

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 16th August, 2005

The House met at 2.30 p.m.

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

### PRAYERS

### NOTICE OF MOTION

CANCELLATION OF DE LA RUE  
CURRENCY PRINTING CONTRACT

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, given the sensitive nature of the process of procuring Kenya's currency notes, printing and emerging details that the current printers M/s De La Rue Currency and Security Print (UK) Ltd. have sole rights over several features of Kenya currency, aware the concerns of the Minister for Finance that the existing contract between the Central Bank of Kenya (CBK) and De La Rue Currency and Security Print (UK) Ltd. is irregular; this House urges the Government to immediately cancel the contract with De La Rue, and further fresh competitive bids be invited.

### QUESTIONS BY PRIVATE NOTICE

CLOSURE OF WORLD BANK-FUNDED  
KUTIP LOAN FACILITY

**Mr. Sirma:** Mr. Temporary Deputy Speaker, Sir, although I have not received a

copy of the written answer, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that the World Bank and the International Development Assistance (IDA)-funded Kenya Urban Transport and Infrastructure Programme (KUTIP) loan facility was closed on 30th June, 2005?

(b) Is he further aware that there are unpaid bills under this project for works already completed but not paid for?

(c) When and how will the pending bills be paid?

**The Temporary Deputy Speaker** (Mr. Poghisio): The Minister is out of the country and has requested me to defer the Question! Mr. Sirma, is that okay with you?

**Mr. Sirma:** Mr. Temporary Deputy Speaker, Sir, the Minister has two Assistant Ministers who should have answered this Question. Therefore, this is in breach of the rules of this House. It also shows disrespect to this House.

**The Temporary Deputy Speaker** (Mr. Poghisio): The Leader of Government Business,

what do you have to say?

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Temporary Deputy Speaker, Sir, this was an important Question which needed authorization from the Minister. This is a Question by Private Notice and it arrived when the Minister had already prepared to leave the country for China.

**Mr. Koros:** Mr. Temporary Deputy Speaker, Sir, there is something wrong with this Question. It was asked last week and the Chair ruled that it be answered today. I think there is something fishy about this Question!

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Poghio): At least, we know that the Minister is out of the country and there is no one to answer the Question. So, the Question is deferred!

**Mr. Sirma:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister for Local Government, Mr. Tarus, promised the House, and this is on the HANSARD, that he will answer the Question today if the House did not go on recess on Thursday last week.

**The Temporary Deputy Speaker** (Mr. Poghio): Anyway, the Question is deferred!

*(Question deferred)*

#### MISAPPROPRIATION OF FUNDS BY CKRC

**Mr. Cheboi:** Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Justice and Constitutional Affairs the following Question by Private Notice.

(a) Is the Minister aware of widespread misappropriation of funds allocated to the Constitution of Kenya Review Commission (CKRC)?

(b) What urgent steps is the Minister taking to improve accountability and transparency at the CKRC before the release of Kshs1.4 billion to the Commission to conduct civic education before the referendum?

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The funds allocated to the Commission have been utilized as budgeted for. I am not aware of any misappropriation of funds. The funds of the Commission are audited by the Kenya National Audit Office (KNAO) and no report of misappropriation of funds by the Commission has been brought to my attention either by the KNAO or the PAC.

(b) Given my answer to "a", the answer to this question is that the Commission has adequate mechanisms for accountability and there is no crisis which requires special measures before the release of funds to the Commission. The Commission has received huge amounts of money before to discharge its functions under the Constitution of Kenya Review Commission Act, Cap.3(A) and it has been adequately accounted for.

**Mr. Cheboi:** Mr. Temporary Deputy Speaker, Sir, a constitution is a very important document. For quite some time, the CKRC commissioners have been earning salaries without any job. The civic education about the referendum, which is about to kick off, is the first one of its kind in this Republic. Again, we will have civic educators, who are briefcase carriers, invading the markets and spreading the gospel that--

**The Temporary Deputy Speaker** (Mr. Poghio): Mr. Cheboi, what is your question?

**Mr. Cheboi:** Mr. Temporary Deputy Speaker, Sir, what steps will the Assistant Minister take to ensure that civic educators are well trained so that they undertake the task as required?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, the people who will be assigned this work will be vetted by the CKRC. They will be expected to be knowledgeable in civic education. We have many people in this country who are capable of carrying out civic education. We hope that the CKRC will recruit the qualified people to undertake this major exercise.

**Capt. Nakitare:** Thank you, Mr. Temporary Deputy Speaker, Sir. The answer the Assistant Minister has given to this House does not indicate that the civic educators will take an oath of allegiance. Could he tell this House if the civic educators will be sworn in before they go to the public with briefcases?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, under the CKRC Act, there is no provision which states that a person appointed to carry out civic education must take an oath of allegiance. This oath is administered to a people of a country. Since the civic educators will be Kenyans, they will be expected to owe their allegiance to the country.

**Mr. Serut:** Thank you, Mr. Temporary Deputy Speaker, Sir. Most of the civic educators will be hired by the district co-ordinators. The District Co-ordinator for Mt. Elgon District contested the parliamentary seat in 1992, 1997 and 2002 and lost. In my view, these are partisan fellows. Why does the CKRC appoint partisan fellows to co-ordinate a very sensitive issue of constitution-making?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, what the hon. Member has said is true. We have told the CKRC to liaise with the hon. Member of the area when recruiting the constituency civic education co-ordinators to avoid a conflict of interest. As I was coming here, I was told that the CKRC has written letters to all hon. Members indicating who the district co-ordinators are and their telephone numbers. I request hon. Members to get in touch with the district co-ordinators to ensure that the constituency co-ordinators are appointed with their consultation. Under the CKRC Act, partisan people are not supposed to be employed.

**Mr. Omingo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to tell this House that they have instructed the CKRC to liaise with politicians when we know that they have been excluded from this exercise?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, first, I have not said that I have instructed the CKRC to liaise with hon. Members. However, I said that we have requested the Commission to liaise with hon. Members when it recruits the constituency co-ordinators. I have a copy of the letter the CKRC has written to all hon. Members. It says:-

"Please, get in touch with the District Co-ordinator."

**Mr. Mbau:** Mr. Temporary Deputy Speaker, Sir, what the Assistant Minister has said may not be entirely correct because, in yesterday's newspapers, the constituency committee members whose names were published were asked to report to the CKRC so that they can be given letters. The letter the Assistant Minister has talked about was issued earlier on. Is he saying that hon. Members should ignore what was contained in yesterday's newspapers and liaise with the district co-ordinators?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, we can only request the CKRC to view this matter with the seriousness it deserves. If the CKRC goes ahead and appoints constituency co-ordinators without liaising with the hon. Members, there are bound to be many problems and it will not succeed. So, the CKRC must recruit the constituency civic education co-ordinators in consultation with the hon. Members. It is an hon. Member who knows his constituency and the people who are not partisan. The CKRC should take my advice very seriously.

**Mr. Khamasi:** Mr. Temporary Deputy Speaker, Sir, since the Assistant Minister has been informed that the District Co-ordinator for Mt. Elgon District contested in the last general election, could he assure us that he will refer the matter to the CKRC and make sure that a neutral person is appointed?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, from here, I will call the Secretary of the CKRC and give him these facts. Probably, he was not aware of this. The CKRC is not supposed to

appoint people who are partisan. This aspect was overlooked. I will request the Secretary of the CKRC to dismiss the District Co-ordinator for Mt. Elgon District.

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order to ask the Assistant Minister to extend that particular statement to the Commissioners, Dr. P.L.O. Lumumba, who is on record that he wants to vie for a seat in Makadara Constituency and has also taken a very hard stance on this review?

**The Temporary Deputy Speaker** (Mr. Poghiso): That is not a point of order, Dr. Khalwale!

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, Mr. Lumumba is the Secretary of the Commission and not the co-ordinator. So, it has nothing to do with whether he will vie for the Makadara Parliamentary seat or not. In any case, if he does so, that would be his democratic right and I am sure he will be defeated by the current hon. Member for Makadara Constituency who is in this House.

*(Laughter)*

**Mr. Cheboi:** Mr. Temporary Deputy Speaker, Sir, I want this House to take that Question with the seriousness it deserves. When the civic education was conducted last time---

**The Temporary Deputy Speaker** (Mr. Poghiso): Ask your question!

**Mr. Cheboi:** Mr. Temporary Deputy Speaker, Sir. Let me finish!

**The Temporary Deputy Speaker** (Mr. Poghiso): Order, Mr. Cheboi! Ask your question!

**Mr. Cheboi:** Mr. Temporary Deputy Speaker, Sir, when civic education was conducted last time, it did not have any effect on *wananchi*. What is happening now on the ground is a question of voting either "yes" or "no" to the Government's position. We want a situation whereby we are able to distinguish between the Government and the Constitution, because they are two different things. What steps is the Assistant Minister taking to ensure that civic education will achieve the intended results and not just be a question of confidence or no confidence in the Government or the Opposition for that matter?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, civic education has not yet started. It cannot start until the Attorney-General has published the Draft Constitution, because what would they be teaching people about? All they have done is the preparatory work, which is looking for people, so that as soon as the Attorney-General publishes the Draft Constitution they can proceed with the civic education. We have informed the Constitution of Kenya Review Commission (CKRC) that we need to see results on the ground. We have asked them not to appoint partisan people or those who are only interested in politics---

**Mr. Abdirahman:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order not to address the question which the hon. Member had asked? The question is on the curriculum which is being developed for civic education. Will it be about the "yes" or "no" vote or it will be objective about the issues that are in the proposed constitution? Is he in order to mislead the House by giving a different answer?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, I have already answered that question, but if I may repeat, civic education will be on the content of the Constitution. It will show what the current Constitution says, what the Draft Constitution says, the effect of that change and its consequences. At the end of the day, Kenyans will be in a position to understand whether they better off under the new constitution or the old Constitution and whether there are gains that have been made under the new Constitution. There are major gains in the new constitution and I have no doubt that Kenyans will vote "yes."

**Mr. Muturi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister said that there are major gains in the new constitution, which we know for a fact, is being worked on by the Attorney-General and his staff. Is the Assistant Minister in order to begin carrying

out that civic education on the Floor of the House, just like the President of the Republic is already saying "yes" to contents which he does not know, unless they know the contents?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, I am shocked by what the hon. Member has said, when KANU is on record as having said that they will oppose the new constitution when they have not even seen its contents. I will ask them to wait until the Attorney-General has published the Draft Constitution, then they can make up their minds. We know that the Bomas Draft is what will be used except where the PSC made specific recommendations. We have an idea of the Constitution's contents.

## ORAL ANSWERS TO QUESTIONS

### *Question No.614*

#### IMPLEMENTATION OF SPECIAL AUDIT REPORT ON MUHORONI SUGAR COMPANY

**Mr. Bett** asked the Minister for Agriculture:-

(a) whether he is aware that Muhoroni Sugar Company Ltd., (under receivership) has lost Kshs100 million, with interest, to Francis Drummond Company Ltd;

(b) for what purpose the payment to the company was made and who authorized it on behalf of the sugar company; and,

(c) what urgent measures he is taking to implement the recommendations of the Special Audit Report dated 31st March, 2004 on the financial status of Muhoroni Sugar Company Ltd.

