

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 24th April, 2002

The House met at 9.00 a.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.088

NON-PAYMENT OF DUES TO RED CROSS EX-EMPLOYEES

Mr. Maitha asked the Vice-President and Minister for Home Affairs:-

(a) whether he is aware that former employees of the Kenya Red Cross Society, stationed at Marafa Refugee Camp between the years 1995 and 2001, have not been paid their terminal dues to date; and,

(b) what action he is taking to have the said employees paid their dues promptly.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Osundwa): Mr. Speaker, Sir, according to the Questioner, this Question has been answered before in this House.

Mr. Speaker: Mr. Maitha, has this Question been answered?

Mr. Maitha: Mr. Speaker, Sir, it is true that this Question was deferred so that I could furnish the Assistant Minister with a copy of the court case. This case is before the Court of Appeal. So, we have finished the matter.

Mr. Speaker: Very well! Mr. Maitha, thank you for your honesty! I congratulate you! Let us move on to the next Question by Mr. Anyona!

Question No.139

IMPLEMENTATION OF CHILDREN ACT

Mr. Anyona asked the Vice-President and Minister for Home Affairs what legal and practical measures, modalities and strategies the Government is putting in place for the smooth implementation of the Children's Act to ensure compulsory and free basic education for all Kenyan children, including street children.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Osundwa): Mr. Speaker, Sir, I beg to reply.

(a) After the Act came into being on 31st December, last year, the first step taken to operationalize it was the gazettelement of the effective date. The Act became effective on 1st March, 2002. My Ministry has set up an inter-ministerial implementing committee to ensure that all aspects of the Act are implemented diligently.

(b) My Ministry has set in motion the process of nominating members of the National Council for Children Services. This will include members of key Ministries such as Education, Health, Labour and Finance, and other players such as the civil society and the non-governmental organisations as provided for in the Act.

(c) My Ministry is working towards factoring in adequate financial resources from the Government budgetary process to facilitate the smooth implementation of the obligations of the Act.

(d) The Ministry has also embarked on the construction of two centres, one in Thika and the second in Nyamira, which, when completed, will be used as first-step centres in removing children from our Kenyan streets to enable them embark either on education or vocational training.

(e) The Chief Justice has already appointed 44 magistrates across the country to preside over cases involving children. My Ministry will ensure that children's officers are attached to these courts on a permanent basis to ensure

that the children's rights in education and protection are upheld.

Mr. Anyona: Mr. Speaker, Sir, I did not want to complain at the beginning that, again, the Ministers seem to have gone back to the old habit of not supplying copies of written answers. I have not received a copy of the written answer to this Question. Nevertheless, I am grateful that some slow motion activity has started, but this is an extremely crucial law. Could the Assistant Minister tell us what the parameters of this Act are? Has he received them? What measures is he supposed to put in place to ensure that the Act becomes operational?

Mr. Osundwa: Mr. Speaker, Sir, I have outlined the steps that we have already taken and this cannot be termed as slow-motion. We have advanced in this preparation. One area of concern to the Members has been the provision of free education to the children, and we have liaised with the Ministry of Education, Science and Technology to see how we can implement this.

Mr. Muite: Mr. Speaker, Sir, we have got the example of the teachers where the Government signed an agreement with them, and then it turned round and said that it could not afford it because it did not have the money. Could the Assistant Minister tell this House how much money he has set aside in his estimates for that free education? This money will cover the cost of desks, building classrooms and laboratories. Could he assure this House that he will afford offering free education to these children and he will not turn round and say, like in the case of teachers, that he cannot afford it?

Mr. Osundwa: Mr. Speaker, Sir, I would like to assure the House that we are taking practical steps to implement this Act in total. The question of free education is being handled by the Ministry of Education, Science and Technology, and I cannot speak for them as far as budgeting of this exercise is concerned.

Mr. Sungu: Thank you, Mr. Speaker, Sir. It is good to note that the Assistant Minister has set up an inter-ministerial committee to implement this Act. But on the question of free education, I would like to point out that we have many orphans in Kisumu and its environs. These children require free education, and yet I can see that centres have been set up both in Thika and Nyamira. Could the Assistant Minister prioritise and see where the need is and set up one centre in Kisumu?

Mr. Osundwa: Mr. Speaker, Sir, these are centres for street children, and the Act does not limit itself to children from those areas. We are talking of children countrywide.

Mr. Anyona: Mr. Speaker, Sir, the Assistant Minister, may well have been misled by his officers, and he is in turn misleading the House. There is no centre in Nyamira District. If there is one, could he tell us where it is? This is because the old tribunal court has been in that district before the world began, and it has collapsed. So, where is this rehabilitation centre? If there is one, how much money has he set aside for it?

Mr. Osundwa: Mr. Speaker, Sir, I must admit that I am not very familiar with Nyamira District, but I would like to confirm that there is one centre coming up in Thika and Nyamira.

Question No.035

OPENING OF NYAMASARIA RIVER CHANNEL

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

- (a) whether he is aware that a wall collapsed and killed three family members, namely Mr. Paul Ondo, his pregnant wife, Florence Auma, and their four-year old daughter, Susan Atieno in Nyamthoi area of Kolwa Central Location, within Kisumu Town East Constituency;
- (b) whether he is further aware that the wall had been weakened by perennial floods which occur in the area due to the blockage of River Nyamasaria; and,
- (c) what urgent measures he has taken to open up the channel of River Nyamasaria to ensure it reaches the lake without destroying homes and crops.

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

(a) I am aware.

(b) I am aware.

(c) The Kisumu District Development Committee (DDC) selected a technical sub-committee which came up with a proposal towards containing the floods. The proposal has been adopted and will be sent to the Lake Victoria Environmental Management Programme (LVEMP) for funding.

