

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 5th December, 2006

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on the Administration of Justice and Legal Affairs on the visit to the USA to study the processes and procedures by which the Senate vets appointments to the Executive Office by the President.

(By Mr. Muite)

Mr. Speaker: That is good, Mr. Muite, but always the Chair has to have a copy of the Report in advance.

Mr. Muite: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, this House---

Mr. Speaker: Order, Mr. Muite! I am unaware of such a Motion. It has to be approved by the Chair! *Mbona tunafanya mambo kienyeji?*

Mr. Muite: Mr. Speaker, Sir, we had submitted both the Report and the Motion to the Clerk's Office.

Mr. Speaker: I have not seen anything of the sort. Let it come to my desk and then you can go ahead to give notice.

Mr. Muite: Mr. Speaker, Sir, I will wait, but we need to check with the Clerk's office.

I agree with the Chair that both the Report and Motion should have been taken to Mr. Speaker's office first.

Mr. Speaker: Very well. That is how it should be.

QUESTIONS BY PRIVATE NOTICE

NON-IMPLEMENTATION OF SEXUAL OFFENCES ACT BY COURTS

Ms. Ndung'u: Mr. Speaker, Sir, I beg to ask the Attorney-General the following Question by Private Notice.

(a) Why have the courts failed to implement the provisions of the Sexual Offences Act, 2006?

(b) What urgent measures is the Attorney-General taking to ensure that all provisions of the

Act are complied with by all actors?

Mr. Speaker: Is the Attorney-General present? Well, I understand that the Attorney-General wrote to us indicating that he will be out of the country and that he would be coming back either today or tomorrow. So, can I defer this Question until tomorrow afternoon or Thursday?

Ms. Ndung'u: Mr. Speaker, Sir, this is the second time that this Question is being deferred. Is there not a way of getting an assurance from the Attorney-General that he will come and answer this Question since it is very urgent?

Mr. Speaker: As you know, Ms. Ndung'u, I can only get that assurance from hon. Members seated on the Front Bench. Is there any assurance? Is there anybody ready to speak for the Government?

The Minister for Transport (Mr. Mwakwere): Mr. Speaker, Sir, we request that you defer this Question until Thursday afternoon.

Mr. Speaker: Very well.
Next Question!

(Question deferred)

NON-COMPUTERIZATION OF PATIENTS' RECORDS AT KNH

(Mr. Mwanicha) to ask the Minister for Health:-

(a) Is the Minister aware that patients' records at Kenyatta National Hospital are not computerized which makes it very difficult to locate patients at the hospital?

(b) When will the hospital's records be computerized?

Mr. Speaker: Mr. Mwanicha! He is not present and so this Question is dropped!

(Question dropped)

AUCTIONING OF KFA ASSETS

Mr. Bett: Mr. Speaker, Sir, I beg to ask the Minister for Co-operative Development and Marketing the following Question by Private Notice.

(a) Is the Minister aware that the assets of Kenya Farmers Association (KFA) Limited have been lined up for auction?

(b) If the answer to "a" above is in the affirmative, what steps is the Minister taking to stop the assets from being auctioned?

The Assistant Minister for Co-operative Development and Marketing (Mr. Mwenje): Mr. Speaker, Sir, I beg to reply.

I am not aware that KFA's assets are up for auction. I am, however, aware that KFA owes various secured and unsecured creditors in excess of Kshs1.8 billion. I am also aware that the ex-employees of KFA have a court judgement and orders to auction KFA's movable assets in order to pay themselves salary arrears.

Mr. Bett: Mr. Speaker, Sir, that answer is so short and vague that it does not convey to me the information that I was expecting from the Assistant Minister.

Last year, this House was requested by the Ministry of Co-operative Development and Marketing to approve a loan of Kshs2 billion to KFA for purposes of revitalisation. This House approved the same. Could the Assistant Minister tell us, after this House used its time to approve the loan, why has the revitalisation not been implemented? What has stopped the Ministry from utilising whatever was approved by this House?

Mr. Mwenje: Mr. Speaker, Sir, it is correct that this House passed a Sessional Paper that

mandated the Government to borrow some money. The guarantee was given but the process is ongoing and we believe that we will get finances. However, the hindrance has been the many court cases. Even now, those issues are *sub judice* because they are in court. I request the Questioner to bear with us. He should wait until the court cases are finalised. We will implement the Sessional Paper that was passed by Parliament after the court cases are finalised.

Mr. Mirugi: Thank you, Mr. Speaker, Sir, for giving me this opportunity. The Ministry has been saying that it has plans to revive the KFA. Could the Assistant Minister give us a timeframe within which the KFA shareholders and employees can wait for the Government to revive it? The KFA is a big co-operative in Rift Valley Province and many farmers rely on it. The organisation also owns many assets. Could the Assistant Minister give a timeframe within which the court cases will be finalised so that we do not wait forever?

Mr. Mwenje: Mr. Speaker, Sir, it is not possible to give the timeframe within which the court cases will be finalised. The Ministry took action and obtained the guarantee from this House. However, it is very difficult to implement the Sessional Paper due to the court cases that have been filed by the directors and the employees of the KFA. The directors should stop the court cases so that we can move in immediately. The money is available and we have everything in place but we are unable to move forward because of the court cases. The Chair knows that we have no control over the courts.

Mr. Sambu: Mr. Speaker, Sir, the Government may not have any control over the courts. However, there are some KFA properties that have been taken by certain individuals. We know some high class residential houses in Nakuru which have been taken by private individuals. Could the Assistant Minister publish the KFA properties which have been taken by individuals? Could he state whether they bought them or not and for how much money? Could the Assistant Minister lay on the table the list containing the names of those people? I am not talking about the houses whose cases are pending in court, but I am talking about the houses which have been taken by individuals.

Mr. Mwenje: Mr. Speaker, Sir, the order that was issued by the court allowed the auctioneers to take some chairs and tables from the offices. Listing of the individuals who have taken the KFA houses is *sub judice*. I cannot lay the list of those individuals on the Table because they will also move to court and accuse us of interfering with a matter that is before court. However, the court order allowed the auctioneers to auction a few assets. However, the main case is still pending in court.

Mr. Sambu: On a point of order, Mr. Speaker, Sir. The Assistant Minister is misleading the House. I am not asking him about the properties whose cases have been filed in court. However, I am requesting for a list containing the properties which were taken by individuals earlier on. Those individuals did not go to court, but they took the properties. This is a well-known fact. Could the Assistant Minister lay on the Table that list? We know high class residential houses in Nakuru and Eldoret have been taken by some individuals.

Mr. Mwenje: Mr. Speaker, Sir, in the first place, I said that we are not aware of the auction the hon. Members are talking about. So, we do not even believe that those properties exist. If the properties exist, all of them are included in the cases which are in court. I appeal to the hon. Members, including the Questioner, who are affected by this matter, to talk to the directors and the employees so that they can withdraw the court cases in order for us to revive the KFA. All of us are interested in reviving that organisation.

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

Mr. Speaker: Order, all of you! Order, hon. Members! We will have to transact the Business of the House! We have been on this Question for more than ten minutes.

Mr. Mukiri: On a point of order, Mr. Speaker, Sir. The Assistant Minister did not answer

part "b" of this Question. This is because he is blaming the directors and other people for the court cases. The properties of the KFA, as we speak now, are about to be sold. Valuation has been done on some of those properties. Part "b) of the Question asks:-

"If the answer to "a" above is in the affirmative, what steps is the Minister taking to stop the assets from being auctioned?"

The Assistant Minister has not answered part "b" of the Question. Is he in order not to---

Mr. Speaker: That is a supplementary question! However, Mr. Assistant Minister, what are you doing in connection to the question the hon. Member has raised?

Mr. Mwenje: Mr. Speaker, Sir, in the first place, I have said that I am not aware of what the hon. Member has said. Unless the hon. Member has proof that the assets will be auctioned, that is not true. This is imaginary!

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

Mr. Speaker: Order! You will all sit down! Mr. Bett, ask your last question!

Mr. Bett: Thank you, Mr. Speaker, Sir. The Assistant Minister is not aware that the assets of the KFA are about to be auctioned. However, I think many Kenyans are aware of this.

Mr. Speaker, Sir, could the Assistant Minister assure the House, assuming that he is now aware, that the assets of the KFA shall not pass from the organisation to individuals without his knowledge? This is because we are aware that certain individuals, including former employees, are eyeing some of those assets.

Mr. Mwenje: Mr. Speaker, Sir, I am serious when I say that I not aware. We have checked whether the KFA has properties or not. In the first place, the Minister has no powers over courts. Unless he becomes part of the case in court, he cannot stop it.

Mr. Speaker, Sir, a court order will be implemented if it is issued. However, we will try our level best to ensure that those assets are not sold because we are trying to revive the organisation.

Mr. Speaker, Sir, if by any chance the matter is in court and the Minister cannot intervene then I will ask one of them to go to court. This is the only alternative that we have.

SUBMERSION OF NAMBALE BRIDGE

Prof. Mango: Mr. Speaker, Sir, I beg to ask the Minister for Roads and Public Works the following Question by Private Notice.

(a) Is the Minister aware that Nambale Bridge on Sio River linking up Butula and Nambale constituencies is submerged, thus cutting off communication between the two constituencies?

(b) What urgent measure is the Minister taking to address the issue?

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

(a) I am aware that River Sio overflowed the Sio River Bridge on Road D256 connecting Butula Constituency with Nambale Constituency on 22nd November, 2006, and finally subsided on 2nd December, 2006.

(b) Instructions have already been given to the District Works Officer, Busia to request the District Roads Committee to allocate adequate funds for the clearing of the River Sio Bridge drainage channel at the bridge so that the river can flow smoothly and thus reduce its likelihood of overflowing the bridge.

Prof. Mango: Thank you, Mr. Speaker, Sir. I take this opportunity to thank the Assistant Minister. However, he is misleading the House by saying that the river has subsided. I was unable to drive over the bridge this morning because the water is overflowing the bridge. He has also misled the House by saying that the Sio Bridge drainage channel needs to be cleared. The problem is that the bridge is low and, therefore, the water level rises and passes over it. What has the Assistant Minister done to raise the level of the bridge so that when the water level rises, it does not overflow the bridge?

Eng. Toro: Mr. Speaker, Sir, I am made to understand that this is the first time the river is overflowing. There is a drainage channel that is supposed to drain the water so that it does not overflow the bridge. Last year, the drainage channel was cleared by the District Works Officer. The DRC did not allocate money this year for the clearing of the drainage channel so that the water can pass through it in order not to overflow the bridge. So, the solution to this problem is to have the drainage channel cleared. It is only after that has been done, and we find that the drainage channel cannot cope with the amount of water, that we can look into the possibility of reconstructing the bridge.

Capt. Nakitare: Ahsante, Bw. Spika. Yaonekana Waziri Msaidizi yuko katika ulimwengu mwingine.

Mr. Speaker: Mbona unafikiria hivyo?

Capt. Nakitare: Bw. Spika, ninafikiri kwamba anajibu maswali ya ulimwengu uliopita. Waziri Msaidizi hawezi kusema kwamba daraja liko chini ya mto na mto unapofurika unafagia wale waliomo. Waziri Msaidizi hajui kwamba kutoka Kapenguria hadi Turkana kuna daraja ambazo ziko chini, na mto unapofurika hata dereva hawezi kujua kiwango cha maji? Je, Wizara ya Barabara na Ujenzi itarekebisha madaraja yaliyojengwa na wakoloni lini?

Eng. Toro: Mr. Speaker, Sir, I think Capt. Nakitare is the one who is living in another world. This is because when I answered the Question, he was not listening and, therefore, he was not in this world! We have all the reports about the damage that has been caused by the heavy rains. However, those rains were not anticipated. We did not have contingencies when we brought our Vote to this House. We did not know that there would be heavy rains that would damage many sections of our roads network. In order to cope with the damage that has been caused to our roads, we have asked the Treasury to allocate us money in excess of Kshs 1 billion.

Mr. Ochilo-Ayacko: Thank you, Mr. Speaker, Sir. When responding to this Question, the Assistant Minister said that the DRC did not provide funds for clearing the drainage system. Now that the DRC did not provide funds for that purpose, what has the Ministry done to provide those funds? This is because the people of Sio and Butula require to relate to one another peacefully.

Eng. Toro: Mr. Speaker, Sir, this is part of the damage that has been caused to the roads. I have said that we have sent a request to the Minister for Finance to provide funds to deal with that damage. The funds will be used to repair all the bridges that have been damaged in the country once we receive them.

Mr. Speaker: Last question, Prof. Mango!

Prof. Mango: Thank you, Mr. Speaker, Sir. I would like the Assistant Minister to stop misleading the House. The problem is that the bridge is low. The engineers from Mumias and I visited the area last week. The engineers recommended that the height of the bridge should be raised. They did not talk about the drainage system which is not the problem. Could the Assistant Minister give the House the timeframe within which that bridge will be raised?

Eng. Toro: Mr. Speaker, Sir, I do not know who was given the recommendation that the hon. Member has talked about because I do not have it. That bridge was not built last year or the previous year. This is a bridge that has existed for many years. The drainage system which was not cleared this year is the cause of the problem. Raising the bridge involves reconstruction, which cannot be done within a month or two. That ought to be budgeted for.

Mr. Speaker: Next Question by Private Notice by Mr. Mbau!

NON-ACCOUNTABILITY OF SQUATTER
RE-SETTLEMENT TASK FORCE

Mr. Mbau: Mr. Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that a task force formed by the Provincial Commissioner, Central

Province, for the purpose of re-settling a total of 1,320 squatters in Maranjau Scheme has never accounted for how it spent the Kshs7,200 collected from each squatter totalling to Kshs9,504,000?

(b) Is the Minister further aware that owing to lack of transparency and accountability on this and other expenditure items of Maragua County Council, the operations of the Council have virtually ground to a halt?

(c) What action has the Minister taken to address the matter since a team of provincial officers visited the council over a fortnight ago?

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

(a) I am aware that a task force was formed in November 2004 up to April 2005 by the Provincial Commissioner, Central Province, to re-settle squatters residing at Maranjau Settlement Scheme. However, it is not true that Kshs9,504,000 was collected. The total amount collected was Kshs3,024,100 as follows: Verification of documents, Kshs862; Allocation fee, Kshs84,900, Survey fees, Kshs1,360,200 leading to a total of Kshs3,024,100. Not all the squatters appeared before the task force for verification; only 862 did appear. However, not all those who appeared paid the required amount due to poverty levels in Maranjau Scheme and as such the council allowed payments on an instalment basis. Currently, 108 title deeds are available for collection and issuance to the squatters.

(b) I am not aware that owing to lack of transparency, accountability and other expenditure items, the council's operations have virtually ground to a halt. The council operates through committee system and all scheduled meetings have been held.

Budgetary allocations and control measures are adhered to with quarterly and monthly reports being tabled in each committee. Staff salaries and councillors' allowances have been paid to date.

(c) I am aware the Provincial Local Government Officer sent an officer to Maragua County Council to investigate some allegations made by the councillors in their meeting of 18th October, 2006. The matter is still under investigation since the report has not been received by the Ministry.