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

(a) I am aware that Kshs100 million belonging to Muhoroni Sugar Company Ltd., was paid to Francis Drummond Company Ltd., by receiver managers.

(b) The payments were made by the receiver managers as transfer of funds from their accounts in Kisumu to their accounts in Nairobi under unexplained circumstances.

(c) I have already requested the requisite measures to have the receiver managers vacate Muhoroni as a way of addressing some of the recommendations by the Special Audit Report.

**Mr. Bett:** Mr. Temporary Deputy Speaker, Sir, the Minister has said that the money was transferred from Muhoroni to Francis Drummond for unexplained reasons. We are talking of money belonging to the farmers. Farmers in Muhoroni and Miwani are owed Kshs74 million and Kshs50 million in arrears respectively, while workers in Miwani are owed Kshs83 million. A further amount is owed to the workers of Muhoroni. Despite this, Kshs100 million has been transferred for unexplained reasons to an account of a company which has no relations with Muhoroni. Which is this company that has got the right to take money from Muhoroni for unexplained reasons?

**Mr. Kirwa:** Mr. Temporary Deputy Speaker, Sir, as I have just explained, the company belongs to one of the receivers. I have also indicated that I have not been very comfortable with this receiver manager who was appointed four years ago and has not been able to address some of the TORs given in the appointment. For that reason, I have decided that they vacate the place immediately. I have not been happy for many reasons, one of which includes their not co-operating with us on issues that we demand of them as required by the law, including asking them to provide fee notes for us to pay them. Instead, they have been putting their hands directly into the till.

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, farmers of this country are being robbed in broad daylight. When you transfer funds on unexplained grounds, that borders on a fraudulent

transaction. To date, nobody has been jailed to serve as a deterrent to those who are engaged in corrupt businesses in this country.

**Mr. Kirwa:** Mr. Temporary Deputy Speaker, Sir, I play my role as the Minister and I have already directed the Kenya Sugar Board to take all the necessary steps to remove the receiver manager and also make recommendations to KACA and any arm of Government with the requisite capacity to prosecute, to do so. As to whether anybody is in jail, I cannot answer that issue immediately. I want to assure the House that this money must be recovered at the end of the day and must be safely in the hands of the farmers.

**Mr. Owino:** Mr. Temporary Deputy Speaker, Sir, this company has been running the factory for the last four years. We have complained even to the Minister that this company is milking the factory dry. Why did the Minister decide so late in the day, when the factory had already been milked dry, to chase those people? Has he replaced them?

**Mr. Kirwa:** Mr. Temporary Deputy Speaker, Sir, I went through all the necessary steps, which included commissioning a special audit to look into the affairs of the company. I also discussed the matter with the Assistant Minister for Finance and other relevant authorities who deal with the Receiver Manager. I forwarded the report in February this year to the Ministry of Finance and awaited their reply, which was not forthcoming, thus leading to the action that I took on that particular day.

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

**The Temporary Deputy Speaker** (Mr. Phogisio): What is it, Mr. Mukiri?

**Mr. Mukiri:** Mr. Temporary, Deputy Speaker, Sir, you have heard that Kshs100 million has already gone into---

**The Temporary Deputy Speaker** (Mr. Phogisio): Is it a point of order?

**Mr. Mukiri:** Yes, Mr. Temporary Deputy Speaker, Sir. I am developing my point of order.

**The Temporary Deputy Speaker** (Mr. Phogisio): You have stood on a point of order and not to ask a question.

**Mr. Mukiri:** Mr. Temporary Deputy Speaker, Sir, this is a very serious issue, because I know that pyrethrum farmers lost---

**The Temporary Deputy Speaker** (Mr. Phogisio): Order, Mr. Mukiri! If you did not stand up on a point of order, please, sit down!

**Mr. Mukiri:** I am on a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to say that he has taken some action when we know that Kshs100 million is in somebody's pocket? What action has he taken to make sure that this money is safe? Is he in order to mislead the House?

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Phogisio): Could you ask your last question, Mr. Bett? I have seen what a point of order can turn out to be.

**Dr. Oburu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to avoid answering the **[Dr. Oburu]** Question by giving the measures he will take after the Receiver Managers go? Who is going to take charge after they leave?

**The Temporary Deputy Speaker** (Mr. Phogisio): Could you ask your last question, Mr. Bett?

**Mr. Bett:** Mr. Temporary Deputy Speaker, Sir, for how long has this money been with this company, and how much is the interest that has accrued?

**The Temporary Deputy Speaker** (Mr. Phogisio): Mr. Minister, do also respond to Dr.

Oburu's point of order!

**Mr. Kirwa:** Mr. Temporary Deputy Speaker, Sir, the money was sent to the company in June, 2004, and it remained with it without accruing any interest. The information that the Receiver Managers gave us is that he was going to return the money to the account. But we were not satisfied with his statement and that is why we have taken the following specific actions. First, this afternoon, a committee of the Kenya Sugar Board is going through curriculum vitae (CVs) of individuals for the purpose of selecting somebody to oversee the transition, that is to be in charge between now and the date I gave the Receive Manager to move out of the company. Secondly, we sent in our officers immediately we realised that there was a problem to make sure that no further pilferage of money from the account of the said company took place. Thirdly, we have communicated with all the necessary authorities for the purpose of dealing with this case expeditiously.

*Question No.433*

DETENTION OF MISS GRACE MUTHEU MBATHA AT MAKUTANO POLICE STATION

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

(a) whether he is aware that Miss Grace Mutheu Mbatha, a pupil at Sunflower Junior Academy, Kapenguria, was detained at Makutano Police Station between 25th January and 10th May, 2005;

(b) whether he is further aware that Miss Mutheu and her two sisters were taken from Donyo Sabuk in Kangundo in 1987 by a Mr. Nilson of Sunflower Academy following the murder of their mother;

(c) why the pupil was arrested and why she was not arraigned in court; and,

(d) what action the Minister will take against the OCPD, Kapenguria, who transported the pupil to Nairobi and abandoned her at the Nairobi Country Bus Station instead of taking her to Kangundo.

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, I wish to seek the indulgence of the House. I have an answer which I have shared with my colleague, the hon. Member for Kangundo, and which is inadequate. I require more time to be able to give an adequate answer which can satisfy the House.

**The Temporary Deputy Speaker** (Mr. Phogisio): Mr. M. Maitha, what do you have to say?

**Mr. M. Maitha:** Mr. Temporary Deputy Speaker, Sir, I wish to thank the Assistant Minister for his frankness, because the answer he showed me lacks a lot of details.

I, therefore, agree that he answers the Question later.

**The Temporary Deputy Speaker** (Mr. Phogisio): All right; the Question is deferred.

*(Question deferred)*

Next, Question by the hon. Member for Saku!

*Question No.279*

POVERTY ALLEVIATION  
PROGRAMMES IN MARSABIT

**Dr. Gagallo:** Mr. Temporary Deputy Speaker, Sir, Mr. Sasura is unwell.

**The Temporary Deputy Speaker** (Mr. Phogisio): Okay, this Question is deferred.

*(Question deferred)*

Next Question by the hon. Member for North Mugirango/Borabu.

*Question No.424*

OPENING OF MICRO-FINANCE  
INSTITUTIONS IN NYAMIRA

**Mr. Masanya** asked the Minister for Finance what plans he has to encourage micro-finance institutions to open branches and offer services to small-scale farmers and business people in Nyamira District.

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

To encourage the growth of micro-finance institutions, I have proposed a Micro-Finance Bill, whose principal objective is to provide licensing and regulatory framework for micro-finance institutions in the country. The micro-finance institutions that will be regulated under this Bill shall provide financial services to small and micro-enterprises, and to low-income households in urban and rural areas such as Nyamira District.

The Bill, which is about to be tabled in Parliament, aims at ensuring that licensed micro-finance institutions shall contribute to poverty alleviation and at the same time comply with the requirements of financial sector soundness, safety and stability.

**Mr. Masanya:** Mr. Temporary Deputy Speaker, Sir, apart from the pending Bill the Assistant Minister is talking about, there are already micro-finance institutions established in rural areas, which are suffering from very poor management skills. What is the Assistant Minister doing to help these micro-finance institutions, which are already established?

**Mr. Katuku:** Mr. Temporary Deputy Speaker, Sir, as I said in my response, we have no regulatory framework through which we can assist them, and that is why we have formulated one. Once the framework is available we will assist them.

**Mr. Kagwe:** Mr. Temporary Deputy Speaker, Sir, I just want the Assistant Minister to tell this House whether these micro-finance institutions include SACCOs. SACCOs operate under the Ministry of Co-operative Development and Marketing, yet they provide micro-finance services to rural folk. So, will he bring all these institutions under a single regulatory framework?

**Mr. Katuku:** Mr. Temporary Deputy Speaker, Sir, the Bill I am talking about is pending before the Cabinet for approval, and once it comes here, this House will have the liberty to discuss it and give its suggestions. We will adopt it or improve on it, if it will not contain what the hon. Member has in mind.

Thank you.

**Mr. Masanya:** Mr. Temporary Deputy Speaker, Sir, you heard the Assistant Minister talk of the pending Bill, yet some of the SACCOs have been in existence for many years. How were they established without the legal framework he is talking about?

**Mr. Katuku:** Mr. Temporary Deputy Speaker, Sir, co-operative societies are established under a different regulatory framework, and they are under the Ministry of Co-operative Development and Marketing, whose Minister the other day directed that they should all conduct elections. We appreciate the role they are playing, and the Minister concerned may wish to improve their existing regulations.

**The Temporary Deputy Speaker** (Mr. Phogisio): Next Question by Prof. Oniang'o.

*Question No.017*



INCENTIVES FOR PRIVATE INSTITUTIONS  
TO OFFER TECHNOLOGY-BASED COURSES

**Prof. Oniang'o** asked the Minister for Education, Science and Technology:-

- (a) what incentives he is offering to private institutions to motivate them offer science and technology based higher education courses in the country; and,
- (b) what incentives are offered to teachers of science and technology subjects in order to contribute to Kenya's accelerated industrialization.

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

(a) To motivate private institutions to offer science and technology based higher education courses, the Ministry is doing a number of things, which include:-

(i) We are encouraging the private sector to invest in higher education in general and sciences in particular.

(ii) The cost of inspecting institutions that have to be registered, including science based institutions, is minimum. It costs around Kshs50,000.

(iii) The Government heavily subsidizes the cost of training technical teachers, who also teach in private institutions.

(iv) Kenyans seeking to start private institutions specialising in ICT and other sciences are given priority with regard to inspection and registration.

(b) With regard to incentives offered to teachers of science and technology, they enter the teaching profession in a salary scale that is above the others. We also train science teachers at no cost through an arrangement between Kenya and the Japanese Government.

**Prof. Oniang'o:** Mr. Temporary Deputy Speaker, Sir, I would like to thank the Assistant Minister for that comprehensive answer. However, that information is not in the public domain. We are aware that many universities that are starting offer arts courses. Putting up science laboratories and technical training facilities is very expensive. It is unfortunate that the existing facilities are in a deplorable state. Could the Assistant Minister tell us what the Ministry is doing to fast-track industrialization of this country by 2020, if it is not supporting science and technology facilities?