Mr. Sungu: Thank you, Mr. Speaker, Sir. Like Mr. Anyona said, I have also not received a copy of the written answer to this Question. But---

Mr. Speaker: Mr. Minister, why are we relapsing to the old habit?

Mr. Sunkuli: Mr. Speaker, Sir, we are sorry, and we will make sure that we do not relapse to that.

Mr. Speaker: Please, Mr. Minister, I do not want us to relapse to the old habits. Continue, Mr. Sungu.

Mr. Sungu: Mr. Speaker, Sir, the question of flooding in this area is perennial. The River Nyamasaria channel was opened in 1962 by the colonial Government. This river has silted thereby blocking River Nyamasaria. When the flooding comes, the waters goes to Nyalenda sewage. It sweeps all the sewage into people's homes and destroys crops in various farms. This is not something new. The LVEMP has been in operation for over five years now. What are they doing? It is a simple question of opening the channel. Could the Minister tell us exactly when and how soon this project can be done so that our people can be free of this flooding? It is a very cheap project to do. It requires the Ministry to allocate Kshs100,000 for this project.

Mr. Sunkuli: Mr. Speaker, Sir, this is not a small project as the hon. Member alleges. It requires a serious programme because the River Nyamasaria does, in fact, create problems in that region. The funding that we have requested for is forthcoming. I want to assure the hon. Member that very soon LVEMP will be able to fund this project.

Mr. Wanjala: Mr. Speaker, Sir, I am the shadow Minister for Information and Tourism.

Mr. Speaker: What are you saying?

Mr. Wanjala: Mr. Speaker, Sir, I want to remind you that I am also the shadow Minister for Information and Tourism.

Mr. Speaker: You are not! Could you ask your question?

Mr. Wanjala: Mr. Speaker, Sir, year in, year out, there is a lot of flooding in the western region of this country. The hon. Members from the region have severally been raising the issue of flooding. Could the Minister tell this House what plans they have to check floods in the flood-prone areas of Budalangi and Nyando, among other areas in this country?

Mr. Sunkuli: Mr. Speaker, Sir, I suppose that is a different question. But we have had occasion to answer questions about the problem of Budalangi and the region around Lake Victoria. I would like to inform the hon. Member that this Lake Victoria Environmental Management Programme is large enough to cover that region. I think as many proposals as possible will have to be produced in order for this project to be funded.

Mr. Sungu: Mr. Speaker, Sir, I sympathise with the Minister who is, otherwise, a very straightforward man because he is working with very unreliable officers. The first thing which I did when I came to this House in 1998 was to give a proposal to the LVEMP for the opening up of River Nyamasaria channel. This thing has not been done. I have issued them reminders. Could the Minister undertake that he will get in touch with the leaders of LVEMP to complete this project? It is a simple project. Just tell us when it will be done.

Mr. Sunkuli: Mr. Speaker, Sir, since the hon. Member belongs to my party, I am sure he can come to my office, any time.

Mr. Wanjala: On a point of order, Mr. Speaker, Sir. There has been a very serious allegation from the Minister that since the hon. Member belongs to his party, he can go to his office. Does it mean that hon. Members who do not belong to his party cannot go to his office?

Mr. Sunkuli: Mr. Speaker, Sir, what I meant is that my office is open to everybody. But some hon. Members, like hon. Wanjala, do not want to come to my office. I am saying that since Mr. Sungu is now in my party, I am sure, he would like to come there.

Mr. Speaker: Next Question, Mr. Kiunjuri!

Mr. Kiunjuri: Mr. Speaker, Sir, although I have not received the written reply and I do not belong to the Minister's party, I beg to ask Question No.032.

Question No.032

COMPENSATION TO MR. WABURI GITAHU

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

- (a) whether he is aware that Mr. John Waburi Gitahi, Department of Defence No.383/246, had an accident while on duty within the 10th Battalion Barracks; and,
- (b) why he has not been compensated for the injuries he sustained whereas other victims have been paid their dues.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, again I apologise for not supplying the written answer to the hon. Member. I will make sure that it will not happen again.

However, I beg to reply.

(a) Yes, I am aware.

(b) Mr. Gitahi has not been paid because he filed a case in Nyeri High Court No.278 of 1995, where the Attorney-General and the Department of Defence are the respondents. Mr. Gitahi will, therefore, be compensated when the matter pending in court will have been determined.

Mr. Kiunjuri: Mr. Speaker, Sir, there is no way one can file a case in court unless all ways and means have failed. The Minister is aware that after this accident occurred, they compensated the rest of families except Mr. Gitahi. It is almost eight years down the line since this accident occurred. Which immediate action is the Minister taking, as a parent, to compensate this person because his children are suffering and their father is totally incapacitated? Which immediate action is the Minister taking to ensure that this person is compensated, irrespective of the pending case in court?

Mr. Sunkuli: Mr. Speaker, Sir, the hon. Member is confusing the matter because the person concerned was actually not a staff of DoD. He was a barber. He was killed when a huge gumtree fell on the house in which he was operating. The military personnel who were also killed have already been compensated. But this private citizen took the matter to court. There is nothing I can do unless the matter has been determined.

Mr. Speaker: Mr. Minister, in the interest of sorting out the issue, eight years down the line is a long time. Being a lawyer, you know that notwithstanding the fact that there is a case in court, there can be a settlement outside court. Are you prepared to look into that avenue?

Mr. Sunkuli: Mr. Speaker, Sir, I am quite prepared if the avenue is sought by the persons concerned.

Mr. Imanyara: Mr. Speaker, Sir, the Minister, being a lawyer, is aware of the provisions within the law, particularly in the Civil Procedure Act and other relevant provisions which empower payment in court as an acceptance of the Government's liability and intention to compensate. Now that the Minister says they are willing to reconsider, can they make a payment in court as a sign to show the Government is committed to assisting this victim, eight years after the accident?

