliament is transparent and that it is doing what it ought truly to be doing. That is to remove this country from a monarchical system of governance to a truly democratic system where and when every Kenyan is casting his or her ballot, he or she will know with certainty that Parliament will be an independent institution.

Indeed, as we go further into the future people like me will be suggesting that we should do away with the idea of voting by acclamation. We want the rest of the country to know what and how we vote for each particular Motion and clause, so that we do not rely on opinion polls by anybody else saying So-and-so has spoken so much and So-and-so has not. We want to know what is the policy of each and every hon. Member. We also want to know whether each particular hon. Member is conservative, innovative and interested in reforms. Therefore, this will bring this country truly into the 21 Century. Mr. Temporary Deputy Speaker, Sir, I can feel the pressure because there are so many other hon. Members who would like to contribute to this Motion. Therefore, allow me with utmost humility, to say I beg to support this Motion.

The Minister for Tourism and Wildlife (Mr. K. Maitha): Mr. Temporary Deputy Speaker, Sir, I stand to support this Motion. In fact, this is our baby and we cannot kill it. When we were in the Opposition, Mr. Oloo-Aringo, who is our comrade, and at that time a sharpshooter in our team, brought this Motion before this House. However, we got a very rough time with KANU because it did not want this Motion at all. I wonder why KANU should bring this Motion now. They have no morals to bring such a Motion before this House when they were actually opposed to Parliament

becoming what we wanted it to be.

Mr. Temporary Deputy Speaker, Sir, we are very happy that after many years of our fight we can now manage to change the Constitution and do whatever we want to do in this House. His Excellency the President, Mwai Kibaki, has shown the way forward in this country. Previously, the chancellor of all public universities was, none other than the President only. President Kibaki changed this system and appointed other people to be chancellors of our public universities. That was a clear indication that he actually wanted institutions to run their affairs. That is the reason why Parliament must control its calendar and hon. Members will recall that. When we were debating the Bill for hefty salaries in this Parliament, we came together like this and passed it only in a few minutes.

(Laughter)

I do not see any reason as to why we should continue debating something which is obvious. I call upon all hon. Members to support this Motion in the shortest time possible.

(Applause)

Mr. Temporary Deputy Speaker, Sir, thank you very much.

Mr. Kajwang: Thank you, Mr. Temporary Deputy Speaker, Sir. I will be brief. The job of Parliament varies. Largely, we legislate laws, appropriate and do oversight duties. But the tremendous powers can be curtailed overnight by the imaginations of one man. If you wake up in the morning and start looking at the Anglo Leasing and Finance Company, you can find yourself going home. The oversight power does not excite the Executive. I do not think, if I was the Executive, I would be very excited with oversight powers of Parliament. So, if the heat is too much, I can send you home any time. It is for that reason that hon. Members of Parliament are cowed because they do not know when they are likely to go home.

Mr. Temporary Deputy Speaker, Sir, when the Eighth Parliament was dissolved, I went to take a cup of coffee and Dr. Kutuyi referred to me as "former Member of Parliament" and I asked him what he was talking about because I did not know that I was already a former Member of Parliament by an announced at 1.00 p.m. that Parliament had been dissolved. So, the power given to the Executive is tremendous and we want to separate Parliament from the Executive.

Another reason is that the institution of Parliament is not supposed to be dissolved. In fact, the word "dissolution", if I was a religious leader, I would call it "heresy". This is because you cannot have a branch of Government dissolved. The Executive or the Presidency cannot be dissolved, even for one minute. In fact, if the occupant of that office was to leave office for any reason, the other one would be sworn in immediately. This also applies to the Chief Justice. The office of the Chief Justice was left vacant the other day by resignation, and the same morning there was an announcement over the radio who the Chief Justice was. This also applies to the Speaker. The office of the Speaker never falls vacant. How consistent is it that the Speaker who is the head of Parliament can stay in office when it is dissolved? This does not make sense either in law or in fact. We want to know that Parliament can live for a limited time and after that, it can hand over to the other Parliament sworn in that morning. This will enable me to be an hon. Member of Parliament until the next Member of Parliament for Mbita is sworn in. That is the point.

(Applause)

I do not want to give the details as to why I am excited about that. You know why!

(Laughter)

Mr. Wanjala: On a point of order, Mr. Temporary Deputy Speaker, Sir. You can see that the Members from both sides of the House are excited. This is not the first time this Motion is being debated in this House. I now request the Chair to call upon the Mover to reply.

(Applause)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! By the resolution of this House, this Motion has to take two hours.

Hon. Members: No! No!