Mr. Mbau: Mr. Speaker, Sir, I want to thank the Assistant Minister for that elaborate answer. I appreciate that the Assistant Minister may not have been on the ground where this Question arises. Could the Assistant Minister inform the House when the purported title deeds numbering 108 can be collected? Secondly, could he also tell the House why, for two consecutive weekends, the offices of Maragua County Council have had to be guarded by Administration Police officers facilitated by the District Commissioner of the area purportedly to prevent any fraudulent interference with the documents of Maragua County Council accruing from alleged malpractices and misuse of funds by the council?

Mr. Muchiri: Mr. Speaker, Sir, I want to say that the 108 title deeds are ready for collection and we are going to arrange with the local leaders, including the Member of Parliament for the area, for us to issue them. They were received yesterday and that is going to happen.

On the issue of the offices being guarded, currently, I am not aware that they are being guarded. What we are aware of, as a Ministry, is that there have been squabbles in this council between the councillors. There has been a case in court relating to those wrangles.

I do not know why the Member of Parliament talks about the office being closed because, as we know, currently the county council is running smoothly. I know that there were those squabbles in the past but the matters were resolved administratively.

Mr. Mirugi: Mr. Speaker, Sir, could the Assistant Minister tell this House what plans he has for amending the Local Government Act so that we do not have cases of rampant lack of transparency and accountability in the management of the affairs of our local councils?

Mr. Muchiri: Mr. Speaker, Sir, we are looking at the Local Government Act, Cap.265 and we intend to close all loopholes therein. I want to assure the hon. Member of Parliament that the

Ministry will seriously look into that and do the needful. On the issue of the malpractices in the councils, I think this is a question of instilling discipline in the councillors and senior officers.

As a Ministry, we shall continue to do oversight duties in the councils and we shall not allow any malpractices regarding financial or otherwise with regard to our councils in this country.

(Mr. Biwott was applauded as he entered the Chamber)

Mr. Mbau: Mr. Speaker, Sir, I want the Assistant Minister to get the difference. Here is a case that has been pending in court for three years but the matter that I raised now pertains to a Question a month ago, where councillors of the area have resolved incouncil meetings, according to the minutes which I have a copy of, that the clerk to the council proceeds on leave and that members resolved that the council chairman should step aside to pave way for investigations.

The Assistant Minister is referring to a case that has been pending in court for three years. Could the Assistant Minister tell us what is happening with the current case because that is the subject of my Question? Secondly, who is investigating this matter?

Mr. Muchiri: Mr. Speaker, Sir, I said earlier that there is a Case No.711 which is still pending in court and in that regard it is *sub judice*. However, in terms of the administration of the council, I want to assure the hon. Member of Parliament that the Ministry is yet to receive the report of the investigating officer. Once we receive this report, we will take action if there are any malpractices in that council. I also want to assure the hon. Member of Parliament that the Ministry will be visiting Maragua very soon and I would appreciate if he could accompany us and my other officers to see exactly what the lasting solution is to make the councillors and chief officers work harmoniously.

ORAL ANSWERS TO QUESTIONS

Question No. 131

MAINTENANCE OF RUMURUTI-SUGUTA MARMAR ROAD

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

- (a) whether he is aware that Rumuruti-Suguta Marmar Road, which is in Laikipia District, is being maintained by the District Roads Engineer, Samburu;
- (b) how much money has been allocated for the road's maintenance this financial year; and,
- (c) why the Laikipia District Roads Engineer does not maintain that road.

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

- (a) I am aware that Rumuruti-Suguta Marmar Road, which is in Laikipia District, is being maintained by the District Roads Engineer, Samburu.
- (b) An amount of Kshs3 million has been budgeted for the maintenance of Rumuruti-Samburu Road this financial year.
- (c) It is administratively cheaper to maintain the road from Samburu instead of Laikipia.

Mr. Lesrima: Mr. Speaker, Sir, the bigger part of this road, which is about 140 kilometres long, from Rumuruti to Maralal, lies within Laikipia District. I do not understand what the Assistant Minister means by saying that it is administratively cheaper to maintain the said road from its shorter end than from its longer end.

Mr. Speaker, Sir, could he consider stationing an engineer at Rumuruti, which is the end of

tarmac, to continuously maintain that road? Could he also clarify whether the Kshs3 million is for maintenance of the Laikipia District portion of that road, or for maintenance of the entire Rumuruti-Maralal Road?

Eng. Toro: Mr. Speaker, Sir, the said road is classified as Road C77. So, it is not under the District Roads Board. The road falls under the Roads Department. Money for maintenance of such roads is not provided on district basis but rather under the budget for the entire national road network. Spot-patching and improvement is done where a road requires such maintenance. When I said that it is administratively cheaper to maintain the said road from Samburu, that is the fact. Authority to Incur Expenditure (AIE) is sent to Samburu District Works Officer for maintenance of the road.

Mr. Manoti: Mr. Speaker, Sir, arising from the Assistant Minister's answer that, it is easier to maintain the road from Samburu District than from Laikipia District; further, knowing that most of the roads have been washed away by the rains, and that most of our resealing units have no work because they have no money, is he going to fund the resealing units countrywide to repair the roads that have been washed away, especially the road from Mukisi to Sotik?

Mr. Speaker: You have hijacked the Question, Mr. Manoti! Mr. Lesrima was interested in the Rumuruti-Maralal Road!

Eng. Toro: Mr. Speaker, Sir, there is very little maintenance that can be done when the rains are going on. Unfortunately, we will have to wait until the rains stop so that we can be able to do some meaningful maintenance. As I mentioned earlier, once we get the necessary funding from the Treasury, the resealing units will be funded accordingly to repair such roads, as Mr. Manoti has suggested.

Mr. Speaker: Last question, Mr. Lesrima!

Mr. Lesrima: Mr. Speaker, Sir, is the Assistant Minister aware that highway bandits have taken advantage of these roads to rob passengers almost on a weekly basis and, sometimes, four times in a day? Could he consider re-classifying those roads as security roads and source more funding from the Office of the President to, at least, repair the potholes, which have now become road blocks for bandits?

Eng. Toro: Mr. Speaker, Sir, the issue of bandits is usually reported to the Office of the President. What we receive is information on the condition of roads, when they are not good. The classification of this road is such that it is an important road. So, we are going to give it due consideration for bitumenization in the near future.

Mr. Speaker: Next Question, Mr. C. Kilonzo!

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. This Question was answered about two weeks ago.

Mr. Speaker: Then it has no business being here! Question dropped!

Question No.612

REPAIR OF SOFIA-KISIKI-NGOLIBA ROAD

(Question dropped)

Mr. Speaker: Next Question, Prof. Oniang'o! Absent? Question dropped!

Question No.659

COMMERCIALIZATION OF MUMIAS AIRSTRIP

(Question dropped)

Mr. Speaker: Next Question, Mr. Boit!

Question No.671

LACK OF NCPB BUYING STATIONS
IN BARINGO NORTH

Mr. Boit asked the Minister for Agriculture:-

(a) whether he is aware that there are no National Cereals and Produce Board (NCPB) buying stations in the entire Baringo North Constituency; and,

(b) what he is doing to encourage farmers in the area to sell maize and other cereals to NCPB.

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

(a) I am aware that Baringo North Constituency has no NCPB buying centre. However, the area is adequately served by Kabarnet Depot.

(b) To encourage farmers in the area to sell maize and other cereals to the NCPB, my Ministry, through the Board, has ensured that Kabarnet Depot has adequate staff and a budgetary provision to ensure that any marketable surplus in the area is purchased. Mr. Speaker, Sir, compared to other maize-producing areas in the Rift Valley Province, Baringo North Constituency is not a major maize-producing zone. The Government, through the NCPB, built the following six NCPB depots in Baringo District: Kabarnet, Marigat, Tenges, Kolowa, Kimalel and Nginyang' Depots.

Mr. Boit: Mr. Speaker, Sir, I am not satisfied with the answer given by the Assistant Minister. He has talked about adequacy. The distance from Kabarnet to the extreme north of my constituency is over 100 kilometres. What adequacy is he talking about? If distance is not important, we can as well be served from Nairobi. He has talked of depots and money, and about maize not being produced in North Baringo. How much maize is produced in Kabarnet? The place is rocky! The NCPB has built a lot of stores in a rocky place. North Baringo is more fertile. We have more crops. He is talking of maize. We are talking of cereals. Maize is not the only cereal. Could he tell us what to do? I would not have brought this Question here if we can be served effectively from Kabarnet.

Mr. Muiruri: Mr. Speaker, Sir, Kabarnet Depot is approximately 19 kilometres, on tarmac, from Kabartonjo and about 40 kilometres from the furthest end of the constituency. The constituency produces only 36,696 bags of maize, the bulk of which is consumed locally.

Dr. Manduku: Mr. Speaker, Sir, the NCPB has very many stores and other facilities, like residential houses, throughout the country; which have been abandoned. Could the NCPB make use of those facilities? If the NCPB is not able to use the facilities, could they be put on sale to raise money with which to develop the few facilities that are being made use of?

Mr. Muiruri: Mr. Speaker, Sir, the National Cereals and Produce Board (NCPB) has got enough stores to accommodate all the stocks. In this particular year, the NCPB intends to buy 3,792,225 bags, which are broken down as follows:-

(1) The NCPB commercial stocks	-	1.2 million bags
(2) Strategic grain reserves	-	1.5 million bags
(3) Farmer relief stocks	-	1 million bags

So, Mr. Speaker, Sir---

Dr. Manduku: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order, because he is answering a different question? The question I asked him is:- There are so many properties and stores that are redundant and idle throughout the country. Could they use them or sell them so that they can get money to use for other developments of the NCPB? He is now answering a different question altogether! Is he in order?

Mr. Muiruri: Mr. Speaker, Sir, I am not aware that the stores are not in use. What is happening is that, for example, the Kabarnet Depot, it was allocated Kshs7.2 million to purchase---

(Mr. Shitanda was applauded as he entered the Chamber)

Mr. Speaker: Order, hon. Members! Order! What is going on? The dignity of this House will be maintained; and it will be maintained by me! So, please, let us behave like a dignified House. Let us do our business.

Proceed, Mr. Muiruri!

Mr. Muiruri: Thank you, Mr. Speaker, Sir. Every depot is utilized. For example, Kabarnet Depot has been allocated Kshs7.2 million to purchase 6,000 bags of 90 kilogrammes each, but only 1,200 bags were delivered. So, every depot is totally utilized. In fact, as you can see, there is a very big shortage, for example, in the Kabarnet Depot.

Mr. Sambu: Thank you, Mr. Speaker, Sir. The Assistant Minister has talked of the number of bags which they intend to buy, not only in Kabarnet area, but in all depots. Is he aware that because of the heavy rains, if the driers are not started and subsidized, they will not be able to buy any maize this year because the maize has got a high percentage of moisture?

Mr. Muiruri: Mr. Speaker, Sir, we have maize-drying machines in almost all the depots which charge an average fee of only Kshs20 per bag.

Mr. Speaker: Last question, Mr. Boit!

Mr. Boit: Mr. Speaker, Sir, you have heard the Assistant Minister say that the Ministry has built stores at Kabarnet. Could he tell us why he concentrated six stores at one area and ignored the entire Baringo North, Kerio Valley and Gwasi? Why was it only built in Baringo Central and specifically in Kabarnet?

Mr. Muiruri: Mr. Speaker, Sir, I have given the list of all the depots in that district. But the argument from the hon. Member for Baringo North is very simple: His constituency is not a maize-growing area and it has no maize at all. All the maize produced in that area is consumed by his own people. There is nothing left for marketing.

Mr. Speaker: Next Question by hon. Member for Gem!

Question No. 650

EVIDENCE AGAINST PEOPLE IMPLICATED
IN ANGLO LEASING TYPE CONTRACTS

Mr. Ahenda, on behalf of **Mr. Midiwo**, asked the Minister for Justice and Constitutional Affairs:-

(a) what the basis of drawing up the list of individuals implicated in the Anglo Leasing type contracts is; and,

(b) whether he could table documentary evidence to ascertain that those implicated were indeed, involved.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, I beg to reply.

(a) To avail factual information to the public.

(b) No, the matters are subject to investigations.

Mr. Ahenda: Mr. Speaker, Sir, it is in the public domain, as the Minister has said, this was "To avail factual information to the public", yet, after the Minister published the names of those

people in the public domain, they were appointed as Ministers.

Mr. Speaker, Sir, does it mean that if you want to be appointed as a Minister in this Government, you must be involved in some Anglo Leasing type scandals?

(Applause)

Ms. Karua: I am not able to understand the question, and it obviously shows lack of seriousness in the Questioner. If you look at the Question and the supplementary question being asked, unless the House is allowing this forum to be used to make unwarranted and unsavoury remarks, I am not able to understand or answer the Questioner.

(Applause)

Mr. Ahenda: On a point of order, Mr. Speaker, Sir. This is a very serious issue and the Minister is taking it so lightly. This is a very serious issue and my question was very straightforward.

Mr. Speaker: Order! Order, Mr. Ahenda! It is not as straightforward as you thought! Honestly, all hon. Members should be serious on what they say or do in this House. In fact, progressively, all of us are, actually, besmirching the whole integrity of this House! It is about time we tried, with all the might we have, to reclaim our dignity and that of this House. So, let us be serious!

Mr. Marende: Thank you, Mr. Speaker, Sir. Could the Minister tell this House what the target or purpose of the exercise was? If there was any purpose or target, then what was the entry on her score sheet?

Ms. Karua: Mr. Speaker, Sir, the entry on my score sheet is about 101 per cent.

Mr. Speaker, Sir, the purpose was achieved; to give factual information to the public. I wish to elaborate a little further, because I can see that the Questioner is serious.

Mr. Speaker, Sir, it is in the public domain that recently, even well known looters have been standing in public podiums talking about good governance and the speed at which we are prosecuting corruption cases, but not telling the public that they are the very people under investigations or that they are the ones who looted public resources.

Mr. Sambu: Who are those?

Mr. Speaker: Order! Order! Mr. Sambu, that is not how honourable Members behave. So, please, you must sit there with dignity and let the Minister say whatever she wants to say. You are not allowed to heckle, either in praise or against what she says!

Proceed, Madam Minister!

Ms. Karua: Therefore, Mr. Speaker, Sir, it became necessary to just give some factual information to the public without any conclusions. So, even the original Questioner is assuming that I was ascribing guilt or even lack of it when I gave out the list.

Mr. Speaker, Sir, I will be wishing to lay the list I annexed to my Press statement on the Table, if allowed. But clearly, all I was stating is that, of the 18 Anglo Leasing projects, I listed them one by one according to their dates. I gave the project name, the date it was signed, the name of the Permanent Secretary at that particular time in the Ministry and the name of the Minister in office. I also gave the name of the Permanent Secretary or Financial Secretary in the Treasury who actually signed the contract and the name of the Minister in office at the Treasury at the time of signing the contract. I then gave the name of the representative of the contracting parties. I was very careful and I added: "I was not ascribing guilt or lack of it on anyone, that is just factual information and investigations are going on".

My aim was that if a certain person, in or outside Parliament, was in office and was responsible for contract "X", let him or her not stand in a public podium, to ask about it. Instead, he or she should be telling us more about it. I think I did achieve.

Mr. Omondi: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead this House that investigations are on, when in actual fact, she knows very well that the Government is systematically clearing those who are suspected of involvement in these bad deals? It has cleared one of the Ministers who was implicated in trying to cover up those who were involved in this scam.