Mr. Sunkuli: Mr. Speaker, Sir, I am prepared to receive those who are aggrieved in my office at any time, so that I can ask my officer to discuss settlement out of court.

Mr. Kiunjuri: Mr. Speaker, Sir, it is true that this person obtained a permit to work as a barber at the 10th Battalion of Nanyuki. I know the gumtree that fell on his house because that is where I was born and my home is next to the battalion. Could the Minister consider insuring the lives of all those people who work within barracks and any other restricted areas, so that this kind of situation will not occur? Since they work in dangerous areas, their lives are at risk.

Mr. Sunkuli: Mr. Speaker, Sir, you will appreciate that my responsibility is restricted to military personnel. If I have to do what the hon. Member is suggesting, then I have to use the taxpayers' money and this Parliament must approve.

Mr. Speaker: Next Question, Mr. Gatabaki!

Question No.068

RATIFICATION OF WTO AGREEMENT

Mr. Gatabaki asked the Minister for Trade and Industry:-

- (a) whether Kenya is a signatory to the World Trade Organization (WTO) agreement, and if so, when the country signed the accord;
- (b) how the country will benefit from WTO; and,
- (c) what measures the Government and the private sector have taken to ensure that Kenya will not be flooded with imports when the WTO agreement comes into force in the year 2008.

Mr. Speaker: Where is the Minister for Trade and Industry? We will come back to the Question later.
Next Question, Mr. Murungi!

Question No.148

CONSTRUCTION OF BRIDGES IN IMENTI

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

- (a) how much money the Government spent on each of the following bridges: Iraru bridge; Muiku bridge; Karoro bridge; Nkone bridge; Gikongoro bridge; Machikine bridge, and Kirangi bridge;

- (b) which of the said bridges have been completed; and,
- (c) when the Government will complete the remaining bridges.

Mr. Speaker: Where is the Minister for Roads and Public Works? We will come back to the Question.

Next Question.

Question No.132

ALLOCATION OF EPZ LAND

Mr. Kaindi asked the Minister for Lands and Settlement:-

- (a) whether he is aware that part of the land earmarked for Export Processing Zone (EPZ) has been allocated to individuals;
- (b) whether he could table the list of the allottees; and,
- (c) whether he could revoke such allocations and return the said land to EPZ.

Mr. Speaker: Where is the Minister for Lands and Settlement? We shall come back to that Question later on! Mr. Gatabaki's Question for the second time!

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- (b) how the country will benefit from WTO; and,
- (c) what measures the Government and the private sector have taken to ensure that Kenya will not be flooded with imports when the WTO agreement comes into force in 2008.

Mr. Speaker: Mr. Gatabaki, the Minister is not there. Could I defer the Question to Tuesday next week?

Mr. Gatabaki: Mr. Speaker, Sir, this is such an important Question regarding our trading opportunities in a globalised environment, and yet, Mr. Biwott is not in the House. I do not know why he is not here, particularly now that he is refurbishing his image to become the next President.

Mr. Kiunjuri: On a point of order, Mr. Speaker, Sir. Is Mr. Gatabaki in order to make such allegations in reference to Mr. Biwott, whereas our shadow Minister for Trade and Industry, Mr. Michuki, is also not in attendance?

Mr. Speaker: Mr. Gatabaki, where is the shadow Minister for Trade and Industry?

Mr. Gatabaki: Mr. Speaker, Sir, you know I was just promoted last week. I am not aware about the whereabouts of the other shadow Ministers.

Mr. Speaker: Anyhow, could I defer the Question to Tuesday next week?

Mr. Gatabaki: Mr. Speaker, Sir, Tuesday, next week, would be appropriate.

Mr. Speaker: Very well! The Question is deferred!

(Question deferred)

Mr. Murungi's Question, for the second time!

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- (b) which of the said bridges have been completed; and,
- (c) when the Government will complete the remaining bridges.

The Assistant Minister for Roads and Public Works (Mr. Mokku): Mr. Speaker, Sir, I would like to

apologise for coming late.

However, I beg to reply.

(a) The Government has spent money on the bridges as follows:-

- (i) Iraru bridge - Kshs7,000,000
- (ii) Muiku bridge - Kshs1,500,000
- (iii) Karoro/Damene - Kshs 500,000
- (iv) Michikine bridge - Kshs 200,000

The Government has not spent any money on Nkone bridge, Kirangi bridge and Gikongoro bridge.

(b) Only Muiku bridge has been completed

(c) The uncompleted bridges are expected to be completed as follows:-

Name of Bridge Road No. Completion

Iraru	E1860	June, 2003
Karoro	UCR	June, 2002
Gikongoro	UCR	June, 2002
Michikine	UCR	June, 2002

Mr. Murungi: Mr. Speaker, Sir, I would like to thank the Assistant Minister for this honest answer, but I would like us to focus on the Iraru bridge. The Government has been building this bridge since I was in Standard Two, in 1960, and up to now, this bridge is not complete despite materials being poured in the area and engineers hovering around there for the last ten years.

Could the Assistant Minister explain to this House what has been the principle cause of delay in completing that bridge which he now says will be completed in June, 2003, when this Government will be already out of power?

Mr. Mokku: Mr. Speaker, Sir, this Government will continue being in power in 2003, contrary to what Mr. Murungi is alleging.

As regards Iraru bridge, it is an on-going project on Road A1860. It has been on going since 1999/2000 financial year. Due to the budgetary constraints, this project has poorly been funded, resulting in slow progress. It is true that it has taken time, and so far, a total of Kshs9 million has been spent. I am sure, when we receive Kshs15 million which is the estimated cost of the bridge, it will be completed.