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, we have big plans to support science and technology institutions in this country. We have voted research money to the Council for Science and Technology. In addition, we are also planning to offer rebates and tax exemptions for investors in education, especially those who are interested in the area of science. We would also like to link all science offering institutions with industries, so that there is continued co-operation in terms of experience as well as designing the curriculum of those institutions. So, we hope to do much more than we are doing. I would like to assure the hon. Member that we are also concerned about the state of science and technology institutions.

Mr. Temporary Deputy Speaker, Sir, some of the universities that were started in this country, including constituent colleges, tend to offer art-based courses because they are easy to start. They do not want to offer science-based subjects because they are very expensive.

**Mr. Karaba:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has said that they are putting a lot of emphasis in science-based courses. However, most schools in this country do not have laboratory facilities. They do not train students in sciences and yet, science subjects are required to enrol into a university.

Mr. Temporary Deputy Speaker, Sir, the current curriculum stipulates that a student must pass in two science subjects. How are students expected to pass those subjects if they do not even have laboratory facilities in their schools?

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, I hope hon. Members are aware of a programme in the Ministry of Education, Science and Technology, where we offer money for nine

schools in each district to equip their laboratories. That is already happening. By the year 2006/2007, most schools in this country will have benefitted. We appreciate that there are problems in most schools. I call upon parents, communities and hon. Members to devote part of their Constituency Development Fund (CDF) resources to put up science laboratories in respective schools.

**Dr. Rutto:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has said that they are considering waiving taxes on science equipment for schools. Could he give us a time-frame within which he intends to do that? Our past experience is that some Ministers come here and tell us they will do this or that and take a long time, even up to 100 years!

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, I would like to confirm that, within the next one year, appropriate measures will be in place to support private sector investments in higher education, including the tax incentives that we are talking about.

**The Temporary Deputy Speaker** (Mr. Poghisio): Last question, Prof. Oniang'o!

**Prof. Oniang'o:** Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister assure us that, in the next year's Budget, he will allocate substantial amounts of money to equip all secondary schools with proper laboratory equipment for all children to benefit?

**Dr. Mwiria:** Mr. Temporary Deputy Speaker, Sir, we would like to invest much more than we have but remember that there are demands from other Ministries. If we have that allocation and we are supported by Parliament, we will fulfil that request. However, we should be careful to say how much we can commit for the time being because we have to negotiate with the Treasury. But let me emphasise that the intention to do so is there.

**The Temporary Deputy Speaker** (Mr. Poghisio): Next Question, Mr. Opore!

*Question No.625*

INDISCIPLINE AMONG RIOTANCHI  
HEALTH CENTRE WORKERS

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

- (a) what the staffing level at Riotanchi Health Centre is;
- (b) if she is aware that staff at the health centre report to work between 11.00 a.m. and 12.00 noon and leave soon after 2.00 p.m.; and,
- (c) what measures she is taking to instill discipline amongst the staff in the health centre and other health centres and rural dispensaries managed in that manner countrywide.

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

- (a) The staffing level at Riotanchi Health Centre is as follows:-

One registered clinical officer in charge, four nurses, one clinical officer, one committee laboratory technician, one support staff and one committee watchman. It has a total of nine members of staff.

- (b) The Ministry has not been notified that the staff at Riotanchi Health Centre report late and leave early.

Procedurally, the complaints from the community are channelled through the health centre management committee to the District Medical Officer of Health (DMOH) or, in special cases, through the Provincial Administration. Such complaints have not been reported to the health management committee or the MOH. The MOH has not noted that issue through supervision. However, we will be vigilant to ensure that all health workers in the country adhere to working hours.

*(Mr. Gumo consulted loudly)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Gumo! Order at the corner there! Please, consult in low tones.

Proceed, Mr. Konchella!

**The Assistant Minister for Health** (Mr. Konchella): Mr. Temporary Deputy Speaker, Sir, in response to part "c" of the Question, the Ministry has encouraged community participation in the management of health services through elected health management committees, whose role is to also protect and advocate for community needs. The district health management teams regularly supervise all health facilities in the district to ensure quality services are provided. Reported cases of indiscipline are seriously addressed and punitive measures taken to correct the problem. They include deduction of salary equivalent to the number of hours that one is late. If that persists, one is disciplined for absenteeism, which often carries the penalty of dismissal from the service.

We have instructed the Provincial Medical Officer (PMO) to visit the health centre in question, meet with both workers and the community to establish the problem and act accordingly to stop the malpractice.

**Mr. Opo:** Mr. Temporary Deputy Speaker, Sir, I am not sure whether the district health management team visits the health centre. Otherwise, that problem would not be in existence. But I am glad to note that the Assistant Minister has instructed the PMO to visit that health centre. I would further request the Assistant Minister to instruct the PMO to make a surprise visit, rather than make an appointment.

**Mr. Konchella:** Mr. Temporary Deputy Speaker, Sir, I believe that, from my response today, it will not be a surprise visit because those officers will be aware that the Government is taking action. However, when the PMO visits that facility, all members of the management team should be present, so that they can be educated on their role. The community will also have an opportunity to listen to what will be said so that, when things go wrong, they can take action.

**Mr. Ndile:** Bw. Naibu Spika wa Muda, hili swala la wafanyakazi katika hospitali za umma kufanya kazi jinsi wanavyotaka wenyewe halitokei kwa mhe. Opo tu bali liko kila mahali. Kuna hospitali moja katika wakilisho langu inayoitwa Kathiaka. Kuna ofisa mmoja wa afya pale ambaye huja kazini saa saba mchana. Yeye huwahudumia watu wawili tu kisha anaenda zake. Watu walipoanza kulalamika, mfanyakazi huyo alisema kwamba atakataa kuwahudumia. Sasa hivi, hiyo hospitali haina mtu wa kuwahudumia wagonjwa. Je, ni nini Waziri Msaidizi anafanya kuhakikisha kwamba wafanyakazi wote wa Wizara ya Afya wana nidhamu, wanafanya kazi kwa bidii na wanafika na kutoka kazini inavyotakikana?

**Mr. Konchella:** Mr. Temporary Deputy Speaker, Sir, the Ministry can only know people who are not working or absent themselves from duty if complaints are brought forward to the Ministry. I want to urge hon. Members and the public in general that any officer who does not work during the required time or behaves in a manner that has been reported by the hon. Member, should be reported to the Medical Officer of Health (MoH) who should take action. If the MoH does not take action against him, we will discipline him.

**Mr. Ngoyoni:** Mr. Temporary Deputy Speaker, Sir, the issue of people avoiding Government health institutions is a common thing in Kenya today. Many Kenyans would rather die at home than actually queue for services at the health facilities and then die. The main reason for that is not lack of drugs, but the negative attitude of the staff. What is the Assistant Minister doing to ensure that the health officers' attitude changes so that Kenyans can get good service?

**Mr. Konchella:** Mr. Temporary Deputy Speaker, Sir, I would also like to say that the issue of attitude of our staff is a concern to the Ministry. However, this can only come to our knowledge if we are told. Should there be officers who have negative attitude, please, let us know so that we can take action against them. It is a serious matter and something that needs to be addressed. The public deserves proper services because it is their right.

**Mr. Opo:** Mr. Temporary Deputy Speaker, Sir, with one clerical officer---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Opo! Had you asked your

last question?

**Mr. Opoire:** Mr. Temporary Deputy Speaker, Sir, I am now asking my last question.

**The Temporary Deputy Speaker** (Mr. Poghisio): Sorry, I had given chance to hon. Mwanacha.

**Mr. Mwanacha:** Mr. Temporary Deputy Speaker, Sir, that is very kind of you. On several occasions, hon. Members on the Front Bench advise us to use our Constituency Development Fund (CDF) money to finance several activities in our constituencies. Indeed, many of us have put a lot of money in the construction of dispensaries.

Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister assure hon. Members that once the dispensaries are complete, the Ministry will provide staff to serve people in those dispensaries?

**Mr. Konchella:** Mr. Temporary Deputy Speaker, Sir, that is a very important supplementary question which I would like the House to listen keenly.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Order, hon. Members! I do not know what is happening in the House, but the Assistant Minister is giving a very important answer and we should listen to him.

**Mr. Konchella:** Mr. Temporary Deputy Speaker, Sir, I wanted to address that question because it is very important and hon. Members should take some interest in it.

We are all aware that every constituency is putting up health centres. If you build, for example, four health facilities in your constituency, there is no way the Minister for Health will get money from this House to recruit additional 3,000 or 4,000 people to work in those health facilities. However, the Ministry of Health is ready to take over the running of health centres that have been upgraded into sub-district hospitals or community health centres. When it comes to dispensaries, I want to tell this House that the Ministry of Health can only recruit one or two people in a year depending on the resources available. Mr. Temporary Deputy Speaker, Sir, I want to suggest to the House that every hon. Member should use about Kshs500,000 or Kshs1 million from the CDF money to employ enough nurses, say two, in every health facility, and the Ministry will provide drugs.

*(Loud consultations)*

**Dr. Ali:** Mr. Temporary Deputy Speaker, Sir, does the Assistant Minister know what the intention of the CDF is? We are not allowed to employ people and pay them with the CDF money. Does he really know that?

**Mr. Konchella:** Mr. Temporary Deputy Speaker, Sir, I believe that if a proposal is sent to the National CDF Management Committee, it will be approved.

**Hon. Members:** No! No!

**Mr. Opoire:** Mr. Temporary Deputy Speaker, Sir, I have not asked my last question. In a case where you have one clerical officer in a health facility, what happens when he goes on leave or falls sick?

**The Temporary Deputy Speaker** (Mr. Poghisio): Is that microphone okay? Please, move to the next one.

**Mr. Opoire:** Mr. Temporary Deputy Speaker, Sir, in case where there is only one clerical officer in a health centre, what happens when he goes on leave or falls sick?

**Mr. Konchella:** Mr. Temporary Deputy Speaker, Sir, I did not get that question.

**The Temporary Deputy Speaker** (Mr. Poghisio): Please, move to another microphone!

**Mr. Opoire:** Mr. Temporary Deputy Speaker, Sir, I asked: When the one clerical officer goes on leave or he falls sick, who does his work?

**Mr. Konchella:** Mr. Temporary Deputy Speaker, Sir, I cannot get the question because there is a lot of noise in the House. Could the hon. Member come to the Dispatch Box?

**Mr. Opore:** Mr. Temporary Deputy Speaker, Sir, my question is about the clerical officer and not the clinical officer. There is only one clerical officer in that health centre. Who does his work when he goes on leave or when he falls sick?

**Mr. Konchella:** Mr. Temporary Deputy Speaker, Sir, I said in my answer that there was a clerical officer in the health centre. Records of the health centre have to be kept within the health centre. I believe that the role of health officers is not only to treat patients, but to also keep records.

*Question No.143*

INCOME-GENERATION FROM UMANI  
WATER SANITATION PROJECT

**Mr. Ndile** alimuuliza Waziri wa Maji na Unyunyiziaji:-

(a) ikiwa anajua ya kwamba mradi wa Umani Water and Sanitation ulikuwa ukizalisha Kshs300,000 kila mwezi kabla ya kukabidhiwa usimamizi wa Jamii (community management);

(b) ni pesa ngapi huzalishwa kila mwezi baada ya mabadiliko katika usimamizi wa mradi huo; na,

(c) uchaguzi wa wasimamizi wa mradi huo ulifanyika lini.