The Temporary Deputy Speaker (Mr. Ethuro): Yes! It has to take two hours. Secondly, Mr. Wanjala, to respond to your point of order, hon. Members would like to contribute some more. So, let us give it a little bit more time.

Hon. Members: No! No!

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, I will be brief on one point only. It is very expensive for this country that, when we are debating Bills, some in the Second Reading, others in First Reading and others being published, you hear that Parliament has been dissolved and all them collapse. That is an expense to this country. Sometimes, that is why our Bills have been lying here for years, without being passed. We want to know when to do the job. In fact, when the new Constitution comes in, we do not have to discuss it. We want to know when the President will be sworn in, when he will be elected and for how long he will be in office. That way, this country will not suffer from the fear of shock-therapy from the Office of the President.

Thank you very much.

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

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Angwenyi, I will give a chance to contribute and not a point of order!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I would like to know under what Standing Order we must debate this Motion for two hours.

(Applause)

Mr. Temporary Deputy Speaker, Sir, we have decided to vote on this Motion now! This House is deciding to vote for this Motion now, so that we can continue with other business! Could you call upon the Mover to reply?

(Applause)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! I appreciate the interest in the matter. But, if you look at your Order Paper---

Hon. Members: Maximum! Maximum!

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! The Chair is on its feet and you have no choice but to listen! Listen to me first before you respond.

The notice that the House on Wednesday 31st March, resolved as follows:-
"A maximum of two hours--"

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

(Mr. Kimeto stood up in his place)

Order, Mr. Kimeto! You are not supposed to rise when I am still on my feet! I appreciated your concerns and sought guidance and by that resolution, let us proceed as we consult more.

Dr. Kituyi, please, proceed!

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

(Loud consultations)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members!
Proceed, Dr. Kituyi!

The Minister for Trade and Industry (Dr. Kituyi): Thank you, Mr. Temporary Deputy Speaker, Sir. A House which wants to manage its business---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! Dr. Kituyi is on the Floor!

The Minister for Trade and Industry (Dr. Kituyi): Mr. Temporary Deputy Speaker, Sir, I can appreciate the desire that this matter be dealt with expeditiously, but I do not think that it is helpful, when we are building the legitimacy of Parliament, to refuse to listen to each other.

I have two or three remarks that I would like to make, and which I do think have been said so far. Maybe they were said when I was not here. One, while I support the Motion - and I am one of the ancestors of the initiative for Parliament to appropriate its own timetable - we have to proceed with caution. That is because there is no obvious and direct linkage to the total separation of the Legislature and Executive, and the democratic exercise of power in the country. We have to approach this issue with caution because we have added responsibility. It is very nice to speak on a matter that has consensus across the Floor. But we should not celebrate, in a delirious way, a mere responsibility, without embracing the challenges that come with it. What am I talking about? There are two critical things.

Mr. Temporary Deputy Speaker, Sir, as the Legislature rises in its power in this country, which is consistent with the new democratic dispensation, it must also accept a certain national responsibility. I say this with deep sadness because of something that happened three weeks ago.

Mr. Temporary Deputy Speaker, Sir, three weeks ago, a delegation from this National Assembly was on an official visit to the United States of America. In fact, it was a Parliamentary Committee. At that time, there was a very powerful lobby group campaigning for the extension of the Africa Growth and Opportunity Act (AGOA) by the USA Congress. Also, there were very many pro-Africa lobby groups in Washington which have been canvassing the Congress to enact this legislation. When they heard that a delegation from the National Assembly of Kenya was visiting Washington, they were excited to host them to a dinner so that they could get encouragement from the Kenyan Parliamentarians about the AGOA legislation.

I want to thank the hon. Members of Parliament who were in that delegation for being patriotic and rising above their partisan interests and showing that what is good for Africa is also

good for Kenya. However, I also want to express my embarrassment that after I arrived the next day, I was told that a hon. Member of this House, speaking on behalf of his party, purported to rubbish the initiative by the American Congressional Caucus for the support of the extension of the AGOA initiative. He pretended that AGOA was hurting Kenyans. He had the privilege of doing that in Kenya, but, please, as you take up your new responsibilities, you must know the separation between partisan and national interests. When hon. Members of Parliament go out of this country, they should learn to speak with one voice as Kenyans and not to transport the pettiness they exercise at home to countries abroad.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I support the Motion.

Dr. Godana: Mr. Temporary Deputy Speaker, Sir, I will be very brief given that both sides of the House are eager to terminate this matter.