Eng. Toro: Mr. Speaker, Sir, you can notice how the Assistant Minister is not serious about certain matters. Building a bridge is not like planting a tree which is expected to be three metres in two years' time. You either allocate money at once to complete a bridge or you do not allocate money at all.

Could the Assistant Minister tell us why it is going to take over five years to build a bridge, which should not be complicated, if it is only going to cost Kshs15 million? What are the restrictions in building that bridge?

Mr. Mokku: Mr. Speaker, Sir, I have told the House that the delay was due to the budgetary constraints and not other reason. The Ministry will only give to the project what it receives from the Exchequer. So far, that is the cause of the delay.

Dr. Ochuodho: Mr. Speaker, Sir, could the Assistant Minister tell the House, in his assessment, how much money this bridge should have cost and how much so far has been spent on it? The Assistant Minister has given two figures of Kshs7 million and Kshs9 million as what they have spent. How much should you have spent, and how much have you spent? If what you have spent is more than what you should have spent, why has the bridge not been completed?

Mr. Mokku: Mr. Speaker, Sir, we are not giving contradictory figures. The Ministry has so far spent Kshs9 million on this project, and it is estimated to cost Kshs15 million.

Mr. Murungi: Mr. Speaker, Sir, there are several other bridges which the Assistant Minister says are going to be completed by June, 2002, and Iraru bridge in June, 2003.

Could the Assistant Minister tell this House whether the balance of Kshs6 million is going to be allocated to this bridge this financial year, and then he also swears by the Koran that the dates he has given here are going to be honoured this time, and that this Government is going to honour its promises to the people of South Imenti, which they have not done for the last ten years?

Mr. Mokku: Mr. Speaker, Sir, I do not need to swear by the Koran, but I would like to promise the hon. Member that we have already spent Kshs9 million on this project. The Government is committed to completing the projects and by 2003, the balance of Kshs6 million will be spread to those projects for completion.

Mr. Speaker: Mr. Kaindi's Question for the second time!

ALLOCATION OF EPZ LAND

Mr. Kaindi asked the Minister for Lands and Settlement:-

- (a) whether he is aware that part of the land earmarked for Export Processing Zone (EPZ) has been allocated to individuals;
- (b) whether he could table the list of the allottees; and,
- (c) whether he could revoke such allocations and return the said land to EPZ.

Mr. Speaker: Where is the Minister for Lands and Settlement? I am sorry, Mr. Kaindi, I cannot see anybody to answer your Question. When would you like it answered?

Mr. Kaindi: Mr. Speaker, could tomorrow be okay?

Mr. Speaker: Could we defer it to Tuesday, next Week?

Mr. Kaindi: That would be fine, Mr. Speaker, Sir.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

VOTER REGISTRATION IN SAMBURU

(Mr. Leshore) to ask the Minister of State, Office of the President:-

- (a) Is the Minister aware that many people in Samburu East have not registered as voters because of lack of national identity cards?
- (b) What action is he taking to ensure that there is a programme for issuance of identity cards?

Mr. Speaker: Mr. Leshore's Question is deferred to tomorrow afternoon!

(Question deferred)

SUPPLY OF ANTHROPOMETRIC EQUIPMENT

(Dr. Murungaru) to ask the Minister for Education:-

- (a) For what reasons was tender number IDA No.15 KE-00/01-ICB-002 for supply and delivery of anthropometric equipment awarded to the highest bidder?
- (b) what remedial action will the Minister take to ensure that the public does not suffer undue losses?

Mr. Speaker: Dr. Murungaru is not in? The Question is dropped!

(Question dropped)

SETTLEMENT OF KANDARA FARMERS SOCIETY DISPUTE

Eng. Toro: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture, the following Question by Private Notice.

(a) Is the Minister aware that two Special Annual General Meetings convened by Kandara Coffee Farmers Co-operative Society on 1st and 22nd of March, 2002, have failed to resolve a bitter rivalry between members of the management committee?

(b) Is he further aware that, as a result, the society comprising 11 coffee factories is now on the verge of splitting into 11 individual societies?

(c) What urgent action will he take to resolve the dispute?

Mr. Speaker: Is anybody here from the Ministry of Agriculture? Eng. Toro, when can I put the Question?

Eng. Toro: Mr. Speaker, Sir, I beg it to be asked tomorrow.

Mr. Speaker: Very well. I will defer the Question until tomorrow.

(Question deferred)

Let us move on to the next Question by Dr. Ochuodho.

RESTRICTION ON FISHING ACTIVITIES

Dr. Ochuodho: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture, the following Question by Private Notice.

(a) Following recent restrictions on fishing in Lake Victoria, could the Minister clarify exactly what is expected of the fishermen?

(b) What has necessitated such action?

(c) How does the Government expect those who rely wholly on fishing to cope?

Mr. Speaker: Obviously, there is nobody from the Ministry of Agriculture here! What can I do, Dr. Ochuodho?

Dr. Ochuodho: Mr. Speaker, Sir, it appears that all the pretenders to the Presidential race in KANU, Dr. Godana, Mr. Biwott and Mr. Ngala, are not here to answer Questions. Could the Chair consider dropping them?

Mr. Speaker: I know of no post called "pretenders to the president!" So, what are you talking about?

Dr. Ochuodho: Mr. Speaker, Sir, the Chair has just dropped a Question which was to be asked by Dr. Murungaru because he was not here. I must appeal to the Chair: Could you consider dropping the Ministers in turn?

Mr. Speaker: Give me that power and then I will do it! Anyhow, could we now be serious? When can I put your Question, Dr. Ochuodho? Could I do it next week?

Dr. Ochuodho: Mr. Speaker, Sir, tomorrow!