**The Minister for Water and Irrigation** (Ms. Karua): Bw. Naibu Spika wa Muda, ningependa kujibu Swali hilo ifuatavyo:

(a) Ninafahamu kwamba mradi wa maji wa Kikumbulyu ambao ulipewa jina la Umani Water and Sanitation baada ya usimamizi wake kukabidhiwa wananchi ulikuwa ukipatia Serikali pato lisilopungua Kshs111,977 kila mwezi. Wizara yangu iliufanyia ukarabati mradi huo kwa gharama ya Kshs4,500,000 punde tu baada ya kukabidhiwa wananchi. Hii iliwezesha kiasi cha maji kinachosambaziwa wateja kuongezeka kutoka lita milioni 24 kwa siku hadi lita milioni 29 kwa siku. Ingawaje kiasi cha maji kiliongezeka, mapato yanayotokana na uuzaji wa maji yaliendelea kupungua kwa sababu ya wateja kukosa kulipa madeni yao.

Wasimamizi wa mradi huo hawajatekeleza wajibu wao kuhakikisha kwamba deni ambalo, kufikia tarehe 31 Desemba, 2004 lilikuwa limetimia Kshs4,641,412.50, limelipwa na wateja waliopata huduma za maji.

Bw. Naibu Spika wa Muda, kwa kipindi cha miaka mitano ambayo mradi huo umekuwa chini ya usimamizi wa wananchi, pato lililotazamiwa kukusanywa ni Kshs168,743.20 kila mwezi. Lakini kiasi ambacho kiliweza kukusanywa kila mwezi kilikuwa hakipungui Kshs111,386.40. Kamati ya muda kutoka kwa wananchi ilibuniwa mwaka wa 1997. Kabla ya hapo, usimamizi wa mradi huo ulikuwa chini ya Wizara yangu. Kamati hiyo ilikabidhiwa rasmi usimamizi wa mradi huo tarehe 14 Januari, 2002.

*(Loud consultations)*

**Mrs. Mwendwa:** On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a very important Question because it regards water. Can we pray for the House to let us listen? There is too much noise!

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

**Mrs. Mwendwa:** Mr. Temporary Deputy Speaker, Sir, I request you to help us, so that we can listen to what the Minister is saying. We are interested in what is being said! Could you help us?

**The Temporary Deputy Speaker** (Mr. Poghio): I have heard you! I would like to ask hon. Members to listen to the Minister.

Proceed, Madam, Minister!

**The Minister for Water and Irrigation** (Ms. Karua): Bw. Naibu Spika wa Muda, moja ya majukumu ya kamati hiyo ni kusajili wanachama ambao wangewachagua wanakamati wakati wa uchaguzi. Kufikia Januari 2003, miaka mitatu ilikuwa imepita na uchaguzi ulikuwa bado haujafanyika. Wizara yangu, ikishirikiana na Utawala wa Mikoa, tulijaribu tuwezavyo kuona kwamba uchaguzi umefanyika, lakini hatukufaulu kwa sababu ya mizozo ambayo ilisababisha migawanyiko kwenye mradi.

Bw. Naibu Spika wa Muda, Wizara yangu, kupitia kwa Athi Water Service Board ina mipango ya kusadia wanachama waliosajiliwa rasmi katika mradi huo kupata kamati mpya ya usimamizi ambayo itawezesha kikundi ambacho kinasimamia mradi wa Umani kupata kibali cha kupeana huduma za maji kutoka kwa mradi huo, kuambatana na sheria mpya ya maji ya mwaka wa 2002.

**Mr. Ndile:** Bw. Naibu Spika wa Muda, umesikia Waziri akikubali kwamba kamati iliyowekwa na wananchi ni ya watu wanane ambao wamekuwa "wakila" kutoka kwa hayo maji kwa miaka mitano na miezi minane. Hata waliuza seng'enge! Kuna msembo ya Kikamba usmeao: "Unaweza kutoka kwenye msitu wenye fisi na kuingia ule wa simba." Wizara ilikuwa inasimamia maji vizuri. Lakini Wizara ilipeana usimamizi wa mradi huo kwa watu wanane na wakashindwa---

**The Temporary Deputy Speaker** (Mr. Poghisio): Ask your question!

**Mr. Ndile:** Bw. Naibu Spika wa Muda, wacha nimalize! Wizara inasema kwamba itapeana usimamizi wa mradi huo kwa bodi ya Nairobi. Ningependa kumweleza Waziri kwamba Wakikuyu ni marafiki wangu sana! Lakini hiyo bodi ina Wakikuyu watupu! Swali langu ni kwamba: Ulitumia mwongozo gani kuchagua bodi hiyo?

**Ms. Karua:** Bw. Naibu Spika wa Muda, sikutaja Nairobi! Sijui Bw. Ndile alitoa jina hilo wapi! Nilisema Athi Water Service Board. Bodi hiyo inasimamia maji katika eneo lote ambalo linatoa maji yake kutoka Mto Athi. Mto huo umepitia Nairobi hadi Makueni. Nimesikia Bw. Ndile akisema kwamba bodi hiyo iko na Wakikuyu. Nakubali iko na Wakikuyu na watu wengine wote ambao wanatakiwa kuwa kwa hiyo bodi. Hatuweki watu katika bodi kulingana na kabila. Tunaweka wasimamizi wa serikali za miji na makarani. Ikiwa makarani hao wanatoka kabila moja, hilo si jambo la Wizara ya Maji na Unyunyisaji. Lakini, niko na uhakika kwamba usimamizi wa maji ni jukumu la makabila yote katika maeneo ya Bunge. Ningependa kuwauliza Wabunge wenzangu na wananchi wapate maelezo kutoka kwa hizo bodi ili waelewe ni nani wanaosimamia bodi hizo ili wasilete maneno yasiyo ya ukweli.

**The Temporary Deputy Speaker** (Mr. Poghisio): Last question, Mr. Ndile!

**Mr. Ndile:** Bw. Naibu Spika wa Muda, katika ukurasa wa mwisho wa jibu la Waziri umeandikwa "Athi/Nairobi". Ukiangalia majina ya watu kwenye hiyo bodi, utapata Gatonyi, Njagi, Macharia, Elizabeth Muthoni, Muthiga, Gakuo, Kahura na Gakuvia. Shida ya maji Ukambani inajulikana tangu tulipojipatia Uhuru. Kwa sasa, usimamizi wa maji umewekwa kwa mikono ya Wakikuyu---

**The Temporary Deputy Speaker** (Mr. Poghisio): Ask your question!

**Mr. Ndile:** Bw. Naibu Spika wa Muda, Waziri atafanya nini kuhakikisha kwamba Wakamba wa Kibwezi na sehemu nyingine Ukambani zitapata maji? Shida ya Nairobi ni mahali pa kwenda kujisaidia na sio maji. Ni *sewage!* Watu wamekula na kushiba. Ukambani hatutaki mahali pa kujisaidia kwa sababu tuna njaa. Hawa watu---

(Laughter)

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

**Ms. Karua:** Bw. Naibu Spika wa Muda, kama ningeweza, ningemweleza kwa Kikamba ili aelewe kabisa!

*(Laughter)*

Ningependa kusema kwamba tumefanya mikutano ya kutosha. Tumewaita Wabunge ili kuwajulisha mipango iliyoko. Kuna Mbunge fulani ambaye kila siku anauliza ikiwa kuna Wakamba kwa bodi. Hatuchagui watu kulingana na kabila yao.

Namuuliza Mheshimiwa Mbunge akaribie ili aelezwe ni nani wako kwa bodi. Wale wako wanatosha na wataendelea kusimamia shughuli za maji. Watapatia kila mtu huduma za maji. Usimamizi wa bodi wa maji si za makabila bali ni wale wanaweza usimamizi huo na wataendelea kuongoza bodi hizo.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! Our time is up! Next Question by Mr. Mbau!

*Question No.558*

NON-REFUND OF SHARES TO  
MR. NG'ANG'A GITAU BY RELI SACCO

**Mr. Mbau** asked the Minister for Co-operative Development and Marketing:-

- (a) whether he is aware that Reli Co-operative Society has not been paying its members their shares even when they retire; and,
- (b) when the society will pay Mr. Joseph Ng'ang'a Gitau, P/No.119960C, who retired in 1999, his outstanding balance of Kshs52,411.

**The Minister for Co-operative Development and Marketing** (Mr. Ndwiga): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware.

(b) Mr. Joseph Ng'ang'a Gitau, P/No.119960C, will be paid his outstanding balance of Kshs52,411 as soon as the Kenya Railways Corporation releases the member's cheque of his dues to the society. To speed up the process, I have intervened to ensure that this is done as soon as possible.

**Mr. Mbau:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for that answer but I want to seek a clarification from him. Could the Minister state what he means by "as soon as possible" given that this amount has been outstanding since 1999?

**Mr. Ndwiga:** Mr. Temporary Deputy Speaker, "as soon as possible" means "very soon".

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Minister, I am sure you can do better than that.

*(Laughter)*

**Mr. Ndwiga:** Mr. Temporary Deputy Speaker, Sir, I appreciate hon. Mbau's Question. I would like to clarify that the Reli SACCO has a membership of 13,194 members. The current active members are 5,213. That means that more than 6,000 members of Reli SACCO either retired or are dead. However, I have heard the problem and I appreciate the support that I have got from Members of this House.

In the past, employers never used to remit dues of their members to the Reli SACCO and that is how this problem came about. However, currently, there is a programme where Reli Co-operative Society remits some dues every month. I do not want to give a specific date but this gentleman will be paid his dues very soon.

**Mr. Mwenje:** On a point of order, Mr. Temporary Deputy Speaker, Sir. You can see clearly that my friend, the Minister is avoiding to answer this Question because he is only being asked when Mr. Ng'ang'a will be paid his dues and not about all the others. You know how ambiguous the word "soon" is. Could the Minister tell us whether Mr. Ng'ang'a will be paid next month, year, week, today

or tomorrow? Could he state the exact time when Mr. Ng'ang'a will be paid his money?

**Mr. Ndwiga:** Mr. Temporary Deputy Speaker, Sir, this gentleman will be paid soonest; that means "very soon". "Very soon" from today means either this month or next month.

**Mr. Mbau:** Mr. Temporary Deputy Speaker, Sir, since the Minister is unable to define what "as soon as possible" means, I am left with no other option other than to keep following him instead of expecting a categorical answer in this House.

## MINISTERIAL STATEMENTS

### DENIAL OF ENTRY INTO POLICE STATION TO KNCHR CONTRARY TO THE LAW

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, on 10th August 2005, hon. Omingo rose on a point of order to seek a Ministerial Statement regarding the conduct of police who are alleged to have barred the Kenya Human Rights Commission officials from entering Port Police Station on the last week of July 2005. I wish to respond as follows:

Mr. Temporary Deputy Speaker, Sir, first, I wish to clarify the confusion implied in the HANSARD by referring to the Kenya National Commission on Human Rights (KNCHR) as Kenya Human Rights Commission (KHRC). It is important to make this distinction because the two organisations have different legal powers, rights and responsibilities in as far as access to police stations and other detention facilities are concerned. The former is a statutory body established under an Act of Parliament while the other is a non-governmental organisation. Having made that distinction, as I did state here on the Floor of the House on 10th August 2005, specifically Section 18 of the Act clearly spells out the powers of the KNCHR. It states:-

"The Commission shall have all the powers necessary or expedient for the proper performance of its functions under this Act. It shall not be subject to the direction or control of any person or authority".