Ms. Karua: Mr. Speaker, Sir, I am not able to make sense out of the question.

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, you heard the Minister talk about known looters trying to attack the Government and who is doing what with regard to corruption. Would I be in order to ask her to tell us who are these known looters and why they are allowed to roam around in Kenya?

Ms. Karua: Mr. Speaker, Sir, known looters are roaming around courtesy of bonds given by the courts. The cases are proceeding. They have not been left scot-free by Kenyans. Known looters are also regularly communicating with the investigators who are investigating them. To known looters, your days are numbered!

(Applause)

Mr. Syongo: Mr. Speaker, Sir, recently, a visiting Attorney-General of the British Government did state that the Kenya Government has not requested them to freeze the accounts of those British businessmen whose names were mentioned in the list of the suspects in the Anglo Leasing scandal.

Mr. Speaker, Sir, apart from those who are of British origin, a number of businessmen from other European countries were also mentioned, including one from America. What steps has the Minister taken to ensure that the names of the non-Kenyans who were also involved in this scam, are submitted to governments of their countries, so that they can help us in the process of bringing them to book?

Mr. Speaker: That is a speech!

Ms. Karua: Mr. Speaker, Sir, that question would be better answered by the Attorney-General. But being a Member of the Government, I will give the information at hand.

Through mutual legal assistance, the authorities in the United Kingdom (UK) have been working hand-in-hand with our Director of the Kenya Anti-Corruption Commission (KACC). It is true that at the level of the two Attorney-Generals, a formal request may not have gone, but work is going on.

Mr. Speaker, Sir, however, I do want to admit here that there are some gaps which we need to pull up our socks on, so that we may be able to benefit.

Mr. Speaker, Sir, allow me to let hon. Members know that the international legal regime almost favours looters, in the sense that it is very difficult to even get assets---

Mr. Speaker: Order! For the sake of the records of this House, do we have convicted looters or are they suspects?

Ms. Karua: Mr. Speaker, Sir, I will change the word to "suspects." It favours suspects, in that, whereas in matters of violent crimes like terrorism, they are able to freeze the assets immediately. But for economic terrorism, which is what the suspected looters are subjecting us to, they require us, first, to have criminal proceedings and all conviction in our country. They are making it very difficult for us. These are matters we have raised internationally.

We are pulling up our socks, so that we may be able to retrieve what is lost on behalf of

Kenyans. But, at the same time, we are doing more internally to ensure that we safeguard what is at hand. That is why our revenue collection has shot up twice.

Mr. Ahenda: Mr. Speaker, Sir, could the Minister confirm that the looted money was found stashed in accounts overseas?

Mr. Speaker, Sir, could she further confirm whether that money is still there? When will it be brought back into the country?

Ms. Karua: Mr. Speaker, Sir, I want to confirm that some money was traced and there are proceedings going on in foreign jurisdictions. However, I cannot enumerate them for confidentiality of investigations.

Mr. Speaker: Very well! That is the end of Question Time. Unfortunately, some hon. Members have not asked their Questions. They are, Messrs. Karaba, Bahari, Oparanya and Ojaamong.

Your Questions will come tomorrow. They should be given priority. I hope the Clerk has noted that.

Question No.648

INCREASED INSECURITY IN
KERUGOYA/KUTUS CONSTITUENCY

(Question deferred)

Question No.587

FAILURE TO CARRY OUT ARMED FORCES
RECRUITMENT AT GARBA-TULLA
SUB-DISTRICT HEADQUARTERS

(Question deferred)

Question No.476

POSTING OF LAND REGISTRAR/SURVEYOR/
VALUER TO BUTERE/MUMIAS DISTRICT

(Question deferred)

Question No.524

LACK OF GOVERNMENT-SPONSORED
BOARDING SCHOOLS IN TESO DISTRICT

(Question deferred)

Nest Order!

MINISTERIAL STATEMENT

HARASSMENT OF HERDSMEN IN VOI

The Assistant Minister, Office of the President (Mr. Munya): Mr. Speaker, Sir, on Wednesday 29th November, 2006, Hon. M.Y. Haji rose of on a point of order seeking a Ministerial Statement from the Minister of State for Administration and National Security regarding what he alleged to be harassment of herdsmen in Voi. I wish to state as follows: On 24th November, 2006, the General Service Unit (GSU) officers from Mackinon Base Camp in Kwale District left for routine patrol at Kuranze area. While on their way, one Mr. Abdi Bisseli, informed the patrol commander that his land had been invaded by illegal herdsmen. On visiting the farm, the commander and his officers found between 30 and 35 young men of Somali origin, hired to look after herds of cattle. They had put up makeshift *manyattas* and were grazing their cattle in the said ranch. The owners of the cattle were from Garissa and Garsen. The officers then ordered them out of the ranch and did not use any force or ammunition. The herders moved out peacefully. The patrol proceeded to Kuranze area and reported back to camp on 25th November, 2006.

No ammunition was used. Therefore, the question of collecting spent cartridges does not arise. However, on 26th November, 2006, a Mr. Abdi Ahmed reported that he was attacked by a group of Somali young men in the company of GSU officers, who shot one bull. He also alleged that one Abdi Mohammed was assaulted and two makeshift shelters were burnt. The Officer Commanding Station (OCS), Voi, in the company of police officers, visited the scene and found a carcass of a bull which had been partially eaten by wild animals.

A close observation did not indicate that a bullet had killed the bull. However, two makeshift shelters had been burnt to ashes. Mr. Abdi Mohamed has not recorded any statement with the police. An appeal has been made to Mr. Abdi Mohamed to record a statement with the police. An inquiry file has been opened and the case is still under investigation. So, I urge the hon. Member to wait for the outcome of the investigation. If he knows Mr. Mohamed, he should inform him to report to the police to help in the investigations.

Mr. M.Y. Haji: Mr. Speaker, Sir, this a very shocking statement to come from a Government Minister. The people who witnessed this incident will hear this statement and it will damage the reputation of this Government. That is my first point. The second point is, when the Assistant Minister admits that two makeshift houses were burnt by the General Service Unit (GSU), do officers of the GSU have the right to burn houses?

The Assistant Minister, Office of the President (Mr. Munya): Mr. Speaker, Sir, I have not admitted that the GSU were involved in the burning of any makeshift shelters. I am saying that when the police visited the scene some makeshift *manyattas* had been burnt. The police are investigating the incident. It may have been done by the owner of the ranch, who was not happy with herders herding animals in his ranch, or by anybody else. But it was not done by the police. We are asking the gentleman who was at the scene, who is called Mohamed, to report to the police to help in the investigations.

Mr. M.Y. Haji: Mr. Speaker, Sir, if the statement by the Assistant Minister is correct, and a crime was committed, why were the people who committed the crime not arrested? We have facts to prove that two spent cartridges were given to the OCPD, Voi. This is a real cover-up, which cannot be accepted in this country.

The Assistant Minister, Office of the President (Mr. Munya): Mr. Speaker, Sir, I have already explained that the information from Voi Police Station is that there were no cartridges taken there. There were also no bullet wounds on the carcass of the bull that was found dead and half-eaten. Without any information from those who witnessed the incident, the police cannot do anything. The witnesses have not come out to record statements, even when they have been asked to do so by the police. All that I know is that the police and the GSU officers were there, and the herders left the ranch peacefully. If there was any crime committed, then Mr. Mohamed, who was at the scene, will be very useful if he reports to the police.

Mr. Speaker: Well, we have to finish; it is not Question Time. But seek the last clarification, Mr. M.Y. Haji.

Mr. M.Y. Haji: Mr. Speaker, Sir, my last remark is that you can never make a stone say the truth and I leave it at that.

(Loud consultations)

Mr. Speaker: Very well. Order, hon. Members!
Next Order.

BILL

First Reading

THE CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL

*(Order for First Reading read- Read
the First Time)*

Eng. Muriuki: Mr. Speaker, Sir, in accordance with Standing Order No. 101A (1) I beg to move that the Constituencies Development Fund (Amendment) Bill be referred to the Departmental Committee on Finance, Planning and Trade.

Mr. Speaker: The hon. Member not being a Minister has made a proposal to the House that the Bill be referred to the relevant Departmental Committee. I have to put the question that, in accordance with Standing Order No.101A(1), the Constituencies Development Fund (Amendment) Bill be referred to the Departmental Committee on Finance, Planning and Trade.

(Question, that the Bill be referred to the Departmental Committee on Finance, Planning and Trade, put and agreed to)

*(The Bill was ordered to be referred to
the relevant Departmental Committee)*

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

(Mr. Speaker left the Chair)

IN THE COMMITTEE

*(The Temporary Deputy Chairman
(Mr. Poghisio) took the Chair)*

THE WITNESS PROTECTION BILL

(Loud consultations)

The Temporary Deputy Chairman (Mr. Poghisio): Order, Order, hon. Members! We are now in the Committee of the Whole House. Please now settle down!

Ms. Ndung'u: On a point of order, Mr. Temporary Deputy Chairman, Sir. If I want to bring an amendment to the preamble, do I bring it at this stage or at the end?

The Temporary Deputy Chairman (Mr. Poghiso): It will come at the end.

(Clause 2 agreed to)

Clause 3

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, on behalf of the Committee on the Administration of Justice and Legal Affairs, I beg to move:-

THAT, Clause 3 of the Bill be amended in Section 3 (1)(a)-

(e) by inserting the following new subparagraph immediately after subparagraph (ii)-

(iii) any legal proceedings arising from any written law, including quasi-judicial proceedings.

(f) by deleting the word "Minister" and substituting therefor the words "Attorney-General"

The rationale for this proposal is that the protection of witnesses by the Attorney-General should not be discriminatory. The classification of the witnesses is narrow, restrictive and defeats the very purpose of this Bill. We would like also proceedings before Parliamentary Committees to fall under this law.

(Question of the amendment proposed)

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, it is unfortunate that there has not been adequate discussions. But I had indicated to the hon. Member that we are opposed to this amendment. When you look at Clause 3, you will see that what is envisaged in the Title of the Act, is protection for witnesses in criminal and other proceedings. It is mainly for criminal proceedings, and other proceedings, as the Attorney-General may, in his wisdom include. What is being proposed means that we shall protect witnesses even in a land dispute tribunal. This is not what is envisaged. There are too many quasi-judicial bodies, and we cannot accord them the same protection as in criminal cases.

We, therefore, feel that this amendment is unnecessary, and it can lead to a dangerous situation where investigative bodies can also be given false evidence because witnesses are under protection. We honestly need protection for witnesses in criminal cases and in other very special proceedings, which the Attorney-General can enumerate.

I beg, therefore, to oppose.

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, the Committee had given very careful consideration to this, and come to the conclusion that in order to encourage witnesses to tell the truth, even in commissions of inquiry, they need protection. When a parliamentary Committee is conducting inquiries, the witnesses need the same protection. We are a little surprised that the Government is objecting to what is eminently reasonable. Rather than leave the power to decide what other proceedings will benefit to the Attorney-General, is it not much better that the proceedings in respect of which witnesses will enjoy witness protection should be clarified in the law? This is what the Committee was suggesting. It is an eminently reasonable proposal to include those other proceedings.

The Minister for Environment and Natural Resources (Prof. Kibwana): Mr. Temporary Deputy Chairman, Sir, I think that when one examines similar laws elsewhere, he intends that the

intention is always to protect key witnesses in the criminal field. Therefore, in the current formulation of quasi-judicial proceedings, you actually would be undermining the rationale of this proposed law by opening it up, so that any witness can be protected. Critically, in terms of the monies involved in protecting witnesses, this would not be easy. Therefore, the formulation that Mr. Muite is talking about would have to be captured by another formulation, which would not include quasi-judicial proceedings.

I also think that this proposed amendment should fall.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Chairman, Sir. I rise on a point of order to seek special clarification from the Mover of this amendment. I need to know whether it covers all witnesses, or only those intended in this Bill.

The Temporary Deputy Chairman (Mr. Poghisio): I do not understand you. Are you asking the Mover of the amendment to clarify?

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, I am asking the hon. Member who proposed the amendment; I think it is Mr. Muite. Could he explain to us what it is all about? I am quite a smart man, and if I cannot understand this amendment, then many of us may not be able to understand.

(Laughter)

The Temporary Deputy Chairman (Mr. Poghisio): Do you have anything to add to that?

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, the proposed amendment intends to widen the provisions of Section 3(1), under which only witnesses in certain circumstances can be provided with protection. We are saying that the areas of the law in which witnesses can be protected are too narrow. We need to expand them to include any legally constituted proceedings, including those of quasi-judicial bodies and parliamentary Committees. This is the reason the amendment is proposed.

The Temporary Deputy Chairman (Mr. Poghisio): What about part (c) of the amendment.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, can I clarify?

The Temporary Deputy Chairman (Mr. Poghisio): We are not seeking a clarification. I am asking about deleting of part (c) of the amendment.

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, the amendment is to Section 3(1)(a). We are trying to add another subsection. It is not an amendment to part (c). Section 3(1)(a) talks about a person who has given evidence and we are just giving the said---

The Temporary Deputy Chairman (Mr. Poghisio): All right. Madam Minister, were you also opposed to the last part (f)?

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, let me also clarify something, because it is apparent that we are not together. The aim of this Bill is, principally, to give protection to witnesses in criminal cases, and in other special circumstances which the Attorney-General may allow. The reason it cannot be widened to cover every witness is, could hon. Members envisage a situation where a witness in a land dispute tribunal, which is quasi-judicial, or in other tribunals, is protected? Is that what we intend? We only intend to protect witnesses in serious matters.

In the case of parliamentary Committees, the witnesses are covered by the Powers and Privileges Act. We cannot, under the guise of protecting Parliament, enlarge the protection in a manner that waters down what is intended.

The Temporary Deputy Chairman (Mr. Poghisio): Madam Minister, I am asking if you are opposed to the entire amendment?

The Minister for Justice and Constitutional Affairs (Ms. Karua): Yes; we oppose the entire amendment.

The Temporary Deputy Chairman (Mr. Poghisio): Including the deletion of the word 'Minister' and---

The Minister for Justice and Constitutional Affairs (Ms. Karua): Yes; we oppose the entire amendment. The Attorney-General is actually the Minister in charge of this Bill.

Mr. Musyoka: Mr. Temporary Deputy Chairman, Sir, without the detailed benefit of the discussion that has gone forth, I think all of us are in agreement that we are living in increasingly transparent days. Witness protection is, therefore, becoming absolutely paramount.

I want to congratulate the hon. Member for Kabete for looking at this matter. Even if the primacy of consideration is given to witness protection on matters to do with criminal law, I think we have to accept that what Ms. Karua is referring to as quasi-judicial proceedings is the matter that goes to the core of what Mr. Muite is trying to achieve.

It is obvious that the Attorney-General is in all cases the Minister. To that extent, I agree with the Minister for Justice and Constitutional Affairs. However, I think the thrust of the amendment should be seen as requiring protection for witnesses who appear, for instance, in so many Government-instituted commissions of inquiry.

Mr. Temporary Deputy Chairman, Sir, Kenyans want the freedom to freely speak their mind without fear of being victimised.

Mr. Temporary Deputy Chairman, Sir, I want to support this amendment.