(Question deferred)

Mr. Maundu: On a point of order, Mr. Speaker, Sir. Dr. Ochuodho has not used parliamentary language by saying that a Member of Parliament is a pretender! We have no pretenders here! We are honourable Members of Parliament! Could he withdraw and apologise?

Mr. Speaker: Order! He did not say a "pretender Member"! He said "pretenders to the presidency!" I said that, that post does not exist! So, you are all out of order! You are talking about a non-existent fact!

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Is it a coincidence that Mr. Mudavadi, Mr. Ngala, Mr. Biwott, Mr. Uhuru Kenyatta and Prof. Saitoti are not here? Could we be told whether there is a House *coup*?

Mr. Speaker: Order! I do not ordinarily keep your roster as to who comes at what time and what day, so long as eight sittings do not expire while you are absent. I really do not care, but I do care when Questions are not asked. But I will not be a prefect because that is not my job. If eight sittings should elapse when any Member is absent, please bring it to my attention and I will exercise the constitutional powers bestowed upon me to declare such seats vacant!

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. I do realise that we have not given the Chair the power to drop the Ministers, but the Chair has got the power to allow Questions to be re-asked. You realise that there are four very important Questions which have not been answered this morning. Since Dr. Murungaru is here, could I appeal to the Chair to use the power bestowed upon him to allow him to ask that Question now?

Mr. Speaker: Order! Dr. Murungaru knows the Speaker's Chamber and he will proceed there at an appropriate time to make his plea, if any! If I am satisfied that there was good reason for his coming late, I may accede. If I am not convinced, then he will not, as he is warned for being late most of the time!

Mr. Imanyara: Mr. Speaker, Sir, last year, the Leader of Government Business undertook to give a Ministerial Statement regarding the collective responsibility of Ministers, as a result of many complaints about Ministers not being in the House to answer Questions. That undertaking has not been honoured to date. Bearing in mind that collective responsibility is a constitutional obligation to this House on the part of Ministers, could I request that the Leader of Government Business be required to give that Statement as he promised during the last Session, and which he has not given?

Mr. Speaker: Order, hon. Members! I do share the sentiments expressed in this House, about the absence of Ministers particularly, and absence of Members generally in the House. We are paid to be in this House. We owe it to the Kenyan nation and to the people of Kenya to be here to transact the business of Parliament. I hope, at an appropriate stage, the Leader of Government Business will impress upon his colleagues to ensure that they do come. Today, I can actually see that there is quite an improvement, although there is one or two odd cases. But we should not miss attending Parliament. We should make it our duty to be present in the House at an appropriate time.

I think hon. Members will appreciate that the Chair never fails to come! So, what is the explanation of all other Members being absent? Every Member must ask himself or herself the question:- "Why should I be late and the

Chair is always occupied?"

So, let us now proceed to the next Order!

Mr. Katuku: On a point of order, Mr. Speaker, Sir. We have Question No.132 which was supposed to be answered by the Minister for Lands and Settlement. I just wanted to draw your attention to the fact that the Minister has just walked in. Maybe, you can use your discretion to have the Question answered to save time! I am referring to Question No.132 by Mr. Kaindi.

Mr. Speaker: I have already made an order and it remains that way. It gets messy on the records. So, we will not keep on moving forth and back! What I will tell Mr. Sudi is: "Next time, come in good time." It is your duty and not a favour that you are doing to the House! It is your duty to the nation and to the Government that you serve. You must discharge it diligently. We will not wait for you again. First of all, you must apologise to the House!

The Assistant Minister for Lands and Settlement (Mr. Sudi): Mr. Speaker, Sir, I do apologise for coming late. However, this Question was wrongly directed to our Ministry. It is supposed to go to the Ministry of---

Mr. Speaker: Order! You are making it worse! You should have come before and informed us! If you were not able to, why would you not telephone the Clerk of the National Assembly to inform him of the same? It is laxity! I think it is laxity that is creeping very badly into the Front Bench and it is almost becoming chronic! So, I think you must rectify the laxity.

Mr. Mwalulu: On a point of order, Mr. Speaker, Sir. Given the appreciated double-tragedy afflicting Question Time in this House; that is the short time allocated to Question Time, plus the perennial absence of Ministers to answer Questions, could this House consider allocating more time for Questions?

Mr. Speaker: Order, hon. Members! Question Time is supposed to be one hour, and it will be one hour! I have directed that it will not go beyond one hour. It is not part of the Business of the House. It is actually matters other than Business. This House must transact business within the three hours set aside every day. So, we will ask the Ministers---

(Loud consultations)

You are distracting me, Mr. Maitha and your group! Could you talk about the coconuts later? So, can we make it absolutely clear that every hon. Member and every Minister who is supposed to ask or answer Questions should come at 2.30 to do that? That will be for one hour.

Next Order!

Mr. Achola: Mr. Speaker, Sir, I rise to request your intervention in a matter that concerns the farmers in the sugar-cane growing areas of Nyanza and the Minister for Agriculture. Last year, we passed the Sugar Act and one of the clauses in that Act was that the Minister had wanted Parliamentarians and civic leaders not to be eligible to be elected to the Sugar Board. During the Committee Stage here, that particular clause was deleted, so that Members of Parliament, other politicians and anybody else was eligible to be elected to the Sugar Board.

However, the Minister went back and sneaked in, through the back door, the requirement that Members of Parliament and councillors cannot qualify to be Members of the Board. I find that one to be very dishonest on the part of the Minister and I would request the Minister to withdraw---

Mr. Speaker: Order, hon. Achola! On this Sugar Bill, I think what you should do correctly, in order to get the Minister to come and tell you why he did that, is for you to be a little active. Just draft a Question, if need be by Private Notice, and file it with the Clerk. That action will compel the Minister to come here and he will be in a position to answer you. You are complaining to the wrong party. I do not know what he did. So, please, I advise you to go and draft a Question and file it with the Clerk and it will force him to come here.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: On which issue?