Section 19(1) of the Act states:-

"The Commission has powers of a court in performance of its functions".

Mr. Temporary Deputy Speaker, Sir, there is, therefore, no need to belabour the point or gloss over the issue. Section 16(1) (B) is clear and it states:-

"Among other functions, the Commission shall go and visit prisons and places of detention or related facilities with a view to assessing and inspecting the conditions under which the inmates are held and make appropriate recommendations thereof".

Section 19(6)(D) clearly states that:-

"A person who causes an obstruction or disturbance in the course of any proceedings before the Commission, commits an offence and shall on conviction be liable to a fine not exceeding Kshs20,000 or to imprisonment for a term not exceeding six months or both".

Mr. Temporary Deputy Speaker, Sir, I have found it expedient to make this long citation of some of these sections of the KNCHR Act to make it abundantly clear to any person that may doubt the commitment of the Government to the rule of law, to unequivocally understand that no Government machinery or its agent shall be allowed to obstruct or frustrate the legitimate functions of the KNCHR. The Government policy always finds its expression in the law and the policy cannot therefore operate outside the law. Preliminary information does not seem to clearly explain under what circumstances the alleged incident took place. I am therefore not satisfied that the facts availed to me as of now are sufficient to enable me make a comprehensive Statement to dispose off this matter. I have hence instructed a thorough investigation into the allegations being made to bring this matter to a



conclusive end.

As I did promise the House last week, any officer who can be proved to have acted contrary to the law by preventing or hindering the legal access of the commissioners or the officials, will be dealt with in accordance with the law.

Mr. Temporary Deputy Speaker, Sir, I have already instructed that a circular be issued to all law enforcement officers on the legal mandate of the Kenya National Commission for Human Rights (KNCHR), just in case this may not be clear to some of them. I wish to assure the House that the Government takes seriously the work and responsibility of the KNCHR as contained in the Act and will continue to strive to facilitate its functions.

Thank you.

**The Temporary Deputy Speaker** (Mr. Poghio): Mr. Omingo, you can seek one clarification from the Assistant Minister.

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, I rise to seek a clarification from the Assistant Minister. Indeed, he has accepted the fact that there is a law that was flouted under Section 16(1)B and there is a provision for penalty and fine on the offenders under Section 9. There was an obvious show at the Port Police Station, which was captured on television, that the officers in charge did actually turn down the request for access. When the officers introduced themselves one of them said: "I do not care". What specific action has the Assistant Minister taken on that particular case which is obvious, among the many - which number about 20 today - that have been deferred from entering police stations?

**Mr. Mwenje:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister says he is going to investigate the case. It is true that the Committee on Administration, National Security and Local Authorities has received a complaint written by the Chairman of the KNCHR on the same case. The letter is, indeed, copied to the Minister in charge of national security. So, I am surprised when the Assistant Minister says that he is going to investigate, when, indeed, they had been informed by the Commission of the behaviour by the officer from the prison.

Mr. Temporary Deputy Speaker, Sir, since the Assistant Minister says he is going to investigate, it means he cannot give a conclusive answer. Could this issue, therefore, be postponed until he comes and tells us the results of the investigation which we are also doing, so that we can have a conclusive answer on this particular issue?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I also want to seek a few clarifications from the Assistant Minister. I want to start by appreciating his sincerity and honesty on this issue. I cannot agree more with Mr. Omingo, that it was in the public domain when the police officer was telling the Commissioners of the KNHRC that he did not care. What measures has the Assistant Minister put in place to handle such a scenario? Since those police officers investigate themselves, what independent bodies will he put in place in order to investigate these kind of cases?

Mr. Temporary Deputy Speaker, Sir, secondly, in the spirit of the KNHRC and the commitment of this Government to human rights, was it fair for the Government to unleash that kind of force on mere protestors that were just making a point?

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I will start with the last comment. First, the Commissioners of the KNHRC were not protesting. They were carrying out their legal mandate under the Act. They are entitled to visit all places of detention, including prisons and police stations. So, in execution of their duties, if any person causes an obstruction, he will be in breach of the law. I do not have the advantage of having seen the television footage on this particular officer. Some of the information I am seeking is to get that footage. I can assure this House that, that officer will be dealt with in accordance with the law. We have decided to make this elaborate Statement and we have assured the Commissioners of the KNHRC that a circular is going to be issued to all police stations across the country, to ensure that when they make surprise visits to police stations, they are facilitated. Their work is to inspect the places of detention and investigate any abuses of human rights within police stations.

Mr. Temporary Deputy Speaker, Sir, the complaints are supposed to be lodged with the Attorney-General. When the Commissioners are dissatisfied with the work of the police or prisons, for that matter, that Act says that they are supposed to lodge their complaints with the Attorney-General. I saw a copy of the complaint to the Attorney-General, but I am yet to see the response from him regarding the complaint, that they were denied access. From now onwards, I can assure the Commissioners that they will be free to visit police stations, even without notice.

**The Temporary Deputy Speaker** (Mr. Poghiso): The last Ministerial Statement is by the Minister for Justice and Constitutional Affairs.

Proceed!

DISCRIMINATION AGAINST KENYANS  
IN PROSECUTION OF CASES

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): Mr. Temporary Deputy Speaker, Sir, pursuant to the request by hon. Ndile, I wish to make the following Statement. The Ministry of Justice and Constitutional Affairs has noted the concern by the hon. Member over the handling of a number of cases affecting certain persons who are seen to have support of the British or other developed countries. An impression has been created in the media, which was echoed by the hon. Member, that the Government is condoning the discriminatory treatment of Kenyans by foreigners. I want to state categorically that this Government would like to assure every person in Kenya that it is committed to protecting the rights of all Kenyans, both inside and outside this country. The Government will not allow Kenyans to be mistreated by foreigners within or outside Kenya. The Government respects the rights of all Kenyans and does not condone discrimination on the basis of class, race, gender, religion, creed, other aspirations or status.

Mr. Temporary Deputy Speaker, Sir, our Constitution is very clear; that all persons in Kenya enjoy fundamental freedoms recognised by international human rights instruments and the Constitution of Kenya. Kenya is signatory to all primary human rights instruments. The concerns by Kenyans about possible discrimination in prosecution of cases involving foreigners, revolves around the Attorney-General's decision to prosecute or terminate prosecution.

I would like to emphasise that the decision to prosecute or not, lies entirely within the constitutional discretion of the Attorney-General under Section 26 of the Constitution. In exercise of that discretion, the Attorney-General is not subject to the direction of any person or authority. The Attorney-General's discretion to prosecute cannot, therefore, be questioned without breaching this constitutional provision.

The Delamere case which the hon. Member referred to is *sub judice*, because there is an inquest that is on-going and, hence, I cannot comment on it. With the British soldiers' case, the complaint was withdrawn by the complainant and, hence, they were discharged by the court. The complainant and the accused privately agreed to settle the matter out of court. This was perfectly in order because Section 204 of the Criminal Procedure Code, Chapter 75 of the laws of Kenya provides that a complainant may at any time before the final order of the court, apply to the court to withdraw his complaints. If the court is satisfied that there are sufficient grounds for doing so, it may permit him to withdraw the complaint. The decision as to whether a case should be terminated or not is that of the court. Since our Judiciary is independent, and the law is very clear on the matter, we should respect the decision of the court in this matter.

Mr. Temporary Deputy Speaker, Sir, as to whether the charges preferred against the soldiers were appropriate, it is important to point out that each case should be considered on its own merit. That is why the Attorney-General has the discretion to institute criminal proceedings, take over criminal prosecutions and discontinue prosecutions in order to deal with varying circumstances as public interest demands.

Every country has its own legal system that is founded on its own values, constitution and

statutes. We, as Government, will continue treating the people of Kenya according to our Constitution and laws.

**Mr. Ndile:** Jambo la nidhamu, Bw. Naibu Spika wa Muda. Waziri, ambaye pia ni mwanasheria, anajua kwamba katika kesi ya uhalifu, mlalamishi ni Serikali. Kwa mfano, mtu yeyote akimkata mtoto wangu shingo halafu mimi na mke wangu tukubaliane kuiondoa kesi hiyo kortini, Serikali haitakubali. Katika kesi hii, inadaiwa kwamba washukiwa walimnyang'anya mtu gari. Ni hatia kwa mwenye kuibiwa kwenda kuzungumza na hao washukiwa kwa sababu aliingilia ushahidi. Katika kesi hii, wao wangukuwa mashahidi wa Serikali. Ningependa Waziri aliangalie jambo hili kwa makini kulingana na sheria halafu atufafanulie, kwa sababu sijamuelewa. Katika kesi hii, mlalamishi ni Serikali kwa niaba yetu sote, kwa sababu washukiwa walijarabu kuwaibia Wakenya.

Kama washukiwa hao wangukua wanatoka Meru au Ukambani, wangukua katika jela ya Kamiti. Lakini kwa sababu ni Wazungu, ilibidi waachiliwe huru kwa sababu sheria inawapendelea.

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): Mr. Temporary Deputy Speaker, Sir, my statement was very clear. It is unfortunate that, from the statements made by the hon. Member, he has not even followed what I have said.

**Mr. Wario:** Bw. Naibu Spika wa Muda, Mwafrika akihusika katika kitendo cha jinai, mahakama huchukua miaka mitano au sita kufikia uamuzi, lakini kitendo kama hicho kikifanywa na Mzungu, Serikali huchukua siku mbili au siku tatu kufikia uamuzi.

Mfano ni kesi ya mjukuu wa Lord Delamere iliyotupiliwa mbali punde tu mshukiwa alipopelekwa kortini na ile ya "wezi maalumu" wa hivi majuzi. Kwa nini Serikali huchukua muda mufupi kutoa hukumu kwa mshukiwa wa jinai kama mhusika ni Mzungu, na kuchukua muda mrefu kufikia uamuzi ikiwa mshukiwa ni Mwafrika?

**The Temporary Deputy Speaker** (Mr. Poghisio): Hon. Members, generally, that will be the last clarification.

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): Mr. Temporary Deputy Speaker, Sir, as I pointed out, our courts are strictly guided by the Criminal Procedure Code, the Constitution and the laws of this country. Whatever decisions are made, are made within the framework of those laws.

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

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Order! Hon. Members, I have given you more than enough time to seek clarification on this Ministerial Statement. We have, therefore, to make progress.

**[The Temporary Deputy Speaker]**

Before we proceed to the Motion for the Adjournment, there is a Communication from the Chair.