*(Question, that the word to be left out
be let out, put and negated)*

(Clause 3 agreed to)

(Clause 4 agreed to)

Clause 5

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5 of the Bill be amended in subsection (1) by inserting the words "a legal representative of the witness", immediately after the word "where".

The rationale is to make it possible for the witness himself or herself to apply to be included in the programme. As the Bill stands right now, the witnesses themselves cannot apply. Somebody has to apply on their behalf. It could be the Attorney-General or another witness. It is to allow the witness to avail themselves of the remedy of witness protection.

*(Question of the amendment
proposed)*

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I oppose this amendment. The rationale given for inserting the words "notwithstanding the provisions of Clause 5(1)" is that there is need to harmonise the proposed Clause 9 with the proposed Clause 5. The proposal is totally unnecessary.

The Temporary Deputy Chairman (Mr. Poghisio): Madam Minister, I think you are talking about something else. We are on Clause 5(1), which is talking about "a legal representative of the witness". That is the difference.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I have seen the proposed amendment, which is that Clause 5 of the Bill be amended by inserting the words "legal representative of the witness" immediately after the word "where". I have no objection to this particular amendment.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 5 as amended agreed to)

Clause 6

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 6 of the Bill be amended in subsection (1) by deleting paragraph (g).

This subsection talks about the witness having a criminal record, particularly a record of crimes of violence and whether the record indicates a risk to the public or if the witness is included in the programme. In other words, a person who has this kind of background will be excluded from the witness protection programme.

We are proposing that the Attorney-General should not be the only one who should determine which participants can be availed this programme. Also, many witnesses who have records of crimes of violence are actually some of our best witnesses in terms of the crimes for which we want to enact this law. Therefore, there should not be that exception. That is why I am proposing the amendment.

(Question of the amendment proposed)

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, we ought to retain this clause for the simple reason that witnesses who have criminal records, particularly records of crimes of violence should not be removed from the witness protection. We are merely making it a criteria when the Attorney-General is considering whom to include in the programme. The nuisance of having this criteria instead of having a blanket approval is that it is a greater danger, in my view, to open up and leave out this criteria. What may come into one's mind is: What can a witness or his or her legal representative do if the Attorney-General exercises discretion in unjust manner?

There is the procedure of judicial review and because this criteria is set out, a court would be able to use it if the discretion is used wrongly. I, would, therefore, urge my colleagues in the Committee of Administration of Justice and Legal Affairs to agree that the deletion of Subsection(1)(g) is unnecessary and let it stand as it is, in order for us to achieve the purpose of the Bill and the purpose of protecting the interests of the larger society.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, I would like to support the Minister. Let us not strip discretion from the Attorney-General. This is a constitutional office, which we have given powers to perform on behalf of the people of Kenya. I would suggest that we do not delete this subsection. We should give some discretion to the Attorney-General, especially in matters to do with people who have committed atrocious crimes against Kenyans.

*(Question, that the words to be left out
be left out, put and negatived)*

(Clause 6 agreed to)

Clause 7

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 7 of the Bill be amended in subsection (2) by inserting the words "and other identification documents" immediately after the word "passports" appearing in paragraph (c).

The rationale of this amendment is that the identification documents have been restricted to passports only. We use more than just the passports. Therefore, identification documents should be expanded.

(Question of the amendment proposed)

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I wish to welcome and support this amendment. It strengthens the clause.

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 7 as amended agreed to)

(Clause 8 agreed to)

Clause 9

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I wish to withdraw the proposed amendment.

(Proposed amendment withdrawn)

(Clause 9 agreed to)

(Clauses 10 and 11 agreed to)

Clause 12

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I wish to withdraw the proposed amendment.

(Proposed amendment withdrawn)

(Clause 12 agreed to)

*(Clauses 13, 14, 15, 16, 17, 18,
19, 20, 21, 22, 23, 24, 25,*

26, 27, 28 and 29 agreed to)

Clause 30

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, on behalf of the Attorney-General, I beg to move:-

THAT, Clause 30 of the Bill be amended by inserting the words "witness or" immediately after the words "has been a" appearing in paragraph (a).

The amendment is just to bring clarification and make the Bill more clearer.

The Temporary Deputy Chairman (Mr. Poghisio): That proposed amendment is on page 559 of the Order Paper.

*(Question of the amendment
proposed)*

*(Question, that the words to
be inserted be inserted,
put and agreed to)*

*(Clause 30 as amended agreed to)
(Clauses 31, 32, 33, 34
and 35 agreed to)*

Clause 36

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 36 of the Bill be amended in subsection (1) by deleting the word "Minister," and substituting therefor the words "Attorney-General".

This will ensure that it is consistent with the rest of the Bill and also to emphasise that the Attorney-General is in charge of the programme and not the Minister.

The Temporary Deputy Chairman (Mr. Poghisio): That is on page 560. It is Clause 36, the last amendment on the Order Paper. It is wrongly printed as Clause 35. The correction should be Clause 36.

*(Question of the amendment
proposed)*

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, it is quite clear that the Minister in charge of prosecutions and such matter is the Attorney-General. I think that it does no harm to retain the Bill as it is. It is quite clear enough. I would like to plead with my colleague to drop the amendment.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, we have a definition as to who the Attorney-General is. He is the Minister in charge of prosecutions. So, it could be redundant if we repeat it by saying that it is the Minister instead of saying it is the Attorney-General. I support the Minister.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, I want to agree with Mr. Angwenyi. We have already, as a Committee, rejected the proposed amendment to Clause 3 which had, among other things, a similar provision replacing Minister with the Attorney-General. I think we might as

well carry it along.

Mr. G.G. Kariuki: Mr. Temporary Deputy Chairman, Sir, I will agree with the Minister because the Attorney-General is an ex-officio while the Minister is a political appointee. He is answerable to the people of Kenya. The Attorney-General can just be left alone but the Minister will always be sought to answer questions. Therefore, I support the Minister's view that we retain the word "Minister".

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I am truly sorry. However, I think the responsibility of Committees which Bills go to, is not only to look at the substance of a Bill but also the technical legal drafting language. For the hon. Members who are in the House, if you look at the preceding Clause 35, it talks about the Attorney-General while Clause 36 talks about the Minister. The proposal is to just make sure we have been consistent and neat in our work. It is not taking away one from the other. However, we cannot talk about the Attorney-General consistently through the Bill and then in the last paragraph talk about the Minister. For neatness sake, that is why this amendment is being made.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, in as much as I would agree with Ms. Ndung'u that the Committee must have looked at this, this is not the first time that this word "Minister" and "Attorney-General" are being used interchangeably in the Bill. Clause 3, which Ms. Ndung'u and Committee proposed to amend by introducing--- They wanted to delete the word "Minister" and substitute therefor the word "Attorney-General" and we have rejected that. It means that it is not just in Clause 35 and 36 that you will have this interchangeability. So, indeed, let us be guided by the legal maxim *expresso unius est exclusio alterius*.

An hon. Member: *Ongea Kiingereza, Bwana!*

(Loud consultations)

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

(Question, that the word to be left out be left out, put and negated)

(Clause 36 agreed to)

Title

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the long title of the Bill be amended by inserting the words "commissions of inquiry" immediately after the word "cases".

You will notice that in the Memorandum of Objects and Reasons, the principal object of this Bill is to provide and regulate the operations of a scheme of the protection of witnesses in criminal cases, commissions of inquiry and the like. We are just making the title consistent with the Memorandum. That is the reason for the proposal.

(Question of the amendment proposed)

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I wish to oppose the amendment. It is unnecessary as commissions of

inquiry are adequately covered under the terminology "other proceedings". The title of the Bill actually describes the Bill better. It is principally aimed for protection of witnesses in criminal cases and other proceedings at the discretion of the Attorney-General. It is, therefore, quite clear even without changing the title, that all other proceedings that are covered under the criminal procedure, which includes commissions of inquiry, are adequately covered.

*(Question, that the words to be inserted
be inserted, put and negatived)*

(Title agreed to)

(Clause 1 agreed to)

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Witness Protection Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE WITNESS PROTECTION BILL

Mr. Speaker: Why is my left side deserted?

An hon. Member: They are mourning.

Mr. Poghiso: Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered The Witness Protection Bill and approved the same with amendments.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Water and Irrigation (Mr. Katuku) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, I beg to move that The Witness Protection Bill be now read the Third Time.

The Minister for Water and Irrigation (Mr. Katuku) seconded.

(Question proposed)

Mr. Kajwang: Mr. Speaker, Sir, I just want to say one or two words. If this Bill is to give

the witness the protection that we are looking for, then there must be sufficient funds to make sure that he is whisked away to some unknown destination quickly and looked after well wherever he is.

The other day, in South Africa, there was a witness who gave evidence against the former Vice-President and immediately after the judgement, the witness was given money and taken to a country that we still do not know. I hope he is benefiting from the protection and the resources.

I hope we have enacted this Bill with that in mind. We will have to use sufficient resources to protect the witness wherever we take him or her.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, I want to thank hon. Members for supporting this Bill and assure them that we will be serious in implementing it. It is not just a question of funds, but through evidence given by witnesses, we will restore the country to the rule of law and ensure that criminals are brought to book and punished. We will do what is necessary, but it is not merely a question of funds.

Ms. Ndung'u: Mr. Speaker, Sir, I wish to join in supporting this Bill. It is long overdue. At last, we have some protection for whistle-blowers. At the same time, I hope the focus would not just be on witnesses on cases of corruption and economic crimes. We really need to get to the ground and protect those witnesses who could testify in murders, rapes and robberies.

I hope the Minister will be able to ensure that there will be public education, so as to alert the public on what is available to them in terms of protection under this Act.

Mr. Speaker: I think that will be the last. Mr. Angwenyi!

Mr. Angwenyi: Mr. Speaker, Sir, we have now approved this Bill and I hope that it will be assented to quite quickly. Once assented to, I hope the courts will apply it much faster than they have done with The Sexual Offences Bill.

*(Question put and
agreed to)*

*(The Bill was accordingly read
the Third Time and passed)*

Mr. Speaker: Next Order!

MOTIONS

ADOPTION OF 1998/1999 PAC REPORT

THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya Accounts for the Year 1998/1999 laid on the table of the House on Thursday, 26th October, 2006.

(Mr. Omingo on 28.11.2006)

*Resumption of Debate interrupted
on 30.11.2006)*

Mr. Speaker: Who was on the Floor? Mr. Wamunyinyi!

Mr. Wamunyinyi: Mr. Speaker, Sir, thank you for this opportunity once again to contribute to the Motion of the Public Accounts Report (PAC).

Mr. Speaker, Sir, this afternoon we witnessed a very strange incident; that Ministers of

Government were cheering up a man who attempted to hijack the leadership of FORD(K). They can encourage him to hijack or steal it, but he will not steal the people; neither will he destroy the members of FORD(K).

I want to remind these Ministers that there are very many parties in Kenya, including the vibrant ODM(K). We shall be left with no option, but to join it.

Mr. Speaker: Order! There is a point of order.

The Minister for Water and Irrigation (Mr. Katuku): On a point of order, Mr. Speaker, Sir. This debate has to do with PAC Report. Is it in order for Mr. Wamunyinyi to discuss about coups in parties which has nothing to do with this debate?

Mr. Speaker: Can I tell you this: "Please, take your coups out of this House. Coups, by their very nature, are undemocratic."

Proceed!

Mr. Wamunyinyi: Mr. Speaker, Sir, you also remarked when they were cheering the man who purports to lead the party. He is attempting to steal the party and they are cheering him up!

Mr. Speaker: Order! You are in the House. The Chair took firm action and we went to business. Shall we now go to business?

Mr. Wamunyinyi: Thank you, Mr. Speaker, Sir. I had said earlier on that the PAC had done a very good job and that we, as a House, need to move to approve the Report which is before the House. I had said that the Government, through the Kenya Airport Authority (KAA) should move with speed to ensure that the Kisumu Airport, which is the only one in the region, is back on track and planes should be seen flying down to Kisumu safely.

There was an issue which is very important that concerns PAC and also affects this country. That issue is about Mumias Sugar Company involvement with the project in Tana Rivers Development and Authority (TARDA). Obviously, as the owner of the land and the Athi project, TARDA should be the one doing a feasibility study and trying to establish if that project is viable. TARDA should be spending its money because that is its investment. I remember that the parent Ministry of Regional Development Authorities had earlier advertised this project and four firms tendered. One of which, was Kenana of Sudan. Kenana which had the lowest bid of about Kshs21 million was never awarded this project to conduct a feasibility study on the sugar project on the delta area. The question we should ask ourselves is why the project was not awarded to Kenana Sugar Company, which had the lowest bids. In the first place, Mumias Sugar Company was not among the companies which had tendered for the project. How did it get involved? That was a matter under the Ministry of Regional Development Authorities. How was it transferred to the Ministry of Agriculture? How was the amount of Kshs128 million, which has since been reviewed to Kshs200 million arrived at? These are questions which members of the public and hon. Members have been asking themselves.

We are aware that when we are approaching the general election time, the Government uses its parastatals and departments to raise money. That is done through capital projects. I believe this is one of the routes that have been taken to syphon money. There has not been a resolution by the shareholders of Mumias Sugar Company to invest in Tana and Athi Rivers Development Authority (TARDA). Where did the Minister for Agriculture and whoever else is involved get the power to act on behalf of shareholders?

Cane farmers are being underpaid while the company intends to spend Kshs200 million to study a project. Supposing Mumias Sugar Company pays Kshs200 million and the result of the study is that the project is unviable, who will meet the cost and pay back the money because it will have been spent? While this is happening, the farmers are being underpaid Kshs2,100 per tonne, which is "mere peanuts." At the end of the day, after deductions are made, most farmers of the Mumias Sugar Company get what they refer to as DRs. They do not get any money from the

company.

The other reason why we are opposing the funding of the project by Mumias Sugar Company is because it will have an effect on environment. Experts have done a study on this and established that this will have a far reaching effect on the environment at the delta region. The delta area is the only one where pastoralists have the last resort; this is the place where in case of a continuous drought, they take their animals to graze.

When the current Managing Director of Mumias Sugar Company was appointed, he initiated some projects, one of which involved fencing all round the sugar company's premises which cost Kshs30 million. He also initiated the construction of a two kilometre stretch of road to the factory, which cost roughly Kshs60 million, by Cabro Works Construction Company. I am also aware that he initiated the boiler expansion to enhance the crushing capacity against cane shortage. This project cost Kshs700 million. If you look at the manner in which the projects were undertaken, you will find that Mumias Sugar Company which is the key sugar production company in this country, it is very likely to fall. So, while we speak on the public accounts and investments in the country, we must also ensure that the relevant Ministries do not take the opportunity to syphon money from public institutions. I am aware that Alex Mureithi is one of the Managers in TARDA and I hope he is not trying to make money for NARC(K).

Mumias Sugar Company, which is alleged to be doing well and making profits, owes a lot of money to farmers. It owes farmers through the farmers' organisation Kshs1.2 billion. It does not make any sense for the company to declare profits while it owes a lot of money to farmers. This is a systematic way of trying to "kill" Mumias Sugar Company. We, as leaders from that area, will not sit down to see that happen. You are aware that I represent farmers under the Mumias Sugar Company. So, it is my duty to speak on their behalf.