Mr. Ndicho: Mr. Speaker, Sir, on what you have just ruled. If we make laws here and the Ministers go and sneak in issues that were removed, shall we be going to ask Questions every time because a Minister has done something that was rejected by the House? I think we shall be setting a bad precedent.

Mr. Speaker: Order! Do not ask me to make rulings on hypothesis; I do it on facts.

Next Order!

MOTIONS

BILL TO ALTER CBK (AMENDMENT)
ACT COMMENCEMENT DATE

THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled The Central Bank of Kenya (Amendment) Act, 2000, to alter the commencement date of the said Act.

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

Mr. Speaker: You are all overruled!

Mr. Wanjala: Including me?

Mr. Speaker: Yes!

(Laughter)

You must now sit down!

Mr. Anyona: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: I think we are now on Order No.7. Is your point of order based on Order No.7?

Mr. Anyona: Yes, Mr. Speaker, Sir.

Mr. Speaker: What is it?

Mr. Anyona: Mr. Speaker, Sir, I wanted to seek the guidance of the Chair on the matter before the House.

Mr. Speaker: Which matter?

Mr. Anyona: Mr. Speaker, Sir, the Motion that is supposed to be moved.

An hon. Member: But it has not yet been moved!

Mr. Speaker: Yes, but it is not yet before the House!

Mr. Anyona: Mr. Speaker, Sir, yes, it is not before the House, but that is precisely where I want to seek clarification. This is because Standing Order No.70, paragraph 1, states as follows:-

"It shall be out of order to anticipate the discussion of a Bill which has been published as such in the *Kenya Gazette* by discussion upon a substantive Motion or an amendment, or by raising the subject matter of the Bill upon a Motion for the adjournment of the House."

Mr. Speaker, Sir, the reason I am raising this issue is that the Motion that is supposed to come before the House seems to have been overtaken by the fact that a Bill has been published which deals with the same subject. The Bill is dated 15th April, 2002 and apparently from that Standing Order, it would be out of order for this Motion to be discussed.

Mr. Speaker: Mr. Anyona, could I ask you several questions?

Mr. Ndicho: It is a Bill and not a Motion!

Mr. Speaker: Order! First of all, this is a Motion and not a Bill as mistakenly referred to by hon. Ndicho while sitting! It is a Motion and not a Bill! Mr. Anyona, could I ask you a question?

Mr. Anyona: Yes, Mr. Speaker, Sir!

Mr. Speaker: What is the Bill you referred to all about?

Mr. Anyona: Mr. Speaker, Sir, the Motion that is supposed to come before the House is seeking to introduce a Bill to amend the Central Bank of Kenya (Amendment) Act, 2000, to alter the commencement date of the said Act. Now, in the case of the Bill that has been published on 15th April, 2002, Clause 2 talks about the same matter. It states:-

"The Central Bank of Kenya (Amendment) Act, 2000 is amended in Section 1 by deleting the expression "be deemed to have come into operation on 1st January, 2001" and substituting therefor the words "come into operation on such dates as the Minister may, by notice in the *Kenya Gazette* appoint."

Mr. Speaker, Sir, so it does appear that particular aspect of the Bill will be contravened from that Standing Order if that discussion was to go on.

Mr. Speaker: Mr. Anyona, quite frankly, I have not even seen that Bill. So, you are informing me. Mr. Donde, what is your reaction?

Mr. Donde: Mr. Speaker, Sir, I really do not have a lot of experience on the issues being raised by hon. Anyona. However, I know that the House Business Committee, where more experienced Members of this House sit, did actually allocate this Motion for today. I believe they knew that the Attorney-General has published a Bill to amend this particular Act which Members of this House passed unanimously. So, I am also at a loss and I would like the more experienced Members on Standing Orders, and all that, to shed some light on this issue. However, I will go by your ruling.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. Precedence is a very important component of our deliberations. Last year, hon. Wamunyinyi brought a Motion seeking to bring a Sugar Bill at the time when the Sugar

Bill had already been published by the Minister and the House went ahead and discussed that Motion. Could that be used as a precedent to allow this "Donde Motion" to be discussed?

Mr. Speaker: You are actually factually wrong! In the sugar instance, the Motion came before the Bill. You are factually wrong! Could I hear from hon. Maundu?

Mr. Maundu: Mr. Speaker, Sir, I think I do agree with hon. Anyona about this matter. However, since the Motion is here, I think it is up to hon. Donde now to realise that a Bill has been published touching on the same matter. He should now withdraw the Motion and then we await a debate on the Bill.

Hon. Members: No!

Mr. Speaker: Order, hon. Members! I have in the past requested hon. Members who have any objection to any business coming before the House to let the Chair know, well in advance, so that it can make a ruling immediately the matter is raised on the Floor of the House. As it were, I have not been informed of this development and to use your word, the Chair has been "ambushed" and it should never be ambushed. I think the issues being raised by hon. Anyona are ones that need my considered ruling and I will reserve my ruling. Mr. Donde, could I make the ruling tomorrow or the day after and then decide whether or not the Motion should be debated next Tuesday?

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

Mr. Speaker: Mr. Kiunjuri, are you suggesting that I should make a ruling which is not considered?

Mr. Kiunjuri: Mr. Speaker, Sir, much as we respect your ruling, I wanted to also comment on this issue. The Motion before the House states clearly as follows:-

"That, the House do grant leave to introduce a Bill for an Act of Parliament to amend The Central Bank of Kenya (Amendment) Act, 2000, to alter the commencement date of the said Act."

Mr. Speaker, Sir, the already published Bill is already giving discretion to the Minister to set up the commencement date and this Motion is seeking for the same.