I welcome very much the assurance the Minister for Justice and Constitutional Affairs; has given us that his side will support this Motion. One of our colleagues referred to the fact that in the last Parliament when the sharpshooter, hon. Oloo-Aringo who is now on the Opposition side, brought a Motion to this House, some of the KANU MPs opposed it. There is an English saying that states that intelligent and reasonable people do change their minds. Only fools do not. I can assure you that KANU is comprised of very intelligent and reasonable people who have seen the light.

Mr. Temporary Deputy Speaker, Sir, over the last ten years, Kenya adopted a multiparty system of governance. This Parliament has actually, slowly been removing the restrictive powers of the Executive branch of Government. The first grand step was made in mid-term of the Seventh Parliament, with the recognition of the Official Leader of the Opposition and the Chief Whip of the Official Opposition as constitutional officers entitled to offices and other privileges in their own right. We followed that by establishing the Parliamentary Service Commission (PSC). I think this is a trend which we must all welcome and encourage. I know the Minister for Justice and Constitutional Affairs is hoping that when the amendment is brought to this House, it will only be about the calendar of Parliament. I can assure you that the amendment which this Motion will authorise on Sections 58 and 59 cannot be so narrow and restricted. It will do us all good if both sides of the House can actually begin to talk frankly with a view to determining the contents of that amendment. The current position is that the Head of State, as the Chief Executive, holds the sword of Damocles over the neck of Parliament so that he can always threaten to dissolve the House whenever the House is inclined to take a decision against his interest. That is anachronism that should be eliminated.

Mr. Temporary Deputy Speaker, Sir, with those few remarks; I feel pressure from my own side, I agree it is *tosha* and I beg to support.

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, I thank you for the ruling you made earlier, but I know that these rules can be changed by this very House. Therefore, because hon. Members want to decide on this issue today and not tomorrow, I am asking that under Standing Order No. 21, we adjourn the debate and at the same time rescind the decision we made on that day to allow this matter to be concluded conclusively today.

Mr. Temporary Deputy Speaker, Sir, I am asking you to allow me to exempt this Motion from that particular provision we had passed and which you read out earlier in your ruling. If you do so, this House will move forward.

Hon. Members: Could you clarify, please?

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I rise to draw the attention of this House to the provisions of Standing Order No.171(1) which states that:

"A Motion may be made either with or without notice that proceedings on any specified business be exempted from the provisions of Part V (Sitting and

Adjournments of the House), Part VIII (Order of Business, Part XIII (Limitation of Debate---"

Considering the support that this Motion has received from both sides of the House, I, therefore, urge this House to limit the debate and propose that the Mover be now called upon to reply.

(Applause)

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I think there is no doubt, indeed, that this Motion seems to have unanimity. However, we do have the Standing Orders. A Private Members' Motion is allotted two hours, and---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members!

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, it is really important that we do stick to our own rules. Normally, a debate which has allotted time only collapses before the time is over if there are no hon. Members willing to contribute to it. But as long as we have some hon. Members who want to talk about it, we should allow them! It is not that some of us want to prolong it, but this is an important--- It has got something to do with the amendment to the Constitution. We should be allowed to air our views, because other hon. Members have been able to air theirs.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! Order, all of you! I am persuaded by the point of order which has been raised by Mr. Muturi, under Standing Order No.171(1), which is procedural in terms of actually asking for an exemption on the limitation of debate. The prayers are that in view of consensus surrounding this particular Motion that the resolution of the House on 31st March, 2004, limiting the debate to a maximum of two hours, this Motion be exempted from the Standing Orders. This will only apply to this particular Motion.

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

(Loud consultations)

Now, I will call upon the Mover to reply.

Mr. Keter: Mr. Temporary Deputy Speaker, Sir, today, we have made a mark and entered into the records of the Ninth Parliament to---

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, I respect your decision. But the minority should also be heard as the majority have their way. The provision---

(Loud consultations)

Mr. Mwenje: Out!

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, Mr. Kiunjuri! Order, Mr. Mwenje! You do not respect the Chair! Let us observe the Standing Orders. Mr. Kiunjuri has a point in terms of the minority being heard, and we heard the minority. We brought a provision and

we have voted. So, let the majority have their way.

Mr. Keter, please, reply to the debate!

Mr. Keter: Hon. Members, today we have made a mark and entered into the records of the Ninth Parliament to give this House its autonomy for this nation and generations to come, by cherishing and nurturing the ideals of democracy.

I want to thank each and every Member for supporting this Motion. I want to call upon the Government to do the same when the Bill comes to the House.

Thank you very much, Mr. Temporary Deputy Speaker, Sir.

(Applause)

Hon. Members: Move!

Mr. Keter: I beg to move, Mr. Temporary Deputy Speaker, Sir.

(Applause)

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Members, it is now time to interrupt the business of this House. The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12.20 p.m.