The other issue which is important is the support that should be offered to small entrepreneurs. They need to be supported by providing funds in terms of loans so that they can also expand their businesses. That is the only way we can enhance the livelihood of our people. Projects cannot go on, particularly, when some firms go slow in implementing our policies. For instance, the Kenya Power and Lighting Company (KPLC) has had a problem in implementing the Rural Electrification Programme (REP) even in areas where members of the public have paid money. The company has failed in providing power supply to people and that is pushing us backwards. Sometimes, we pay KPLC using our CDF, hoping that the company will implement the electrification projects but it takes too long to implement the projects.

Equally important is the issue of the Youth Enterprise Development Fund. That was a very good idea when it was first introduced by the Minister at the Budget level. The idea excited the youth in this country and even the leadership. However, we are now in December and since the implementation of the fund was announced in June, nothing has happened. This will turn out to be a problem. We are sitting on a time bomb. I think something is wrong with our Government. Not even the previous Government had such problems. This Government does not move on to implement issues that it promises to Kenyans. Instead, it concentrates on destroying political parties. The Ministers themselves are involved in that. I want to urge the Government to release the Youth Enterprise Development Fund so that the youth of this country can help themselves within their areas and benefit from their own sweat.

With those few remarks, I beg to support.

Mr. Speaker: Yes, Mr. Nderitu!

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Spika, si Bw. Nderitu, lakini ni mimi!

Mr. Speaker: Bw. Wamwere, nilikuwa nafikiri wewe ni Bw. Nderitu kwa sababu anaketi hapo wakati mwingi. Pia, mnafanana sana!

Nakupa fursa hii!

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Spika, ninashukuru kwa kunipa fursa hii ili---

Mr. Weya: On a point of order, Mr. Speaker, Sir. Is it in order for Mr. Wamwere to wear a *kofia*?

Ms. Abdalla: But the Speaker cannot see him!

Mr. Speaker: I actually cannot see what he is wearing.

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Spika, kofia hii inafanana na koti langu. Kwa maoni yangu, mimi ni sawa kabisa!

Mr. Speaker: Bw. Wamwere, endelea!

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Spika, nilikuwa nakutolea shukrani zangu kwa kunipa fursa hii ili nitoe mchango wangu juu ya Ripoti ya Kamati inayosimamia matumizi ya pesa za Serikali.

Bw. Spika, uchunguzi dhidi ya ufisadi ni muhimu sana. Hakuna nchi ambayo inaweza kuendelea ikiwa ina tatizo la ufisadi. Ni lazima tukubali ya kwamba ufisadi ni tatizo kubwa katika nchi yetu. Shirika la Transparency International, katika ripoti yake kila mwaka huonyesha ya kwamba ufisadi unaendelea kukithiri hapa nchini. Ripoti hiyo inaungwa mkono na Ripoti hii ya Kamati ya Bunge. Hatuwezi, kwa upande mmoja, kusema tunataka kupiga vita umaskini ikiwa kwa upande wa pili tunaruhusu ufisadi kukithiri hapa nchini. Ni lazima tuupige ufisadi vita kwa sababu una mazoea ya kuenea. Nadhani kila aina ya ushahidi unaonyesha ya kwamba ufisadi umezidi badala ya kupungua hapa nchini. Wengi wanasema ya kwamba ufisadi umezidi kwa sababu idadi ya watu katika nchi hii inaongezeka kwa kasi sana. Hiyo si sababu tosha ya ufisadi kuendelea.

Bw. Spika, utakumbuka tulipotembelea nchi ya Uchina, Meya wa jiji la Shangai alikuwa ametiwa mbaroni siku chache kabla ya sisi kuingia mji huo kwa madai ya ufisadi. Meya huyo ni mtu mwenye cheo kikubwa katika mpangilio wa Serikali ya Uchina na ana mamlaka makuu katika chama kinachotawala. Lakini hata hivyo, alitiwa nguvuni kwa madai ya ufisadi. Labda ataokolewa ikiwa hakuna ushahidi wa kutosha. Kulingana na kiasi cha pesa anachotuhumiwa kuchukua anaweza kunyongwa. Nadhani ni hatua za aina hiyo peke yake ambazo zinaweza kutusaidia kupunguza ufisadi nchini.

Bw. Spika, nilikuwa mwanachama wa Kamati hii kabla ya kuteuliwa kama Waziri Msaidizi. Ninakumbuka ya kwamba katika vikao vyetu tulikuwa na tatizo kubwa tukitafuta ukweli kutoka kwa maofisa fulani wa Serikali. Ni jambo la kuhuzunisha kwamba wakati maofisa wa Serikali wanakutana na wanachama wa Kamati hii, ni kana kwamba wamo vitani. Wanachama wa Kamati hii kila mara hutafuta ukweli wa mambo lakini maofisa hufanya kila jitihada kuuficha ukweli huo. Nilikuwa ninajiuliza: Kwa nini tusiwe na lengo moja kama wanakamati na maofisa wa Serikali? Ni wajibu wa maofisa wa Serikali kusaidia Kamati kupata ushahidi ambao utaisaidia Serikali kukomesha ufisadi. Haiwezekani ya kwamba maofisa wa Serikali wanachukua hatua ya kuficha ukweli wa mambo. Tulisukumana na maofisa na wakati mwingine kutoa vitisho ili tupate habari wanazozijua. Sijui ni hatua gani itakayochukuliwa ili maofisa wa Serikali wajue ni jukumu lao la kupigana na ufisadi hapa nchini. Sijui ni hatua gani nyingine inaweza kuchukuliwa ili kuhakikisha ya kwamba hawafanyi mchezo wa kuficha ukweli wanapoulizwa maswali na wanachama wa Kamati.

Bw. Spika, tatizo lingine ni lile la Kamati hii kutoa mapendekezo ya kupigana na ufisadi Serikalini na pia katika mashirika, lakini hayatekelezwi. Ukisoma Ripoti hii, utaona mapendekezo yaliyomo ni yale yaliyokuwemo katika Ripoti ya mwaka uliotangulia. Hata Ripoti ya mwaka uliofuata huu, itakuwa na mapendekezo haya haya. Je, kuna haja gani kutoa mapendekezo ambayo hayatekelezwi? Pia inatatiza ya kwamba wakati huu, Waziri anayehusika hayuko hapa Bungeni.

Ingekuwa vizuri kama angekuwepo ili asikie Bunge likijadili mambo haya. Pia ingekuwa vizuri ikiwa maofisa wa Wizara yake wangukuwa hapa kwa sababu Ripoti hii imechukuwa muda mwingi wa waheshimiwa Wabunge kuitayarisha na kuijadili. Kama hakuna hatua itakayochukuliwa, hakuna haja ya kuwa na Kamati hii na kuja na Ripoti kama hii ambayo tunaijadili hapa Bungeni ikiwa haitatekelezwa. Hili ni jambo ambalo linatia hofu, ya kwamba ukiwa mwanachama wa Kamati hii, matatizo mliyoyajadili miaka miwili iliyopita, mnaendelea kuyajadili hata wakati huo. Unashindwa kama hakuna mtu ambaye anatakiwa ahakikishe ya kwamba tatizo lililojadiliwa mwaka jana halitajadiliwa mwaka huu kwa sababu litakuwa limetatuliwa. Na lile ambalo linajadiliwa mwaka huu halitajadiliwa mwaka ujao kwa sababu litakuwa limetatuliwa. Huu umekuwa mchezo wa kupoteza wakati kwa sababu matatizo na mapendekezo ni yale, yale, lakini hakuna hatua inayochukuliwa. Hili ni jambo la kuvunja moyo na ambalo halifai kuwepo.

Sijui Bunge linaweza kujipatia uwezo gani ili kuuliza Wizara husika kutekeleza mapendekezo haya. Sijui kama ni Wizara ya Fedha ambayo ina wajibu wa kuteleza mapendekezo haya. Ni lazima kupatikane namna ya Bunge kushinikiza Wizara inayohusika ili itekeleze mapendekezo haya la sivyo tutakuwa tunapoteza wakati na pesa nyingi za nchi hii tukijadili matatizo ambayo yanastahili kuondolewa moja kwa moja. Matatizo haya yasipoteuliwa, nchi itaendelea kutatizika na wananchi wataendelea kuumia.

Bw. Spika, jambo lingine ambalo ningependa kugusia ni lile la kuwasilisha Ripoti hii kwa tume ya kuchunguza na kupigana na ufisadi inayojulikana kwa umaarufu kama Kenya Anti-Corruption Commission (KACC). Ningependekeza ya kwamba hata wakati Kamati ya Bunge inapokutana, iwe na mwakilishi kutoka tume ya KACC na idara ya upelelezi ya polisi. Ikiwa kumesemwa jambo ambalo lina dhihirisha ya kwamba pamefanyika uhalifu, sheria imevunjwa au ufisadi umefanyika, hakuna haja ya kungojea, kwa maoni yangu, mpaka Ripoti hii ijadiliwe hapa Bungeni kabla ya hatua kuchukuliwa. Kama mtu amehusika na ufisadi, inafaa achukuliwe hatua na polisi wakati anapohojiwa. Haifai kwetu kungojea hadi mtu afe kabla hajachukuliwa hatua?

Mara nyingi hizi ripoti ni kama *postmortem*. Kama inawezekana ufisadi uzuilike, ni afadhali kuzuia kuliko kutibu. Hili ni pendekezo lililotolewa na Kamati na sijui litatekelezwa vipi. Wale ambao wanapigana na ufisadi kutoka idara zingine za Serikali wanafaa kushirikiana na Kamati hii ya Bunge katika kupigana na ufisadi kwa sababu adui ni mmoja na kuna faida kubwa ya kushirikiana kuliko kila idara kupigana kivyake bila ya kusaidiana.

Bw. Spika, hata kama hakuna ofisa wa KACC katika vikao vya Kamati ya Bunge, ingekuwa ni bora sana kama tume hii inaweza kuchukua ripoti hizi na kuzifanyia uchunguzi wa kina kuona kama zina msingi. Hii ni kwa sababu ripoti hizi kwa jumla zinaongea juu ya wizi. Lakini ukizisoma, utaona kwamba lugha inayotumiwa sio ya moja kwa moja. Haitaji neno "wizi" au "ufisadi". Ni lugha nyingine ya kuficha mambo. Kwa mfano, utasikia mtu alichukua pesa, lakini badala ya kusema aliiba pesa za Serikali, lugha ya Ripoti hii, na ndio inatumika katika Kamati, inakuwa ni lugha ya "Ofisa alijikopesha pesa." Kujikopesha pesa za Serikali ni kuiba. Lakini, inaposemekana kwamba alijikopesha---

Mr. Speaker: Naomba mhe. Wamwere usiwe jaji. Wizi utatambulika wakati korti itaamua.

The Assistant Minister for Information and Communications (Mr. Wamwere): Hiyo ni kweli kabisa, Bw. Spika. Lakini jambo ninalosema ni kwamba, haya tukubali ya kwamba Kamati hii haiwezi kuongea juu ya wizi au ufisadi wa moja kwa moja kwa sababu haujathibitishwa mahakamani. Basi ni muhimu baada ya kuonekana mtu amejikopesha pesa asukumwe mbele ili kuonekane kama kulikuwa wizi au la. Lakini ikibaki tu kwa ripoti kwamba mtu alijikopesha pesa, itabaki hivyo hivyo bila kufuatiliwa. Utakuta ya kwamba mabilioni ya pesa ambazo zinaongewa juu yake katika hizi ripoti, hakuna mtu ambaye anafuatilia.

Bw. Sika, kwa hivyo, kuna haja kubwa ya tume inayochunguza ufisadi, KACC, ichukue

ripoti hizi na iende ikazifanyie kazi ili kupunguza ufisadi ambao ninaamini unaendelea sana katika karibu idara zote za Serikali. Mambo haya hayajaisha.

Watu bado wana tabia ile ya zamani. Hawajajua kufanya mambo kwa namna nyingine. Ni kama vile Waswahili wanavyosema, "aliyezoea vya haramu, vya halali hawezi."

Bw. Spika, jambo lingine ambalo mtu anashawishika kuongea juu yake ni lile la wale ambao wamejitwika jukumu la kukosoa Serikali kwa ufisadi. Ni kama kwamba wao hawawezi kupatikana katika jambo lile. Ninaongea juu ya ripoti ambazo zimekuwa zikitolewa na shirika la Transparency International; shirika ambalo linafanya kazi nzuri. Lakini wakati mwingine, unashindwa wale ambao wamejitwika jukumu hilo la kumulika wengine wao huwa wanamulikwa na nani? Mwanzoni mwa mwaka huu, kulikuwa na tatizo la wakurugenzi wa shirika hili kushtakiana ya kwamba wengine wamehusika na visa vya ufisadi. Tulisikia ya kwamba Kamati iliundwa ya kuchunguza jambo hilo. Ripoti ya Kamati hiyo bado hatujaipata na hatujui kama ilifanya kazi au la. Lakini sidhani kuwa kunaweza kuwa na aina tofauti za ufisadi; kwamba kuna watu ambao wanaweza kufanya ufisadi na ufisadi huo usionekane kama ufisadi lakini wengine wakifanya, ufisadi wao unamulikwa zaidi. Ningetaka hili shirika linalo kuambia ni nani mfiadini na ni nani si mfiadini lituongoze kwa mfano. Kama imesemekana wenyewe wameshtakiana hadharani na kamati imeundwa ya kuchunguza ufisadi uliyomo katika shirika hili, basi nchi ina haki ya kupewa matokeo ya uchunguzi huo ili tujue kama kulikuweco na ufisadi au la. Hii ni kwa sababu kama yule anayechunguza ufisadi naye anakuwa mfiadini, hatakuwa na haki tena ya kumulika yeyote. Hatakuwa na haki ya kumulika mhe. Maj. Madoka hapa kwa sababu mwenyewe atakuwa amejifunga.

[Mr. Speaker left the Chair]

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

Kwa hivyo, ni muhimu shirika la Transparency International lituambie uchunguzi wao ulifika wapi. Ni Bw. Mwalimu Mati ambaye alikuwa na makosa au ni mkurugenzi mwenzake, Mungai? Ni nani alikuwa amefanya ufisadi? Tunangojea na hatutaki jambo hili lisahaulike.

Wengine ambao wako na jukumu la kujimulika ni watu wa habari. Wanahabari ni watu ambao wako na jukumu kubwa la kumulika ufisadi. Na mara nyingi nimejiuliza kwamba wanapomulika ufisadi wa mhe. Wamwere au mhe. Maj. Madoka, nani huwa anamulika ufisadi wao? Kukifanyika ufisadi kule kwao, hawawezi kutangaza. Ni lazima namna ya kumulika kila mtu itafutwe. Hatuwezi kuwa na wanahabari ambao ni kama wako juu ya sheria ama umulikaji. Sidhani hapa kuna mtu ambaye atakubali kutetea wanahabari kwamba ni watakatifu.

Mara nyingi tumekwenda mikutanoni kule, tunamaliza mkutano halafu inakuwa ni kwenda "chamber"; ni kusimama kando kabla ya shughuli kuisha. Na usipokwenda "chamber" unatandikwa kwa sababu maneno yote ambayo umesema hutayapata kwenye runinga ama gazeti siku ijayo. Huo si ufisadi? Nani anamulika watu hawa wanaotumulika sisi? Kuna wale waandishi ambao wanatoka mashinani. Wanatuma habari zao kwenye vyombo vya habari na watu hawa wanalipwa pesa kidogo sana.