Mr. Speaker: Order! Order, Members! Without even seeing that Bill and hearing what Mr. Anyona has read, and looking at the Motion before the House, both in effect have one central theme; to give an operational date to the amendment date which we had effected to the Central Bank of Kenya Act in relation to interest rates. I am now being asked to rule whether or not proceeding with the Motion by Mr. Donde does offend the provisions of Standing Order No.70. I have said clearly that I have been asked to make that ruling now. I have not even seen the Bill. Consequently, I will make the ruling later.

By the way, we will not discuss this whole issue on points of order! Ultimately, it is me to make the ruling!

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. I appreciate that you have deferred your ruling on this issue. It is unfortunate that the Attorney-General is not in the House, because when contacted after the ruling of the High Court, he said that his hands are tied and the proper approach is for the Mover of the Motion, Mr. Donde, to come with a Bill to the House. It appears as if the Attorney-General is making use of the provisions of the Standing Orders, with the connivance of certain Members of this House, to defeat the purpose for which he has publicly indicated that the right person to move the Bill for the commencement date is the Mover because it was a Private Members' Bill.

My second point, Mr. Speaker, Sir---

Mr. Speaker: Order, Mr. Imanyara! You are making very serious allegations about Members of the House conniving to defeat the law!

Hon. Members: Yes!

Mr. Imanyara: Mr. Speaker, Sir, I will withdraw the word "connivance". We know what is happening when one is called---

Mr. Speaker: Order! Order! It is irrelevant to the Chair as to what the attitude of the Attorney-General is towards any business of this House. What matters to the Chair is the procedure. I have no interest either way, whatever the outcome of the business of this House. My role as Speaker is simply to preside and to ensure that when issues of procedure do arise, I make a ruling. That is all I have to do.

Mr. Murungi: On a point of order, Mr. Speaker, Sir. I would like to inform the House that we have discussed this matter before the Administration of Justice and Legal Affairs Committee and we requested the Attorney-General to attend so that we could sort out this question about the date of commencement. The Attorney-General told the Committee that he was not going to bring an amendment before this House because, as far as the Government was concerned, this Bill was contrary to Government policy. He said it was up to the Members themselves to bring an amendment if we wanted the Act to be implemented. I think it is in that spirit that Mr. Donde has brought this Motion because we do not expect any movement at all from the Office of the Attorney-General.

Mr. Speaker, Sir, we seem to be passing the ball to each other with an intention of defeating the Donde Bill. I would ask that this House gives a generous interpretation to the procedures of this House so that we do not defeat Bills

passed by the House.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order, all of you! Would you all sit down, please? I do appreciate the anxiety of this House on this issue and I do share the sentiments expressed by Mr. Imanyara to the extent that the Attorney-General, who knew this Motion was directed to him, ought to be here today. Even if there was any objection, he should be here. If it was going to be moved, he ought to be here to listen to it. I do share those sentiments. But you must also understand that I have to make a ruling on the point raised by Mr. Anyona. I do also appreciate the point raised by Mr. Murungi, that there is a possibility of the Bill published not coming soon. I wish to pose a question to Mr. Murungi: Supposing the Bill matures, and I am told by the Clerk-at-the-Table, that it will have matured by Tuesday next week, and comes up for First Reading and I order it to be read, what will the Attorney-General do? Can I make this ruling later? I was not prepared for it.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. First of all, I would like to say with a lot of regret, that there was no question of ambushing the Chair. I came in this morning and went to my pigeon hole and picked papers that were there, including this Bill. When I was sitting here reading through it, and seeing the Order Paper, I realised there was some kind of a problem. That is why I was bringing it to your attention so that you will do exactly what you have done. So, in the first place, there was no intention of ambushing the Chair.

Secondly, Mr. Speaker, Sir, Mr. Imanyara, whom I have a lot of respect for, made an allegation that there is connivance. I have not seen the Attorney-General. I do not get dictated by people. I read the Standing Orders and I saw that the House was going to get messed up if we proceeded and the Chair would take responsibility. Is he really in order to make that kind of an allegation?

Mr. Speaker: Order! Order, Members! It is, indeed, out of order for any Member to insinuate improper motive to any Member. Indeed, it is the business of every Member here to alert the Chair on any issue that offends the Standing Orders. I will, therefore, rule as follows:-

I will consider the points raised by Mr. Anyona, and I will take into consideration what Mr. Imanyara and Mr. Murungi have said, and the general mood of the House. If in the end I do rule that Mr. Anyona is right, then I will consider the other alternative available to this House, which includes amongst others, to bring that Bill by the Attorney-General to the Floor of the House for discussion. But I have not made my ruling yet. So, I will defer this Motion. I will make a ruling before next Wednesday.

Mr. Donde: Thank you, Mr. Speaker, Sir. I will go by the ruling you have made. But I wanted to say that this morning when I arrived in this Parliament at 8.00 a.m., and I did go to the basement in our Chapel to have prayers, I met several Members of Parliament, whom we shared prayers with. When I reached there, I found they were reading Matthew 6:1, which says that God already knows what you are asking for before even you ask Him. So, I have gone through a lot of anguish on this particular matter.

Mr. Speaker: I am not hearing you, Mr. Donde.

Mr. Donde: I have gone through a lot of anguish over this particular matter and I believe all Members have gone through the same because they unanimously passed this Bill. As a responsible citizen of this country, when the Attorney-General asked me to bring back the Bill to give the commencement date, I thought I was acting responsibly and I did bring what I thought I was advised to bring by the Chief Legal Adviser of this country.

Mr. Speaker: Order! Let me give you an assurance that in the event that I do not overrule Mr. Anyona's objection, you will have your Motion. If I do accede to Mr. Anyona's objection, I will ensure that the published Bill will come to the Floor of the House. Can we go to the next Order?

Mr. Achola: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Is it on that issue?