## COMMUNICATION FROM THE CHAIR

### RESUMPTION OF DEBATE ON THE MOTION FOR ADJOURNMENT

Hon. Members, as you are aware, the House was scheduled to adjourn last Thursday, 11th August, 2005, until Tuesday, 27th September, 2005. The Vice-President and Minister for Home Affairs moved the Motion for the Adjournment which was debated for two hours and fifteen minutes. At 6.30 p.m., the Government Chief Whip, Mr. N. Nyagah, in accordance with Standing Order No.25(1), raised the issue of quorum. The Chair confirmed that the House did not have quorum and directed that the Division Bell be rung. The Bell was rung for the requisite period but the House did

not realise quorum. Subsequently, and in accordance with Standing Order No.25(1)(a), the Chair interrupted the business then under consideration and adjourned the House without Question put. We shall, therefore, resume the debate that was interrupted last Thursday, and which had a balance of time of 45 minutes.

### MOTION FOR THE ADJOURNMENT

ADJOURNMENT OF THE HOUSE TO  
A DAY OTHER THAN THE NEXT  
NORMAL SITTING DAY

THAT, this House do now adjourn until Tuesday, 27th September, 2005.

*(The Vice-President and Minister  
for Home Affairs on 11.8.2005)*

*(Resumption of Debate  
interrupted on 11.8.2005)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Hon. Members, Mr. Wario was on the Floor when we adjourned last Thursday.

**Mr. Wario:** Ahsante, Bw. Naibu Spika wa Muda, kwa fursa uliyonipa--

### POINT OF ORDER

MEMBER SHOULD SUBSTANTIATE  
CLAIM ABOUT MINISTERS'  
INVOLVEMENT WITH DRUGS HAUL

**The Assistant Minister for Finance** (Mr. Katuku): On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek your ruling on the matter which made us not to adjourn on Thursday. You had promised to make a ruling on remarks made by Mr. Keter while contributing to this debate. His allegations are recorded in the HANSARD as follows:-

"**Mr. Keter:** It is common knowledge that some Cabinet Ministers, senior police officers and senior judicial officers went to the Netherlands. That is a fact. They went to negotiate for release of the drugs--"

Mr. Temporary Deputy Speaker, Sir, you promised to make a ruling on this issue, because we had demanded that Mr. Keter either gives a substantiation of the matter or withdraws the remarks. I would, therefore, at this point, request the Chair to give us guidance on this issue.

**The Temporary Deputy Speaker** (Mr. Poghisio): What is your reaction, Mr. Keter?

**Mr. Keter:** Mr. Temporary Deputy Speaker, Sir, I want to correct the impression created by my colleague, Mr. Katuku, that I said that the Ministers went to negotiate. Let us read the HANSARD as it is. On that day, I said:-

"Some senior Government officials have travelled to the Netherlands. I do not know whether they went there to negotiate for the release of those drugs. So, I want the Government to be bold enough and tell us exactly what is happening. Do we have the drugs or they are no longer there?"

That is what was captured by the HANSARD on that day.

Another issue that I would like to clarify is that I never sneaked out of the Chamber on that day. I spoke until my time was over and sat down until when Mr. Wario took the Floor. That was

when I walked out of the Chamber. However, I can clarify some of the issues I mentioned.

**Hon. Members:** No! No! That is enough!

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): On a point of order, Mr. Temporary Deputy Speaker, Sir. If I understood your ruling last Thursday, you were to look at the HANSARD and be able to give direction to the House. This is now the opportunity for the Chair to give us direction. I believe you have read the HANSARD.

**The Temporary Deputy Speaker** (Mr. Poghio): Unfortunately, Mr. M. Kariuki, you do not stand on a point of order to direct the Chair on what to do! The Chair has all the time! You do not give time to the Chair!

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

My position, as the Chair at that time, was that I would look at the HANSARD and see whether Mr. Keter had something to answer for. I also said that, if he did, he will be made to withdraw, apologise or substantiate. So, those options are still very open to Mr. Keter at this particular time.

Mr. Temporary Deputy Speaker, Sir, again, as I said that time, I did not hear what Mr. Keter had said to amount to a declaration that Ministers went to negotiate for this and that. The HANSARD is out! I would be very pleased if any of you showed me where he said what you said he said!

**The Assistant Minister for Finance** (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, I would like to show you what he said by reading page 64 of Thursday's HANSARD. He started by saying:-

"We have also been told that some senior Government officials have travelled to the Netherlands. I do not know whether they went there to negotiate for the release of those drugs. So, we want the Government to be bold enough and tell us exactly what is happening. Do we have the drugs or they are no longer there"

Mr. Temporary Deputy Speaker, Sir, he went on to say:-

"Mr. Temporary Deputy Speaker, Sir, it is common knowledge that some Cabinet Ministers, senior police officers and senior judicial officers went to Netherlands. That is a fact. So, I am not saying---"

Then he was interrupted. He went on to say:-

"Mr. Temporary Deputy Speaker, Sir, these are not rumours. They are facts"

Mr. Temporary Deputy Speaker, Sir, we are, therefore, insisting that, if they are facts, why can he not lay them on the Table?

**Hon. Members:** Why? Why?

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, to go even further, I would like to call your attention to page 99. There, Mr. Charles Keter says:

**The Temporary Deputy Speaker** (Mr. Poghio): Page 99?

**Hon. Members:** *Hiyo ni yako!*

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Githae): It is for 11th, August, Mr. Temporary Deputy Speaker, Sir. Let me quote for you what he says:-

"Mr. Temporary Deputy Speaker, Sir, I forgot the manifest showing the names of the Cabinet Ministers, a senior police officer and some judicial officers who went to Netherlands, in my office."

Mr. Temporary Deputy Speaker, Sir, could he table the manifest here showing the Ministers

and judicial officers who went to the Netherlands to negotiate for the sale of cocaine?

**Hon. Members:** Which page?

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Githae): It is on page 99, Mr. Temporary Deputy Speaker, Sir.

**An hon. Member:** *Hakuna* page 99!

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Githae, we do not have page 99!

**An hon. Member:** It is on page 64.

**The Temporary Deputy Speaker** (Mr. Poghisio): It is on page 64?

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

**The Temporary Deputy Speaker** (Mr. Poghisio): Why are we operating on points of order now?

**Mr. Osundwa:** Mr. Temporary Deputy Speaker, Sir, it is common knowledge---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Osundwa! Will you sit down? I am still looking for---

*(Applause)*

Order, hon. Members! Last time, I said that the HANSARD will bail us out. Really, it will, indeed, bail all of us out. I am saying that I do not want any response now. I am looking for the place that says the things that you said Mr. Keter said. Then, we can go ahead and turn to him.

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Speaker, Sir. If we understand what is being discussed here correctly, it refers to something called drugs. In my own mind, and I hope in the minds of all the other hon. Members, "drugs" do not mean Aspro, Panadol and what-have-you. It looks like they are referring to hard stuffs called cocaine, heroin and others. If that is the case then, this is not just a matter of national importance, but also of international importance.

In that regard, Kenyans would like to be told the truth about that consignment. Would I be in order to ask the Minister in charge to stand up here and tell us, categorically, the whereabouts of those drugs?

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Poghisio): That is directed to a Minister, I do not know which Minister it is.

**Hon. Members:** The Minister of State, Office of the President!

**The Minister for Co-operative Development and Marketing** (Mr. Ndwiga): Mr. Temporary Deputy Speaker, Sir, according to our Standing Orders, hon. Members are responsible for the utterances that they make here. It has been made very clear and sections have been read from the HANSARD, which is the official record of this House, that some allegations were made. I think that the only honourable thing left to an hon. Member of this House is to either own up to those statements or deny them.

Mr. Temporary Deputy Speaker, Sir, it has been proved very clearly--- I think the reason why we are vilified by both the Press and members of the public is because we behave dishonourably in this House. Some of those small issues get big. We are guided by the Standing Orders. Hon. Keter, who is an hon. Member of this House, has a responsibility. It is either he knows or he does not know. The record has been read.

Therefore, Mr. Temporary Deputy Speaker, Sir, I think the question here is that you are required to give us guidance.

**The Temporary Deputy Speaker** (Mr. Poghisio): Yes! The hon. Member for Kapenguria Constituency! What is it?

**Mr. Moroto:** Ahsante sana, Bw. Naibu Spika wa Muda. Naamini kwamba kuna kitu Mungu anataka kufanya juu ya jambo ambalo liko mbele yetu. Kuna hofu kubwa kule nje. Watu wengi wanahofia maisha yao. Hata mmoja wao aliondoka mapema mwaka huu kwa sababu ya jambo hili.

**An hon. Member:** Nani?

**Mr. Moroto:** Alikuwa askari kwa jina Chemorei. Askari huyo aliuawa! Tunaambiwa kwamba kifo chake kinahusika na hayo mambo ya madawa. Kwa hivyo, tunataka Serikali isimame imara na ituambie ni nini kinaendelea. Kama sio hivyo, basi wale wengine wafanye mambo yao!

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! You know we are eating into our time! I am glad to give a chance to Prof. Saitoti, if he has any matter to raise on this issue. That is because he raised many issues on this matter last time.

**The Minister for Education, Science and Technology** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I am looking at the copy of the HANSARD here. I think the most important thing to note is the following:—

If you look at page 64, Mr. Keter had said the following:—

"We know that there are only three people who have the custody of the keys to the premises in which the drugs are locked and some of them have travelled to the Netherlands. We are challenging the Government to---

Something there has actually been left out!

**Hon. Members:** Point it out!

**The Minister for Education, Science and Technology** (Prof. Saitoti): No! No! It is not there! Just read it!

So, Mr. Keter, himself, then says:—

"Mr. Temporary Deputy Speaker, Sir, it is common knowledge that some Cabinet Ministers, senior police officers and senior judicial officers went to the Netherlands. That is a fact".

Mr. Temporary Deputy Speaker, Sir, what we want to be told is:—

Number one, who were the Cabinet Ministers? We are being told that there were Cabinet Ministers! Not one! We are also told that some senior police officers went to the Netherlands. Who are they? We are also being told that there are some senior judicial officers; talking about the judges!

**An hon. Member:** Not necessarily!

**The Minister for Education, Science and Technology** (Prof. Saitoti): Not at all! The way this is put here, you can draw the inference from the first statement that those people were supposed to have gone there on matters of drugs. Exactly! Any intelligent person will be able to understand where he says:—

"You know that there are only three people who have the custody of the keys to the premises in which the drugs are locked and some of them have travelled to the Netherlands".

If you read this, it is common sense and logical to draw the inference that those are matters of drugs. There are drugs which are locked there. Some of those people went there! Mr. Keter then proceeds to say that Ministers, senior police officers and senior officials in the judiciary - meaning the judges--- That, in itself, is casting aspersions! There is even a much more serious one!

Mr. Temporary Deputy Speaker, Sir, I have made the position fundamentally clear. I think the important thing here is that the hon. Member has cast aspersions on Ministers and senior officers of

Government. An hon. Member cannot discuss the conduct of another hon. Member without bringing a substantive Motion. I would like hon. Keter to state categorically that he did not cast aspersions on the Ministers and the members of the judiciary.

**Mr. Ndolo:** Mr. Temporary Deputy Speaker, Sir, we are going round and round in circles. We have Ministers here. Could all of them stand, one by one, and tell us whether they went to The Netherlands or not?

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Poghiso): Order! Order, hon. Members! Actually the position is that an hon. Member is responsible for the accuracy of his information. Mr. Keter, what do you have to say about that? Do you have anything else to say?