Waandishi hao wa habari huambiwa eti hawawezi kupewa Kshs600 ama Kshs700 ambazo wamefanyia kazi kwa mwezi mzima. Kumbuka wanaambiwa hivyo na watu ambao wamekuwa wakipata faida ya mabilioni ya pesa. Kwa mfano, kampuni ya Nation imepata faida ya Kshs1 bilioni mwaka huu. Je, kampuni kama hii itashindwaje kuwalipa wafanyakazi wake walioko kule mashinani? Ikiwa wanashindwa kuwalipa wafanyakazi wake, je, si huo ni ufisadi? Ni nani atamulika ufisadi wa aina hii? Kwa hivyo, vyombo vya habari, kwa njia fulani, vimejipatia

mamlaka yakutumulika sisi. Ni lazima viwe tayari kujimulika vyenyele la sivyo kutafutwe watu wengine ambao wataweza kuvimulika kwa sababu hakuna sehemu ya jamii yetu ambayo haijahusika na tatizo hili la ufisadi. Ikiwa kutakuweco na watu ambao watajiweka juu ya wengine, hiyo haitasaidia kumaliza ufisadi bali itasaidia kuufunika tu.

Bw. Naibu Spika wa Muda, jambo jingine muhimu ambalo ningependa kutaja hapa ni swala la ufisadi mashinani. Jumapili iliyopita, nilitazama kipindi kimoja katika runinga ya KBC Channel One ambapo wataalamu walikuwa wanahojiwa kuhusu swala hili la ufisadi. Mmoja wa wataalamu hao alikuwa ametoka kwenye Tume ya Kenya Dhidi ya Ufisadi (KACC). Yeye alisema kwamba kila wakati wanapozunguka kuwahoji watu kuhusu tatizo hili la ufisadi, wanapata habari zinazoonyesha, dhahiri shahiri, kwamba ufisadi huko mashinani ni mwingi mno kuliko ule ufisadi wa *Anglo Leasing* na *Goldenberg*. Hii ni kwa sababu mamilioni ya watu huko mashinani wamepunjwa kitu kidogo kila mmoja. Ukijumlisha kwa pamoja, utakuta kwamba ufisadi mkubwa umetendeka huko. Jambo la kushangaza ni kwamba ufisadi huo haumulikwi kama unavyomulikwa ufisadi wa kiwango cha *Anglo Leasing* au *Goldenberg*.

Katika Wakilisho langu kuna visa vingi vya ufisadi wa aina hii. Wakati makampuni yalikuwa yanauzia wananchi hisa ili yapate pesa za kuwanunulia wananchi hao mashamba, ulifika wakati ambapo maofisa wa utawala wa mkoa walijipatia mamlaka mengi sana kiasi cha kwamba wakuu wa wilaya wengine walinyakua makampuni na mashamba katika wakilisho langu na kujipatia ukubwa. Walijiita "*Chairman-General*". Wengine walikuwa wakali mno; kwa mfano, Mkuu wa Wilaya aliyetwa Bw. John Anguka. Yeye alikuwa anawambia watu kwamba, "Mkicheza nami nitaanguka na ninyi." Watu wakaogopa "kuangukwa nao". Walipoingwa na hofu ya "kuangukwa nao" mali yao yote ilisombwa. Matrekta na mashamba yao yalinyakuliwa na maofisa hawa wa utawala. Ungemkuta ofisa mmoja wa Serikali amejinyakulia mashamba ya watu hamsini na kuwauzia watu wengine. Walionunua hisa na ambao ndio wastahiki wa kweli wa mashamba hayo waliaachwa nje. Haya mashamba yalinyakuliwa yalikuwa yauzwe ndiposa faida ipatikane. Hawa wanyakuzi waliweka pesa zote mfukoni na kujipatia madaraka zaidi. Hatimaye waliondoka sehemu hiyo na kuwaacha wananchi wakiwa na matatizo chungu nzima.

Mimi ninakumbuka kupitia faili moja ambayo ilionyesha majina ya watu 47 walionyanyanywa mashamba na aliyekuwa Mkuu wa Mkoa, hayati Hezekiah Oyugi. Yeye, Bw. Oyugi, aliandika kwenye hiyo faili kwamba aliagizwa kufanya hivyo na aliyekuwa Rais wa nchi hii mhe. Moi. Swali ninalojiuliza ni: "Ufisadi wa aina hii utamulikwa lini?" Ni lini Serikali itakumbuka kwenda mashinani ili kuwasaidia wale wananchi wadogo ambao wanaumia kule? Dhuluma wanayoipata haistahili kuandikwa magazetini eti kwa sababu ni watu wadogo sana.

The Temporary Deputy Speaker (Mr. Poghismo): Order, Mr. Wamwere!

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Naibu Spika wa Muda, tuseme kwamba yaliyopita si ndwele. Lakini, tunafaidika kwa sababu---

The Temporary Deputy Speaker (Mr. Poghismo): Order, Mr. Wamwere! I think we know enough of our rules. There are people who cannot come here to defend themselves. Unless, of course, you have documentary evidence, then you cannot proceed on along that line of argument.

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Naibu Spika wa Muda, kusema kweli ningetaka sana kuleta hiyo faili.

The Temporary Deputy Speaker (Mr. Poghismo): What you have said already becomes a public account of some people and yet it is not in the Report we are debating now.

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Naibu Spika wa Muda, najua haiko lakini ninalinganisha matukio. Ninasema kwamba---

The Temporary Deputy Speaker (Mr. Poghismo): Order, Mr. Wamwere! I think you really need to avoid naming persons who cannot come here to defend themselves. Even for the purposes of expediency, that does not really help anybody.

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Naibu Spika wa Muda, ninakubaliana nawe. Hata hivyo, nilichokuwa ninasema ni kwamba kuna aina mbili za ufisadi. Kuna ufisadi mkubwa na ufisadi mdogo. Hoja yangu hapa ni kwamba ufisadi mdogo umeachiliwa kuendelea bila kuadhibiwa. Wahusika katika ufisadi huu wanaathiri watu wadogo ambao hawana uwezo wa kufanya lolote. Hoja yangu pia ni kwamba haitoshi Serikali kumulika ufisadi mkubwa pekee yake na kuusahau ufisadi mdogo.

Bw. Naibu Spika wa Muda, kuhusu matatizo yaliyoko katika wakilisho langu, Wizara ya Ardhi ilikubali kuunda kamati ambayo ilizunguka katika makampuni na mashamba yote ambayo yalinunuliwa na wananchi ambao walikuwa wameungana kuunda makampuni. Kamati hiyo iliwasikiliza watu wakisimulia namna walivyopunjwa hatimiliki pamoja na mashamba yenyewe. Aidha ilielezwa jinsi ambavyo kuna mashamba ambayo yanamilikiwa na watu watatu au wanne kwa pamoja. Jambo la kushangaza ni kwamba wengine wana hatimiliki ilhali wengine hawana. Watu hawa wanaishi katika uoga, kwa mfano, ikiwa umejenga nyumba yako ya mawe, kuna mtu ambaye anashikilia hatimiliki ya shamba lako na anaweza akaja wakati wowote kukuuliza uhamishe nyumba yako kutoka shamba lake. Kuna watu ambao wana stakabadhi za kuonyesha kwamba walinunua hisa lakini hawajapewa *title deed*.

Hiyo kamati ilifanya uchunguzi wake lakini ulipofika wakati wa kutoa mapendekezo, ikatoweka ghafla. Yalikuwa ni makosa makubwa hayo na nimekuwa nikimwomba Waziri anayehusika aiunde hiyo kamati tena ili imalize kazi yake. Hii ni kwa sababu kutoshughulikia ufisadi wa mashinani ni kosa kubwa. Ni sawa na kuwaumiza wananchi wadogo na walala hoi ambao wana sauti dhaifu kuliko wengine wote. Natumai kwamba Waziri wa Ardhi ananisikiliza na atakubali kurudisha kamati hiyo ili imalize kazi yake.

Bw. Naibu Spika wa Muda, jambo jingine ambalo ningependa kugusia linahusu pesa zilizoporwa humu nchini na kuwekwa katika mabenki ya nje.

Hivi majuzi, ilikuwa ni aibu kuwasikia wazungu wakituuliza, "Ni kwa nini hamtuombi msaada tuwasaidie kurudisha pesa zenu zilizoporwa?" Nchi hii inahitaji pesa nyingi na sisi tunakwenda kuomba pesa hizo kutoka kwa wafadhili.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Wamwere! Your time is over.

Mr. Ochilo-Ayacko!

Mr. Ochilo-Ayacko: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion. I want to thank and congratulate the Chairman of the Public Accounts Committee (PAC), hon. Omingo, and the other Members of the Committee, for the good effort they put towards the production of this Report. I also want to thank Parliament as an institution for supporting this Report.

Mr. Temporary Deputy Speaker, Sir, you know very well that when the current administration came to power, their clarion call was "zero tolerance to corruption". Now, you know that the PAC is one of the Committees that this House uses to fight corruption but what was and is still expected of the current administration is to support all organs that are fighting corruption. However, it is disappointing to note that the composition and membership of this Committee, has from time to time, been changed through the Executive hand. That cannot be interpreted as zero tolerance to corruption; it can only be interpreted as destabilisation of Committees that are supposed to fight corruption.

To make matters worse, if you now look at party affiliation of this House to really determine the composition of such an important Committee--- I want to say that the PAC and the PIC are Committees that Parliament uses to achieve its constitutional function of oversight. Parliament passes the Budget as required by the Constitution and Parliament, according to the same Constitution, should oversee the same expenditure through such Committees. So, when through the

invisible hand of the Executive, membership of the committee is destabilised, it undermines the work of Parliament as set out in the Constitution. It also negates the call that was made by our good Government at the time our President was being sworn in, that corruption will not be tolerated; it will be zero tolerated.

Mr. Temporary Deputy Speaker, Sir, having said that, I want to say that if you look at the Report that we are debating today, these are activities that took place in the Financial Year 1998/1999 and most of the players who actuated or perpetrated these activities may have passed on to the other world where you cannot punish them. I hope they will be punished where they are now if we are to be punished for the misdeeds we do on earth.

Mr. Temporary Deputy Speaker, Sir, I want to urge this House and particularly the Government that is charged with the responsibility of executing the activities of this House to join this House in making sure that we debate the current report or reports of the previous year. We are debating a Report of nearly eight years ago and we are purporting to make recommendations that are supposed to rectify or remedy the situation that took place that time.

Actually, we are debating the Government that was led by the retired President and what we are talking about may disrupt his retirement and I think the delay is not good for justice and good governance in this country. So, if we are able to do our work in time and make sure that the recommendations are acted upon, then we will be doing what the public expects us to do. In as much as the Committee is PAC through which the Government accounts for the funds given to it, we are also accountable to the public for the payment and the support we receive from them. If we are doing the work in 2006, work that ought to have been done in the year 1999, that accountability is not timely.

Mr. Temporary Deputy Speaker, Sir, if you look at this Report particularly on the general observations and in so far as expenditure control is concerned, you will find that the perpetrators of problems with expenditure control is none other than State House. State House exceeded the expenditure that was given to it by more than UK£572 at that particular time and because it is State House that is given Executive authority, I wonder where they would acquire the moral attitude of pointing an accusing finger to the other Ministries if it is unable to control its expenditure.

Mr. Temporary Deputy Speaker, Sir, you will find that it is clearly unlawful to expend monies beyond what Parliament gives authority for such expenditure. This was taking place at that time. I suspect that this bad behaviour is continuing even presently, but Parliament on behalf of the people, is not seized of authority to punish the Accounting Officers for exceeding the expenditure and the person who is seized of that authority resides in State House and is also guilty of the same offence. So, this kind of situation is what puts the House in an awkward position, allows corruption to continue and also allows misuse of public funds to go on.

Mr. Temporary Deputy Speaker, Sir, in proper democracy you cannot exceed the expenditure authorised by Parliament by even a single cent. State House has done so. As many as eight other Ministries continue to do so and the Permanent Secretaries who were Accounting Officers, then who were supposed to be accountable for this money, nobody does anything about them because they are appointees of the same person who is also guilty of this offence.

Mr. Temporary Deputy Speaker, Sir, under the same paragraph, there is a statement on public debt. It is clear that public debt at that particular time and even presently, is by far in excess of what is available for service delivery to this country. In other words, what we are collecting today, we are paying for the debts that were incurred or committed on behalf of this country and her citizens by previous administrations. What is available for you, I and the children of this country to use is less than 50 per cent. In fact, it does appear that the welfare of the citizens of this country is a function of luck and goodwill from God because they collect Kshs100 and out of that only Kshs47 is available for their welfare. No wonder this country is unable to respond to

catastrophes like floods, famine and other things because the money that is available for that is already committed for servicing of debts, some of which are questionable.

Mr. Temporary Deputy Speaker, Sir, I heard some hon. Members suggest that we go the Highly Indebted Poor Countries (HIPC) way, that we say that we are very burdened by debts and that we cannot pay them. I know that is very bad manners. If you are an individual and you got indebted, you should not go to the person who lent you money and say that you can no longer pay. You would reduce your creditworthiness, if you did so. However, it is important to make sure that you monitor the indebtedness of the country and that you also make sure that proper budgeting is done for it and you also ascertain that the debt does not grow faster than revenue that is being collected by the relevant revenue agencies.

Mr. Temporary Deputy Speaker, Sir, I suspect rightly that even the current Government has been borrowing heavily from the way I see western and eastern donors smiling. You know they are very happy when they lend you money because they also control you after lending you that money and this situation may be worse than it was at that particular time. So, it is important for rectification to be put in place and urgently.

Mr. Temporary Deputy Speaker, Sir, there is an Item which has dogged one administration after another, called Pending Bills. Pending bills do two sets of damages to people in this country: If suppliers of goods and services are not paid, they are completely wrecked. Some of the goods and services that these people supply to the Government are hinged, upon borrowing, from commercial banks. So, if the payment does not come in good time, you will be bankrupted by the same Government that talks about being committed to wealth creation and the welfare of her business people. So, that is one damage that pending bills create.

Pending bills is also an avenue for making false claims. We know of contractors and suppliers of goods who, for one reason or another, do not supply any goods or services but who get listed as pending bills claimants. Such pending bills grow at a monstrous proportion. You may find a pending bill amounting to Kshs100 million. If you look at that pending bill in two subsequent years, you will find that the amount has grown to Kshs500 million. So, this country destroys her own entrepreneurs. Also, by having pending bills, we create a situation where corruption can be practised by both those people who pay and those who claim payment from the Government.

Mr. Temporary Deputy Speaker, Sir, accumulation of pending bills should be discouraged. Government Ministries and Departments should only be allowed to incur expenditure where budgetary arrangements have been made. Expenditures that are incurred without sufficient budgetary arrangements are the ones that occasion pending bills. You can see that the biggest culprit in terms of pending bills is, again, State House. So, if State House, which is supposed to prefect other Departments, is guilty of accumulating pending bills, I do not know what moral authority a guilty prefect would have to punish a perpetrator who should be supervised by the same prefect.