Mr. Achola: Mr. Speaker, Sir, could you at least give me the benefit of a hearing as a Member of the House?

Mr. Speaker: Order, Mr. Achola! I do not need hon. Members to police my rulings, including Mr. Achola. I have already made that ruling and we will proceed.

An hon. Member: The Attorney-General is here!

Mr. Speaker: Whether the Attorney-General is here is neither here nor there.

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

Mr. Speaker: Mr. Sambu, we have already passed that stage. We listen to and respect each other. I will respect you, Mr. Sambu and you must respect the Chair. Anyhow, I think we have passed that stage.

Mr. Sambu: On a point of order, Mr. Speaker, Sir. I did not intend to offend the Speaker.

Mr. Speaker: Can you get to the point?

Mr. Sambu: Mr. Speaker, Sir, this august House belongs to Kenyans and we are the representatives of the people. If we rise on a point of order, on a matter that is of such national importance to Kenyans, I think the Speaker, whatever the Standing Orders say, must be made to listen to the views of Kenyans through their elected representatives, including Mr. Achola.

Mr. Speaker: Order! Mr. Sambu, I will not subvert the Standing Orders, however popular whatever you are saying is. The Speaker will not subvert what he has sworn to do.

Mr. Achola: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! This is not a *baraza*! Anyway, what is bothering you?

Mr. Achola: Thank you very much, Mr. Speaker, Sir---

Mr. Speaker: Order! By the way, that should not be misinterpreted in any way as me bending to what Mr. Sambu said which is out of order. Mr. Achola, you have of late developed a very interesting---

Mr. Achola: It is because you are not recognizing me!

Mr. Speaker: Order! You are now overruled! I will not give you a chance to speak. Before I go to the next Order, Mr. Attorney-General, you had, standing to your name, a Motion by Mr. Donde.

The Attorney-General (Mr. Wako): It is directed to the Minister for Finance.

Mr. Speaker: Sorry. So, it is a case of misdirected anger? Anyhow, Mr. Attorney-General, I want to know from you when you intend to bring to this House the Bill that has been published in this same manner because I have delayed my ruling on an issue relating to Standing Order No.70. I want to know when you intend to bring that Bill to this House before I make my ruling.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, as soon as the Bill matures, it will be brought to this House for the First Reading. I do not have the Bill with me, but I think it will be brought to the House for the First Reading next Tuesday.

Mr. Speaker: After 1st May?

The Attorney-General (Mr. Wako): The Bill was published on 15th April, 2002. Fourteen days from that date brings us to the 29th of April. It will be here for the First Reading on that day or the following day.

Mr. Speaker: Let me not jump the gun, but in the event that I do order that it comes for the Second Reading, will you be prepared for it?

The Attorney-General (Mr. Wako): I am sure the Minister for Finance will be prepared for it, but I cannot speak for him.

Mr. Speaker: Whether he will be prepared or not, whatever order I make will be complied with.

Next Order!

(Motion deferred)

ESTABLISHMENT OF GUARANTEED COFFEE
MINIMUM RETURN PAYMENT

THAT, in view of the Government's commitment to eradicate poverty; noting that coffee was once number one foreign exchange earner; aware that coffee production has deteriorated over the years due to farmers incurring high losses due to their inability to meet production costs; cognisant of the fact that there is an urgent need to revive and sustain the coffee industry; this House urges the Government to establish a Guaranteed Coffee Minimum Return (GCRM) payment for every kilogramme of coffee produced and sold in the Coffee Exchange.

Mr. Speaker: Eng. Toro has sought my indulgence to defer that Motion which is granted by me.

(Motion deferred)

ESTABLISHMENT OF INDEPENDENT
ANTI-CORRUPTION AUTHORITY

THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled The Constitution of Kenya (Amendment) Bill to amend Section 26 of the Constitution to provide for the establishment of an independent Anti-Corruption Authority.

Mr. Speaker: Is Mr. Kombo here now?

Mr. Kombo: I am here, Mr. Speaker, Sir.

Mr. Speaker: But you rang to say you are not available. Are you ready for the Motion?

Mr. Kombo: Mr. Speaker, Sir, there are two issues here. I said I was not ready but, at the same time, I want to watch the behaviour of the Attorney-General for some time because I know the Government is not willing to fight corruption. In view of what happened to the Donde Bill, I am sure the same argument will arise when this Motion comes before the House.

Mr. Speaker: Do I defer the Motion?

Mr. Kombo: It should be deferred until I note the Attorney-General's behaviour.

Mr. Speaker: Mr. Attorney-General, a lot of these things hang on you. So, I expect you to move with full speed.

Mr. Kombo's Motion is deferred.

(Motion deferred)

Next Order!

COMMISSION TO REVIEW SALARIES
OF MEDICAL PERSONNEL

THAT, while appreciating the critical role played by the nurses and doctors in provision of medical services to *wananchi*, aware of the difficult and poor working conditions prevailing in all public health institutions; noting with concern that salaries of these health workers have not been reviewed for the last ten years; and cognisant of the fact that these officers are almost living below the poverty line; this House urges the Government to appoint a Salaries Review Commission to review the salaries, allowances and other benefits for the nurses and doctors and that the findings and report thereon be tabled before this House within three months after the appointment of the Commission.

Mr. Speaker: Is Mrs. Mugo not here? I suppose it is reasonable to expect Mrs. Mugo not to anticipate that her Motion would come this early in the day since other Motions were listed above hers. I think that is a reasonable excuse not to move, but not an excuse not to come to the House.

(Motion deferred)

ADJOURNMENT

Mr. Speaker: Order, hon. Members! I do not think we have any other Business left. That concludes our sitting for the morning. The House is, therefore, adjourned until this afternoon at 2.30 p.m. The House rose at 10.10 a.m.