**Mr. Keter:** Mr. Temporary Deputy Speaker, Sir, I stand by what I said and the HANSARD can bear me out. If I had sneaked out on Thursday last week, I would not have come here today. So, I am waiting for your ruling. I have nothing to say unless the Chair directs me on where he thinks I should clarify, and I will go ahead and do that.

*(Applause)*

**Mr. Moi:** Mr. Temporary Deputy Speaker, Sir, the drugs problem is a great menace. In fact, it is an international problem. If hon. Keter has any information on any Minister who he suspects of having been involved, he should be giving it to Interpol. However, there is even a more serious problem which was raised by another Member, where the Presidential Jet has been used to ferry girlfriends to Mauritius!

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Poghiso): Order! Order, hon. Members! I think we are taking this a little bit too far. We are talking about something that made us not even to adjourn. It is a serious matter. The argument at that point was that hon. Keter had said certain things about Ministers which he needed to substantiate. I said that the HANSARD would bear us out. If you look at this HANSARD, you will find that we argued a lot at that time; the pressure was mounting. Over the weekend, those of you who were listening to vernacular radio stations they were attacking us. The commentaries were very serious as if there had been literally an intention to spoil the name of any Minister. That is not our intention at all. It is not the intention of the Chair at all to allow that to happen, and that is why I said I did not hear it correctly. Now, having read the HANSARD, you can see that hon. Keter came short of saying anything at all that would have compelled me to ask him to withdraw.

*(Applause)*

If anyone is offended on the Government side, and the offender feels like he is gentleman enough to want to withdraw any statement that he made here, it would be upon the Member.

However, the Floor is still open for anyone who feels that there is anything to be substantiated here to rise and raise it. Otherwise, there is absolutely nothing [wrong with Members travelling to a friendly country called The Netherlands. You can do a lot of extrapolation, inferences or interpretation to get to the point where you want. So, I am still open to a point where we reach an amicable solution as a House, so that when we leave here, we do not have the animosity that we



almost ended with last Thursday.

*(Loud Consultations)*

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think it is not possible to get the correct meaning of the message that was being conveyed by quoting sentences out of context. One has to read the whole text, and the message is absolutely clear here.

We are talking about Government Ministers, judicial officers, police officers; some of them with the keys to the store, travelling to The Netherlands to negotiate, among other things, whatever the negotiations there were. The hon. Member, on page 64 said this,

"I forgot the passenger manifest showing the names of the Cabinet Ministers, a senior police officer and some judicial officers who went to The Netherlands in my office."

Now, this is the opportunity for him to lay the manifest on the Table. He went to his office! Can he lay the manifest on the Table here?

**The Minister for Water and Irrigation** (Ms. Karua): On a point of order, Mr. Temporary Deputy Speaker, Sir. On reading the HANSARD, it is quite clear that the insinuation being made is that some Cabinet Ministers, Government officials and a judicial officer went to negotiate for the release of the said drugs. This puts a cloud over the head of every Cabinet Minister, every senior police officer and every judicial officer. This means that one has to keep on saying "it was not me". Hon. Keter must be called upon to substantiate. He has said that he has the manifest. He should name the said Cabinet Ministers, Government officials and everybody else. He made his statement. The Standing Orders are clear on the fact that an hon. Member is responsible for the accuracy of his or her statement. Hon. Keter said that this is a fact and he should prove it here. He should name those people, so that we do not have a cloud hanging on our heads as Ministers.

I would like to plead with the Chair not to treat this matter with lightness. It is a serious issue and it may amount to group defamation.

**The Minister for Energy** (Mr. Nyachae): Mr. Temporary Deputy Speaker, Sir, first and foremost, we should accept that the issue of drugs is serious to everybody. It is not only serious for the Government or the Opposition. People out there are concerned about the problem of drugs in this country. Kenyans must be told the truth about any subject that is related to drugs. The media has been writing about this issue.

It has been alleged that some Cabinet Ministers, judicial officers, senior police officers and people who have access to where the drugs are stored have travelled to The Netherlands to negotiate the release of the drugs. Whether they negotiated the issue or not, is not the issue here. My interpretation and the interpretation of Kenyans is that there are people in the Government who are trying to negotiate to get the drugs released. Could we know these people? There are about 20 Ministers, hundreds of judicial officers and thousands of police officers. The Chair must demand that we be given the names of these people.

**Dr. Galgalo:** Mr. Temporary Deputy Speaker Sir, let us be sober. What hon. Keter said can be interpreted in 101 ways. Everybody has a right to interpret it the way he or she likes. For the purpose of our Standing Orders, hon. Keter did not step on anybody's toes directly. This is clear. He only said: "I do not know whether they went there to negotiate for the release of those drugs". Those are the words he used. He said that he does not know. If he was wondering, he does not know anything. Then, what are you asking him to substantiate? This appears to be just a ploy to stop the debate that is going on. We want to continue debating the Motion at hand and adjourn.

Mr. Temporary Deputy Speaker, Sir, could the Government side be sober and allow us to debate this Motion instead of wasting our time?

**The Minister for Education, Science and Technology** (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not think it is right to mislead this House. On page 64, the hon. Member said: "We are told that some senior Government officials have travelled to The Netherlands. I do not know whether they went there to negotiate for the release of those drugs". Already that is a negativity. The hon. Member has continued to say that some Ministers, Government officials and judicial officers have travelled to negotiate for the release of the drugs. This is already casting an aspersion on the Ministers and the judges, contrary to the Standing Orders.

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

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! I wish hon. Keter could guide us. The Chair's position is very clear. I have listened to the both sides of the House and I have heard this issue coming up over and over again. The Government wants me to force hon. Keter to come up with what he is not coming up with.

*(Loud consultations)*

Order, hon. Members! We have dealt with this issue and I have already given my guidance.

**An hon. Member:** Make a ruling!

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! We have all read page 64 of the HANSARD of 11th August, 2005, several times.

**Hon. Members:** Make a ruling!

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! If you are looking for a ruling, you will get it, but, of course, I do not vouch! This matter has been debated more outside this House than inside. Hon. Nyachae has raised the issue of the interpretation of the people out there. We are being affected by the interpretation of the people out there. If you read the HANSARD, you will discover that there was not as much ado as was created then.

Hon. Members, there is nothing that I can say about a trip to The Netherlands, that makes it wrong for Ministers, members of the Judiciary and hon. Members to travel there. We all make trips to The Netherlands and I do not see why we should connect the drugs issue with the hon. Member's statement.

*(Loud consultations)*

Order, hon. Members! I do not see why we have connected it, disjointedly, as we have done. I leave the issue at that. Mr. Keter is here, and if anyone stands on a point of order on this issue, they should give me guidance to help me rule on it or make Mr. Keter substantiate his statement. So, who wants to give me a good reason?

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): Mr. Temporary Deputy Speaker, Sir, this issue should be treated with the seriousness it deserves. We cannot disconnect the names of the Ministers, judicial officers, police officers and the journey, from the context in which they were mentioned. First of all on page 64 of the HANSARD, we are told that some Government officials had travelled to The Netherlands, and goes on to say; "I do not know whether they went there to negotiate for the release of those drugs." That is the purpose of the journey. The hon. Member further says: "It is common knowledge that some Cabinet Ministers, senior

police officers and senior judicial officers went to The Netherlands. That is a fact." Further down, he says: "Sir, I forgot the manifest showing the names of the Cabinet Members, senior police officers and some judicial officers who went to The Netherlands in my office." What we are asking for is simple; on that day, if hon. Keter had the manifest, he would have laid it on the Table of this House. He had a weekend to look for it and bring it here. All we are asking, is for Mr. Keter to lay on the Table the manifest showing the names of the Cabinet Ministers, senior police officers and senior Judicial officers who travelled to Netherlands with the purpose he talked about earlier. He talked about travelling to negotiate for the release of the drugs. If he cannot produce the manifest, then it is the duty of the Chair to order him to withdraw the allegations!

**Mr. Osundwa:** Thank you, Mr. Temporary Deputy Speaker, Sir. I just want to jog your brains a bit. Two years ago, I found six Ministers dining in a corrupt contractor's home. When I talked about it here, the Cabinet Ministers denied it. The following day, the matter came into light and they all accepted it. We know that this is an extremely corrupt Government, and even today, as I speak, some of its Members' visas have been withdrawn!

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Osundwa! You are now becoming disorderly. You cannot stand on a point of order to create disorder! You should stand on a point of order to bring us into order when you notice some disorder. These are the kind of things which bring animosity. What you have said cannot be used to solve anything. Mr. Osundwa, the word "Cabinet", in this country implies hon. Members of Parliament. In other countries, they may not be Members of Parliament, but in this country, Cabinet Members first become hon. Members of this House. So, you cannot, therefore, summarily label them as corrupt. The direct labelling you are doing is disorderly. You have to substantiate it now or withdraw and apologise.

**Mr. Osundwa:** Mr. Temporary Deputy Speaker Sir, I agree with your ruling and will substantiate my allegation. This is a corrupt Cabinet!

**The Temporary Deputy Speaker** (Mr. Poghisio): So, what are you doing about it?

**Mr. Osundwa:** Mr. Temporary Deputy Speaker, Sir, could I go ahead?

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Osundwa, and this is for all of you, including hon. Keter, when you are dealing with Members of Parliament, you have to consider them as honourable. Unless you have a substantive Motion to prove what you are saying, we cannot take the issue lightly. You have not apologised or withdrawn what you said.

**Mr. Osundwa:** Mr. Temporary Deputy Speaker, Sir, I want an opportunity to substantiate what I have said.

**The Temporary Deputy Speaker** (Mr. Poghisio): Are you going to withdraw what you said?

**Mr. Osundwa:** Mr. Temporary Deputy Speaker, Sir, I started by saying that I found six Ministers dining with a corrupt contractor who had given the Treasury a claim of Kshs800 million. Indeed, after hosting six Ministers at his place, the Government paid him his claim. What else do I have to substantiate?

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! Mr. Osundwa, you are disorderly! This is your last chance to withdraw your remarks! Substantiating is not repeating what you had said!

You know how to substantiate. It is done with a document. You will withdraw that remark or risk being excluded from this sitting. **Mr. Osundwa:** Mr. Temporary Deputy Speaker, Sir, I withdraw the remark, but the point has been made.

**The Minister for Education, Science and Technology** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, we are already out of order concerning that matter. If you look at the Standing

Order No.73(4), it says: "No hon. Member shall impute improper motive to any other Member except upon a specific substantive Motion calling in question the conduct of that Member." If any hon. Member says something about the code of conduct of another hon. Member, that already amounts to being out of order. The hon. Member cannot, therefore, be asked to substantiate his allegation unless he has presented a substantive Motion. This House is conducted on the basis of the Standing Orders. It is an hon. House and we must go by its Standing Orders.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! Since you cannot hear me well, what you raised is exactly what I have used to challenge Mr. Osundwa. He has already withdrawn his remarks!

*(Loud consultations)*

**Prof. Olweny:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Two more serious allegations have been made in this House this afternoon. They are going to appear in the HANSARD. Mr. Moroto said that a senior police officer was shot dead in connection with the cocaine. Mr. Moi has also made an allegation that the Presidential Jet was used in connection with the cocaine deal. Could they substantiate that?