You can see that more than ten Government departments are involved in this malpractice, and that the loss to the public is monumental. The public has become desperate and very fluid. I wonder how the business people, who were supposed to supply these Departments that have not paid them, have survived because the accumulated amount in respect of Pending Bills is colossal. If this amount is rightly owed to business people, the persons involved must be bankrupt by now. Again, if some of the corrupt activities are factored in, you can see what the public is losing by the existence of these very pending bills.

Mr. Temporary Deputy Speaker, Sir, you will find that during the year under review, Government departments did not surrender imprests. As you know, imprest that is not surrendered must be recovered. If it is not recovered, that amounts to misappropriation or even theft of the specific amount involved. Again, the leading culprit in this area is State House. So, you can see that

it is State House that has been leading in the mismanagement of the resources of this country and failing to account for them. No wonder, most of the representatives of State House are not here. Only a few officials were here. The Ministries that are supposed to have been supervised by State House, and the Office of the President, which did not surrender imprests, are more than ten. The same argument arises: You have no moral authority to right such wrong if you are also a perpetrator of the same.

We have, time and again, in this House, even before the current Session, talked about making public, proceedings of the Public Accounts Committee and those of the entire Parliament. The continued hearing of evidence in camera has made it very difficult to deter those involved. They know that we will talk within the confines of this House. The Press will selectively publish what they think is newsworthy and, perhaps, make a few sensational comments but they will be somewhere laughing to their banks, where they have stashed money that belongs to the public.

So, the issue of making public the hearings of the Committees of this House, including the Public Accounts Committee, is important. Doing so would be in line with the constitutional duty of this House of keeping the Government accountable on the Budget that we approve. If the public, whose attention both sides of the House compete for, are unable to access information from this House to know who is not doing what or who is sleeping on which job, the concept of public accountability is blurred and obscured.

Mr. Temporary Deputy Speaker, Sir, this House has many Reports that have not been implemented. Just have a look at the Front Bench on the Government side. There is nobody listening. Even the Minister for East African Community is withdrawing from the Chamber. I do not know who is representing the Government. So, there is nobody listening to what we are saying. We expect nobody to implement what is being done here. Perhaps it would be important in future, to give this House some sanctions over the Government; not sanctions of a political kind but sanctions of a kind that can lead to Government taking seriously the work of Parliament.

For example, there are officers who have perpetrated these ills against the public, and the Executive is allowed to appoint them and re-appoint them single-handedly. If this House has the power to remove the President from office for sleeping on his job, why can it not acquire powers to decline the appointment of such persons, or remove those persons for misusing their offices?

Mr. Temporary Deputy Speaker, Sir, I want to conclude by saying that this House, by passing the previous Reports and discussing and hopefully passing this particular one, has discharged its obligation to the public. What remains is for the Executive to discharge her obligation to the public by righting these wrongs against the taxpayers.

Thank you very much.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I thank you for giving me the opportunity to contribute to this debate. I will take off from where my colleague has left: That, this House, year in, year out, debates and adopts Reports of the Public Accounts Committee and the Public Investments Committee and exposes all those transgressions and leaves it to the Executive to follow up and take action. I feel that there is a weakness of our watchdog function. For our action, time and resources to be worthwhile, we should enact a law that will make it mandatory that whatever Reports and recommendations are made by the watchdog Committees and adopted by this House, should be implemented within a specific time-frame.

Mr. Temporary Deputy Speaker, Sir, as you know, over the years, we have recommended through the Public Accounts Committee, various measures to be taken, especially, recovery of money looted from public coffers, but nothing has happened. The Attorney-General, who is supposed to follow up, never takes any steps. The Ministry of Finance, which is supposed to report to Parliament, periodically, to inform us what recommendations adopted by this House have been implemented, does not do so. So, what we are doing here is just a circus.

The Temporary Deputy Speaker (Mr. Poghisio): Who is doing a circus?

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, if I can remember well the definition of a circus, it is something which is done to just make people laugh or be entertained.

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

Mr. Angwenyi: Okay, I withdraw the word "circus".

So, Mr. Temporary Deputy Speaker, Sir, maybe, we should have a class to teach English to all hon. Members so that when we apply certain terms here, we apply proper terms.

The Temporary Deputy Speaker (Mr. Poghisio): Order now! Order! Who will teach that class? What is that? That is totally uncalled for! A class for hon. Members?

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, what I am saying is that---

The Temporary Deputy Speaker (Mr. Poghisio): What was the import of that?

Mr. Angwenyi: We should look at the issues---

The Temporary Deputy Speaker (Mr. Poghisio): Order! I am not letting you get away with that!

Mr. Angwenyi: I have apologized for using the word "circus".

The Temporary Deputy Speaker (Mr. Poghisio): It is not about the use of the word "circus"!

Mr. Angwenyi: Okay, I withdraw and apologize for using the word "class". I wanted us to have a class---

The Temporary Deputy Speaker (Mr. Poghisio): Order now! I am going to stop you right there! Why are you courting these problems? There is nothing in the House for you to correct! Every hon. Member here knows English.

Mr. Angwenyi: Okay, I withdraw and apologize for seeking that we should be taught. But I would like to be taught myself.

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

Mr. Angwenyi: Let this House rise up and look eyeball to eyeball at the issues affecting our people.

Mr. Temporary Deputy Speaker, Sir, if you go through this Report, and last year, I went through the previous year's Public Accounts (PAC) Report and I found out that money to the tune of Kshs9 billion had been siphoned off from national coffers. The culprits had been identified and recommendations were made and adopted by this House, but no action was taken! If we recovered the Kshs9 billion, we could provide employment to 1,000 people in every constituency in this country and give them a salary of Kshs10,000 per month.

Mr. Temporary Deputy Speaker, Sir, this House should be repulsed by what is happening! I heard my colleague say that, maybe, the people on the Government side should not be Members of the Committee. But some of these recommendations were made by people who were on that side and they are the ones who are quantifying themselves about embezzlement and corruption. This House should rise up and mention the names of hon. Members from both sides who have committed these offences or transgressions against the people of Kenya! I cannot reach my home today because all the bridges leading to my home have been washed away and the Ministry does not have money! All we need for my constituency is about Kshs10 million. So, if all constituencies in this country needed Kshs10 million so that hon. Members can get to their homes, it will only add up to

Kshs2.1 billion. Just imagine, that is Kshs2.1 billion that we do not have, yet some people have siphoned off Kshs9 billion in one year! What is going to ignite or trigger us to take action and enact an effective law?

Mr. Temporary Deputy Speaker, Sir, often, contractors collude with the Attorney-General's

Chambers or with the Treasury and take the Government to court to recover certain monies, and the Government is never represented in those cases! So, whatever is being requested by the contractors is awarded by the courts because there is no counter-plaint made by the Attorney-General or the Ministry of Finance. How long is this country going to suffer because of inaction by Government agencies who are paid out of the people's taxes? We should hold the Attorney-General and the Ministry of Finance accountable for these losses! We should hold them accountable for not getting to our homes because the bridges have been washed away! I should hold them accountable for not getting to my home! This House is the supreme organ for the people of Kenya, charged with the responsibility to implement the resolutions of this House.

Mr. Temporary Deputy Speaker, Sir, have we ever received a report on these recommendations from the Treasury as to what has been implemented? Have we ever received a report as to why we should be ten years in arrears? We should be dealing with reports of 2004/2005 now, but we are dealing with the Report of 1998/1999, when some of the people who were involved are dead, some of them have run away, some of them have become destitutes and some of them are in this Parliament to protect themselves! Why can we not ask this Ministry to be accountable and up to date? Why can we not demand that? Why can this House not demand that? We just shed crocodile tears in this House! Take, for example, the Ministry of Local Government, in the 8th Parliament, I was a Member of the PAC, and most of the accounts of the local authorities have not been audited for the last 30 years. Today, I inquired and I was told that the most up-to-date, average local authority in this country in terms of auditing is 20 years in arrears. We are spending Kshs10 billion, Kshs11 billion or Kshs12 billion through the Local Authority Transfer Fund (LATF) to local authorities---

Mr. Mwiraria: On a point of information, Mr. Temporary Deputy Speaker, Sir. I want to inform my hon. colleague that the statement he is making on how useless or how the Government does not implement the recommendations of PAC is not entirely correct. I just want to give him a few examples. First, and I know this because I was the Minister for Finance, the Government had stopped pending bills. Secondly, you will find pending imprests for people who have since left the Government. There are no more such pending imprests today. Thirdly, and I will stop here, the audit of Government accounts is almost up-to-date. It is unfortunate that the Committee dealing with it is taking too long to process them and bring us up-to-date.

Mr. Angwenyi: Thank you for that information. I knew it all and I am aware of what he has said here.

But, Mr. Temporary Deputy Speaker, Sir, is it not true today that there are pending bills to the tune of Kshs13 billion? We do not know how those bills arose. Is that not true today? I served in the Departmental Committee on Energy, Communications and Public Works and I know that a bulk of those bills belong to that department. Is it not true that the auditing of Kisii Municipal Council, Gusii and Nyamira county councils, and even Nairobi City Council is five years in arrears? Is there anybody who can contest that fact? Those are facts, and you cannot avoid them by diving around! We spend Kshs11 billion on LATF, but is it accounted for? You know, of course, that since it is not given to any hon. Member, the Media will always focus on hon. Members and they do not want to question the utilization of that Fund. Why can we not build malls for those hawkers that we keep on chasing from the streets of Nairobi? Why can we not build malls using the Local Authorities Transfer Fund (LATF) money amounting to Kshs11 billion? Why can we not do it within this financial year, so that we can clear all these hawkers from the streets of Nairobi? We, as Kenyans, should give them a decent place to work in. Why can we not drive on a smooth road in Eastleigh Estate? It is because we have never audited these accounts. Whenever they get audited and we make recommendations, no action is taken.

I am really annoyed that I am part of this House; a House that makes recommendations

which cannot be implemented. Some of us are demonstrating on the streets of Nairobi, because of the replacement of Mr. Kenyatta by Mr. Biwott as the KANU Chairman. Why can we not demonstrate about the misappropriation of Kshs20 billion that belongs to Kenyans? Why can we not demonstrate because somebody who comes from Moyale cannot get there because of bad roads? Maybe we should begin to fight so that we get these rights of Kenyans implemented.

Mr. Temporary Deputy Speaker, Sir, look at the defunct state corporations on which the Government has guaranteed loans to the tune of Kshs5.6 billion. Examples are the Kenya National Trading Corporation (KNTC), Kenya Railways Corporation and Industrial Credit Development Corporation (ICDC). These parastatals defaulted to repay these loans. As a result, the Government took away taxpayers' money and paid up. However, it has never recovered money from those defunct corporations. Another example is the Kenya National Assurance which went under. I understand that the people who took it under are the ones quantifying themselves on the streets of Nairobi, that they are fighting corruption. It hurts me as a Kenyan. It hurts me more as a Member of this House!

Mr. Temporary Deputy Speaker, Sir, this House must rise up and form a committee on assurance and implementation of its own recommendations. It must make sure that if the Attorney-General and the Ministry of Finance do not implement those recommendations, they will be charged with serious offences and imprisoned. This is what has happened in Hong Kong and Singapore. I am praying that my "cousin" colleague seated here goes back to the Treasury, because he was listening to us when he was there. Maybe if he was there, he could hear my cry today. I am sure that God will hear the voice of the voiceless.

The Temporary Deputy Speaker (Mr. Poghisio): Please, address the Chair!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, maybe we are late now, but in the next Report, we must make three major recommendations. One of them is to create a committee on assurance and implementation. Secondly, we must recommend that the Treasury tables its memoranda and reports to the House urgently once it is given a report by the Controller and Auditor-General. Thirdly, we must ensure that the committee gives periodic reports regarding the recommendations made and adopted by this House.

Mr. Temporary Deputy Speaker, Sir, my friend talked about the issue of pending bills. But, maybe, some of those firms whose money may have been withheld wrongly, should be handled with dispatch. Maybe, we should extend that mandate to the Public Accounts Committee (PAC). It should go through those pending bills. It can even hire a consultant to go through them on its behalf and identify those which are genuine, so that they can be paid, and those which are not, so that the culprits can be apprehended. We all know how much money we have spent to follow up people who rustle a few cows here and there. But all the cows the Pokots have taken from the Turkana or vice versa, are not even a fraction of the resources which are plundered by the people who have been entrusted with the responsibility to take care of them.

Mr. Temporary Deputy Speaker, Sir, I know that there are my colleagues who would also like to contribute to this Motion. I want to support this Report, but urge that the PAC demands that all the accounts are done up-to-date, by some deadline, so that before we go to the General Election, we know that we are up-to-date in the PAC as well as the Public Investments Committee (PIC) Reports.

With those few remarks, I beg to support.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I rise to support this Report. As has already been noted by other hon. Members, we are dealing with the Report of the Financial Year 1998/99. There is an urgent need for us to be up-to-date. It is the intention of the Government to ensure that there is---

The Temporary Deputy Speaker (Mr. Poghisio): Are you responding on behalf of the

Government?

The Minister for Justice and Constitutional Affairs (Ms. Karua): Yes, I am doing so, Mr. Temporary Deputy Speaker, Sir, noting that my colleague is not here. I am doing so, in the spirit of collective responsibility.

It is our intention to ensure that our accounts are up-to-date. But I would also ask the PAC to make sure that it is up-to-date itself. I want to observe that although we laid on the Table of the House, sometime in April, the Special Audit on the 18 Anglo Leasing-related contracts, other than one of them relating to passports which to date we have been given a report, the PAC has not come back on the other 17 contracts. There is need, therefore, for Parliament to pull up its socks. The Government has said "yes", it will put up its socks. Let us see Parliament doing the same.

But we know that there is conflict of interest in this matter. We are auditing a period that those in the Opposition were in Government. So, we will find quite a number of people affected and mentioned. I know that it also happened to some on our side, but let us see people working selflessly. Where a Member of a Committee notices that what is being audited relates to him, he must declare his interest. There has been a trend in the Committees of the House where people fail to declare interest. If your business concern is trading with a company which has raised an issue to your Committee, it is imperative that you declare interest. We saw that kind of thing when taxation measures were being removed. It is our duty to raise with the Chair, when we know that there is conflict of interest. But we are urging the other hon. Members also to agree to be above board. I know that most of the Committees do good work, but an individual here or there, may without the knowledge of the rest of the Members of the Committee, introduce extraneous matters. This erodes the work of Parliament.

Mr. Temporary Deputy Speaker, Sir, I agree that there is need for us to go through the Report with a toothcomb and ensure that officers who are still serving and are implicated in wrong-doing, explain themselves, and where necessary, are relieved of their duties. Otherwise, we are going to have these problems recurring from one year to the next. We, as Government, have taken certain measures. I admit that we have not finished the clean-up exercise.

We seek the co-operation of this House because whenever people working in the Government try to clean up their Ministries, it is hon. Members of this very House, who rise and say that their communities are being finished. There is no community that acts in unison when only one of its members is given responsibility. It is that member who must account for their mistakes. I remember that recently, when the Kenya Revenue Authority (KRA) was doing its own internal clean up, it was hon. Members of this House who protested. When individuals are hired by the Government or companies, I have never heard of any hon. Member rising to say that his community has been over-employed. But when there is a clean up exercise, hon. Members are the first to claim that their community is being weeded out. Please, do not approbate and reprobate at the same time. Do not ask us to take action, as Government, and then block us when we take action. We, however, promise that we shall exercise responsibility, and even high handedness when we are doing the clean-up exercise.