*(Laughter)*

**Mr. Sambu:** Mr. Temporary Deputy Speaker, Sir, with all due respect to the Chair, when the substantive Speaker was addressing the Young Parliamentarians Association, what names did he call us? Has he substantiated?

**Hon. Members:** No!

**Mr. Sambu:** Mr. Temporary Deputy Speaker, Sir, if we accept it from the Speaker, why can we not accept it from hon Members? In any case, Mr. Keter said he does not know.

*(Mr. Githae stood up in his place)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Assistant Minister! I said before that if you want to stand on a point of order, take us to a place where we are going to take action. Do not take a lot of time. We are going to end this and proceed.

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to refer you to what Mr. Moi has just said. He said that he knows that a Presidential Jet was used to ferry girlfriends from Mauritius. He must tell us when the Presidential Jet was used to ferry girlfriends, when it was done and who the girlfriend was. If he does not do so, he must withdraw now and apologise. We cannot have hon. Members casting aspersions on other hon. Members.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! There are too many dilatory things that are coming and taking away our time. We have lost track. Let us, therefore, go back to where we were. We cannot allow any claim that has not been substantiated or dealt with without dealing with it. Again, we all have been trained for our functions here. If, indeed, Mr. Moi made those remarks, he is right here. So is Mr. Moroto. Both of them have something to say.

**Mr. Moi:** Mr. Temporary Deputy Speaker, Sir, the HANSARD will bear me out.

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Is Mr. Moroto ready to substantiate?

**Mr. Moroto:** Mr. Temporary Deputy Speaker, Sir, I also wish to have HANSARD with me to defend myself.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! If everybody were to say that, it would amount to the misuse of the HANSARD.

**Hon. Members:** No!

**The Temporary Deputy Speaker** (Mr. Poghisio): The Chair, for purposes of ruling, needs that accuracy of the HANSARD. However, you know what you said! I am challenging the person who spoke and not the person who heard. Did you or did you not say those words?

**The Minister for Co-operative Development and Marketing** (Mr. Ndwiga): On a point of order, Mr. Temporary Deputy Speaker, Sir. This afternoon, you have presided over the degradation of this House. You cannot move and the very dignity of this House is at risk. When you read from the Press and listen to the FM Radio stations, you will confirm what you presided over this afternoon. This is not a laughing matter! What has happened this afternoon is that any hon. Member can come here and outrageously say something and address it to the Press Gallery.

Mr. Temporary Deputy Speaker, Sir, so as to get the media attention, they say that the HANSARD will bear them out. The Chair has absolute responsibility!

*(Applause)*

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

I am on a point of order! You must learn your manners!

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! Mr. Ndwiga, you are an hon. Member and intelligence is not the preserve of a few hon. Members. The way you are trying to attack the Chair, and at the same time trying to address yourself to the Press---

**Hon. Members:** He is threatening the Chair! Send him out!

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

Mr. Ndwiga, the words you have used here against the Chair; that the Chair has presided over the degradation of the House, it is as if you have said that the Chair is unable to handle this ---

I am going to demand of you, like everybody else, an apology for your attack on the Chair.

**The Minister for Co-operative Development and Marketing** (Mr. Ndwiga): Mr. Temporary Deputy Speaker, Sir, I have been in this House long enough to know that I do not need to confront the Chair. However, if the Chair misunderstood me, I wish to apologise.

Mr. Temporary Deputy Speaker, Sir, I said that we are all hon. Members and the Chair cannot be happy with what is happening here. A major allegation of corruption was made by Mr. Osundwa, and the principal advisor was Mr. Moi. This is the most ridiculous thing that we have ever heard! It is ridiculous that on a matter of corruption, the principle advisor is Mr. Moi.

*(Loud consultations)*

Mr. Temporary Deputy Speaker, Sir, the most corrupt person known internationally---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Mr. Ndwiga, I cannot tell the difference between you and any other person who is disorderly today. You have continued naming other hon. Members of Parliament. When Cabinet Ministers are throwing the House into disarray and hon. Members also doing the same---

*(Loud consultations)*

Order, hon. Members! We are on the Motion for Adjournment. We have allowed most of you to ventilate as much as possible. I think we now need to address the matter before us. We are not leaving anything out. What needs to be picked up, will be picked up. I think we need to resume debate on adjournment.

Proceed, Mr. Wario!

*(Resumption of Debate on  
Adjournment Motion)*

**Mr. Wario:** Asante, Bw. Naibu Spika wa Muda, kwa fursa ulionipa niweze kuchangia Hoja hii. Ukiangalia jinsi tunavyojibizana hapa, dawa yake ni Wabunge waende kupumzika ili warudi wakiwa marafiki. Wakiendelea kukaa hapa Bungeni, ninaogopa majibizano haya huenda yakawa mambo mengine.

Ni thibitisho kwamba usalama umezorota katika nchi ya Kenya. Ningependa kugusia juu ya mzozo ulioua watu zaidi ya 100 huko Marsabit. Nitatoa mfano wa Mtume Ibrahim ambaye, ingawa ni uchungu, alimwambia bibi yake: "Wacha tumchinje mtoto wetu kwa ajili ya Mwenyezi Mungu".

**Dr. Galgalo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. You announced at 4.00 o'clock that we had 45 minutes left, but it is now more than 50 minutes since we started this debate. I think we are sitting illegally.

**The Temporary Deputy Speaker** (Mr. Poghisio): No. That should be 45 minutes from the time the debate starts.

Proceed, Mr. Wario!

**Mr. Wario:** Bw. Naibu Spika wa Muda, nimesema kwamba, kuambatana na mzozo uliotokea katika mji wa Marsabit, ambapo watu wengi walikufa, ningepomba viongozi kutoka sehemu hii wachukue maamuzi ya Mtume Ibrahim, ambaye aliamua kumchinja mtoto wake wa pekee.

Ningepomba viongozi kutoka sehemu ya Marsabit kushirikiana na kutafuta amani pamoja. Nilisema hapo awali kwamba sheria ya nchi hii ni chombo kiziwi kisichoona na kusikia haki ya jamii ya wafugaji. Ningepomba Serikali ishughulikie masuala ya maradhi ya mifugo na soko la mifugo katika nchi ya Kenya, ili tupunguze umaskini unaokumba jamii ya wafugaji.

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

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

Bw. Naibu Spika wa Muda, katika nchi ya Kenya leo, tuna Serikali ya miujiza ambayo inaweza kuongoza maandamano kutoka Bomas bila pingamizi, ilhali, wananchi wanapofanya maandamano, wanashikwa na kuwekwa jela. Katika Serikali hii, utapata kwamba Mkuu wa Sheria anaposafiri, sheria ya nchi pia inasafiri. Sasa hivi Waziri amesimama na kuzungumza juu ya kesi ambayo iko mbele ya korti. Tulipoleta masuala haya ya madawa ya kulevywa, Waziri huyu

hakukumbuka ya kwamba mambo haya yako kortini na hayafai kuzungumzwa ndani ya Jumba hili.

Wahenga wanasema: "Baniani mbaya, kiatu chake dawa". Ingawa wakati mwingine Serikali hii hufanya maandamano na kutoka Bomas, tunaipa pongezi kuhusu mambo ya CDF. Serikali iliongoza maandamano kutoka Bomas ili Wakenya wasimalize kutekeleza sheria yao. Leo Serikali inasimama na kufanya kampeni dhidi ya sheria ambayo hata haijatoka kwa Mkuu wa Sheria. Je, wanapofanya kampeni, wanajua yale ambayo Mkuu wa Sheria ataleta au yale yaliopitishwa katika Jumba hili? Tuna wasiwasi na sheria hii.

Kwa hayo machache, ninaomba tufunge na tuende kupumzika.

**Mr. G.G. Kariuki:** On a point of order, Mr. Temporary Deputy Speaker, Sir. It appears like there is a conspiracy not to adjourn this House, because hon. Members are quietly absenting themselves. Would I be in order to call upon the Mover to reply?

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, this is a Motion of Adjournment. I am, therefore, surprised that Mr. G.G. Kariuki, who has repeatedly sat in this House since Independence, is unaware that this Motion does not require a Mover to reply. It is just a resolution of the House.

**The Temporary Deputy Speaker (Mr. Ethuro):** Order, Mr. Muturi! You are only working on the niceties of the procedure, but his substantive point of order is to terminate the Motion. What do you have to say about that?

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, I would agree if his intention was that as many as would want this House to adjourn be asked to explain themselves.

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

Proceed, Mr. Katuku!

**The Assistant Minister for Finance (Mr. Katuku):** Mr. Temporary Deputy Speaker, Sir, I will be the last person to contribute, so this should be treated as the Government's position. I would like to join my colleagues in thanking the Chair for the time we have been here. We have made progress under your guidance except for today where things almost went out of hand.

Mr. Temporary Deputy Speaker, Sir, we are very grateful to hon. Members of Parliament for the Procurement Bill which hon. Members worked on, especially the Finance Planning and Trade Committee. I would like to thank hon. Members of Parliament for passing that legislation. We also passed another important legislation, the Privatisation Bill, which is also critical to this nation. I would like to assure this House and the nation that privatisation is not a question of disposing Government assets as such. It will be dealt with, with due diligence. We are only dealing with those corporations which are a burden to the Treasury.

Mr. Temporary Deputy Speaker, Sir, it is true that the Government is not supposed to be doing business, but should facilitate. We are going on a very critical recess, where we will meet our voters. It will be the responsibility of hon. Members to explain to Kenyans about the draft Constitution which will come from the Attorney-General's office, which we passed in this House. Once it comes out, it will be the responsibility of hon. Members of Parliament to explain to Kenyans whether it is a good or a bad document. This business of people running to court to protest what they do not even know about is a big shame.

I want to appeal to those who have gone to court to stop their legal action. They should go to *wananchi* and convince them whether it is a bad or a good document. My position is that this is a good document. We passed it in the House and it will go to Kenyans so that they can make a decision.

Mr. Temporary Deputy Speaker, Sir, I would also like to comment on the Constituency Development Fund.

**Mr. G.G. Kariuki:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to raise a very important point of order---

**The Temporary Deputy Speaker (Mr. Ethuro):** Mr. G.G. Kariuki, go ahead and raise it so that the Chair can know whether it is important or not!

**Mr. G.G. Kariuki:** Mr. Temporary Deputy Speaker, Sir, am I in order to request the Chair to put the Question?

**The Assistant Minister for Finance** (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, that can be done after I am through with my contribution. I have just about three minutes to do so.

Before I was interrupted, I was saying that we have money from the Treasury in the Constituency Development Fund (CDF) accounts. I expect hon. Members to ensure that, that money is spent wisely! We are going to allocate another Kshs7.2 billion to the same kitty in this financial year.

I urge hon. Members to take keen interest in that programme.

With those few remarks, I beg to support.

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

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Mr. Katuku! Order, hon. Members! Hon. Members, you need to learn that when the Chair is on his feet, nobody else should be on his or her feet!

Hon. Members, I now wish to respond to Mr. G.G. Kariuki's point of order. I will now put the Question.

*(Question put and agreed to)*

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 27th September, 2005, at 2.30 p.m.

The House rose at 5.10 p.m.