On outstanding imposts, I want to say that this practice has totally been discouraged. Wherever it occurs, it is dealt with immediately. We cannot say that it will never recur. Human nature is such that people can become dubious, and can do things that are expressly forbidden. Our duty is to ensure that we redress such cases when they occur.

I want to agree with the hon. Member who rose on a point of order on the issue of pending bills. This Government is on record as having tackled the issue of pending bills very swiftly. We continue to subject any pending bills that resurface to the Pending Bills Closing Committee, which is doing some very good work, and is saving the Government money.

There are many other areas that we need to address and we are addressing them. I want hon. Members to know that reform is a process; it is not a one-off event. We have to work together, the

Government, hon. Members of this House and the citizens of this country. We have to work collectively to weed out bad practices and corruption, and to ensure that we plug all the holes where our revenue is disappearing through.

I, therefore, want to commend the report and urge Parliament to act swiftly. All audit reports that are ready should be tabled in this House, so that we approve and implement them, and move forward. In the areas which the Government has already covered, we shall again check them to see what more we can do. What we have not covered and is recommended, we shall look at it and implement the recommendations of the Committee as appropriate.

With those many remarks, I beg to support.

Capt. Nakitare: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to thank the Public Accounts Committee for this report.

As you can see, we are examining Accounts that date back to 10 years ago. To me, this looks like dealing with posthumous events. I know that even if a malpractice was highlighted by the Press, some of the culprits, who may have been involved in financial mismanagement, are dead. The question is, why are we discussing this report now and not before? Why are we dealing with past issues as though they are telling us what the future holds? We know very well that in the past, the PAC has detected mistakes. We know that some of the public funds were siphoned out of this country and invested overseas. It would have been better for us to be told by the PAC who the culprits are and the way forward. What is our vision? Mr. Omingo had this document. He engaged his brain, his knowledge of accounts and came up with the issues in there. It is not just a volume of a book. There were matters that needed to be dealt with prudently.

Mr. Temporary Deputy Speaker, Sir, the development of a country depends on the past, yet in 1998 the population of this country was not the same as it is today. The department that deals with money has been constrained. Thanks to this Government because it has brought sanity to the financial environment. We are now seeing the right face of Kenya under President Kibaki's governance. As an economist, I think he has reason to be quiet. He is quiet but has a long stick. That long stick is what makes this country produce the scent of perfume that is spreading around, and showcasing Kenya as a leading country in Africa. Thanks to the NARC Government.

Mr. Temporary Deputy Speaker, Sir, it is not my intention to debate posthumous issues. However, what I see here are the misdeeds of our past officers. They were exposed by the Controller and Auditor-General. It is on this basis that the PAC raised issues and brought them to Parliament, so that it could use them to guide this country. However, we need implementation. Even when you are working on a sum in mathematics, there are theories and statements but there has to be an answer. It is unacceptable for us to dwell on past things that cannot be used to recover the loss that this country has suffered for 40 years. Look at the way the Provincial administration has run down this country. When it comes to land adjudication, the beneficiaries in land allocation have always been civil servants. The distributors of land have been the District Commissioners and the Provincial Commissioners. Some of them have since been elected hon. Member of Parliament. That has increased poverty. If we allow ourselves to be mischievously ruled and do not want to be faithful to ourselves, then Vision 2030 will be a mirage. It will be a hypothesis. It is not enough for us to stand up and say that we are economists who can base our arguments on facts. The facts that we have now are those we see in books. It is not a question of having a quorum in the House, or numbers in the House. We have to be precise.

Countries that are developing are the ones that have grabbed the particular knowledge in accounts. They have up to date books of accounts. Why does a farmer pay attention to the end of the year? It is because he knows he is going to pay taxes at the end of the year. He has to respond to the Government because it wants taxes. Why then does the Government not implement all these things. The accumulation of unsolved financial problems disturbs me.

With those few remarks I beg to support.

The Temporary Deputy Speaker (Mr. Poghisio): It seems there is no one interested in contributing. I will now put the Question.

*(Mr. Omingo stoop up in his place
as Mr. Poghisio was
putting the Question)*

Oh, by the way, Mr. Omingo, you just stood there? I was waiting for someone to respond.

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, I thought that it was for the Chair to call upon the Mover to reply. I am sorry.

The Temporary Deputy Speaker (Mr. Poghisio): You did not seem interested! I did not see any hon. Member interested in saying anything, either. I am absolutely sorry. I had not finished putting the Question anyway!

There being no hon. Member interested in contributing, I now call upon the Mover to reply.

Mr. Omingo, I think it would have been in order for you to interrupt the Chair. We were going to close the matter and leave you out.

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, ordinarily when the Chair is on his feet it is not allowed for another hon. Member to stand up.

Mr. Temporary Deputy Speaker, Sir, I thank you for this chance to respond. To err is human and so we appreciate the fact that you realised it and rectified the situation.

Mr. Temporary Deputy Speaker, Sir, I want to thank all hon. Members who have [**Mr. Omingo**] supported this Motion. As our children suffer in poverty, as we continue repaying loans borrowed, courtesy of wastage, and try to revive our economy, it is also critical that we look back into history and correct ills. I want to thank the Minister for Justice and Constitutional Affairs who has just said that the Government will use a tooth comb to go through the recommendations of the PAC and implement them.

Mr. Temporary Deputy Speaker, Sir, as we talk today people who were black-listed in relation to some contracts have been given other jobs which they are doing. The same people who were in the Government are still there. We all appreciate the fact that there was personal interest in some of this matters. It becomes a mirage fight against corruption because those corrupt people fight back. We find that those who have been in power before, when they realise that they are about to be exposed, they either move pretty fast to make peace with the Government or try to sabotage any move made to expose them.

Mr. Temporary Deputy Speaker, Sir, for the PAC to make sense, I submit that each one of us thinks beyond personal interest. Each one of us should think about the children behind us. When moving this Motion, I stated that put crudely, graft money, particularly that meant for hospitals, is as bad as blood money.

I have more reason to this and I will repeat it anywhere, that we need to expose ourselves and do a lot of soul searching.

Mr. Temporary Deputy Speaker, Sir, finally, as we try to expose what is being done in darkness, Parliament should also become of age and be able to be scrutinised by the public. We should open up parliamentary practice and our Committee proceedings. We should have a deterrent measure of exposing the rot in the system and all those who are perpetrating the ills to the extent that this affects the population out there. The sooner we move quickly to have an oversight body to oversee our activities, the better. As we put this issue to close, we require some bit of reconciliation here. We need to reconcile our minds and our thoughts in the interest of our children.

The issue of debt is actually agonising. About Kshs750 billion is the current debt portfolio. We are spending about Kshs112 billion to pay debts, most of which are for many years ago. We must rise to the occasion if our children ought to respect us. We must expose the thieves, so that their children can know that their fathers are actually riding in stolen Mercedes Benzes. We must expose them if we are supposed to be mature enough. I believe that we are given a responsibility to expose these people to the members of the public. Otherwise, history will judge us very harshly and our children will wonder whether they had parents who looted the money which they were supposed to be given as we exit from this particular scene.

With those few remarks, I beg to move.

(Question put and agreed to)

ADOPTION OF 1999/2000 PAC REPORT

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

THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya Accounts for the year 1999/2000 laid on the Table of the House on Thursday, 26th October, 2006.

I want to thank you for giving me another chance to move this Motion. This is a report done by the same Committee that I chaired then. I would like to thank the hon. Members of the Committee who spared their time to enable the Committee, for the first time in the history of this country, to do two reports in one year. At this pace, we would have been current if we were given a chance to move on. As it were alliances and positions keep changing and, therefore, that is where we are today.

This is a year that we were so busy at the Bomas of Kenya and yet we had to work late hours to present this report in the interest of Parliament being current in terms of the Committee's mandate. I will now go through the brief, which is going to be the base of debate on this Motion.

On behalf of the hon. Members of the PAC, I take this opportunity to present to the House the report and the recommendations of the Committee on the 1999/2000 Report of the Controller and Auditor-General, together with the Appropriations accounts. The Committee commenced its sittings on 16th April, 2003 and held 105 sittings. The Committee noted that most of the queries that were contained in the 1998/1999 Report were also in the 1999/2000 Report. As a result, the Committee took evidence on queries which were contained in the two reports in order to clear the backlog. I would like to underscore that position, that the Committee that I chaired then, presented a selfless service and committed its time to produce the two reports in one year.

Mr. Temporary Deputy Speaker, Sir, Accounting Officers of Government Ministries and Departments which had audit queries in any of the two reports appeared before the Committee and gave evidence on issues raised by the Controller and Auditor-General. In this Report, they also gave the Committee written submissions. All the evidence and written submissions which we received, were subjected to thorough scrutiny before the Committee arrived at the recommendations on the queries raised by the Controller and Auditor-General.

Mr. Temporary Deputy Speaker, Sir, the Committee comprised of the following Members:-

The hon. Omingo Magara, MP - Chair,

The hon. Uhuru Kenyatta, MP

The hon. Joseph Kipchumba, MP

The hon. (Dr.) Julia Ojiambo, MP

The hon. Billow Kerrow, MP

The hon. Sospeter Ojaamong, MP

The hon. Archbishop Ondiek, MP

The hon. Koigi Wamwere, MP

The hon. Ekwe Ethuro, MP

The hon. William ole Ntimama, MP (He served until 30th June, 2004 when he was appointed as Minister then.

The hon. Boniface Mganga, MP (He served until 30th June, 2004, when he was appointed Assistant Minister).

Like I said when I was moving the Motion, this was during the formation of the Government of National Unity (GNU), which I am now informed replaced the NARC Government. Again, only for Mr. ole Ntimama to be fired thereafter upon taking a different position.

The Committee undertook inspection tours of various projects in order to obtain first-hand information on their status and establish whether the Government got value for money in those projects. They included the Moi-Kaptiret Road. As explained in the main Report, the job done on this road was extremely shoddy. The cost of the contract was not warranted and as it were, the details in the main body of the Report will explain this.

Mr. Temporary Deputy Speaker, Sir, they also included the Ministry of Roads and Public Works office building at Eldoret Town. Some buildings were done and I think they are almost like monuments which are not being used. There was also Elgeyo Saw Mills which was closed courtesy of the logging and the preferential treatment to the other millers. I believe the licence was actually cancelled because of lopsidedness of political interest or competing political interests.

The observations and recommendations of the Committee on the projects visited are contained in the specific audit queries. All recommendations made were arrived at by consensus after careful scrutiny of evidence and submissions received as well as the inspection tours made. For this reason, we want to urge the Minister for Justice and Constitutional Affairs to implement this Report judiciously without fear or favour because as I said last time, we actually arrived at a consensus and after careful scrutiny. Furthermore, we had an Archbishop in the Committee who usually prayed for us as we started and as we finished! Occasionally, we would also pray in the Islamic religious way.

Mr. Temporary Deputy Speaker, Sir, the Committee urges the Houses to adopt the recommendations and also requests the Government to implement them without fear or favour. Transparency and accountability should be encouraged in all Government institutions in order to ensure that corruption is eradicated in Kenya. When corruption ceases to exist in Government institutions, it will be easy to root it out in private enterprises. As you know, it takes two to tango. When contractors engage in corruption, they corrupt Government officers--- Since we know that it takes two to tango, we need to stretch further and clear it out from the source or the one who entices you to receive a bribe.

The Committee noted that if all the Accounting Officers adhere to the laid down financial regulations and procedures, most of the audit queries would not be raised.

Mr. Temporary Deputy Speaker, Sir, let me now turn to general observations, like irregularities on road construction contracts. This is where we have a monster of a mess. I take issue with the technocrats in the Ministry of Roads and Public Works where you find, instead of the contractor raising an issue that: "I want some money increased in terms of actualising the contract" it is the technocrats who advise them that: "Due to the *El Nino* phenomena, for example, you can now raise a further variation." In most cases, you will find that the contracts have been revalued upwards to more than double what the initial cost was.

At the end of the day, the road ends up being worthless after less than two years. We visited Ziwa-

Gitare Road. We saw the thickness of tarmac was paper thick. Imagine they were fully paid. Some of them were paid to the extent of more than 100 per cent for the effective job of 20 per cent, courtesy of the free flowing tap from coffers which people need to tighten, but because they are partakers, they participate in the same and encourage the same.

The Committee noted with great concern that contracts for several roads constructed during the period under review were varied unjustifiably and, in many occasions, the Government did not get value for money. Several nugatory payments were also made. The Government paid for no service rendered. For example, the contract for the construction of Ziwa-Gitare Road was varied by about 151 per cent of the original contract sum. Procurement rules dictate that if you are revaluing more than 10 per cent or 15 per cent, you must go for re-tendering. We were reliably informed that somebody would quote the lowest, knowing, for sure, that he will re-tender a revaluation of the contract to look for more payment to the extend that we have people being paid more than one-and-half per cent times of the original cost. During the construction of the Mara-River Road, a sum of £10 million was paid as accrued interest arising from delayed payment, numerous charges due to late advance payment and delayed issuance of commencement owed. The contract for construction of Gambogi-Serem Road was varied by about 145 per cent of the original contract cost. A contract for the construction of bitumen standard of 20.7 kilometre of Kapsigak-Kituma Road was awarded to a firm in 1997 at a contract cost of £21 million which is about Kshs500 million. The contractor performed until December, 1998 and completed only 20.2 per cent of the contract work and was paid £25.23 million which is about Kshs560 million for a job that was worth 20 per cent done. In June, 1998, a contract for the construction of Mwingi-Kabunga Corner Road was awarded to a firm at a contract sum of £25 million. The contract was varied three times and the Government eventually paid £51 million.

Mr. Temporary Deputy Speaker, Sir, as I had notified hon. Members earlier, the figures that compute these accounts were done in pounds and a Kenya pound is equal to Kshs20. Therefore, if you are talking about £51 million, we are talking about in excess of Kshs100 million. The Committee noted that competitive bidding loses its purpose if the contract is then varied to a point where the amount eventually paid is more than what was quoted by the highest bidder. Ordinarily, the highest bidder will take specific quantities and technical inputs to arrive at a higher fee. If you give a poor contractor who quotes less and does a shoddy job. I did have a chance to ask one contractor: "Why, as a reputable contractor, would you want to do a job such as this?" The answer was that: "If somebody wants to eat on the pavement, where do you get the material for the pavement?" That is the cause of the variation of the contracts to the extend that we give Kenyans no value for their money.

The Committee recommended that re-evaluation of the contracts be done after the sourcing Ministry and the Ministry of Roads and Public Works are satisfied with the reasons given by the contractor. The contractor should also comply with the laid down procedures with regard to variations of the contracts.

On the issue of *ex-gratia* compensations and *ex-gratia* payments, that is yet another window where the Attorney-General and some Ministries have found a way to syphon Government resources. What happens occasionally is that someone is awarded *ex-gratia* payment, either in bonded terms or injury, and it takes more than ten years for the parent Ministry to be advised about the verdict reached in the arbitration. Therefore, the victim ends up being paid ten times more than they would have been paid, just because the parent Ministry did not get the verdict from the Attorney-General's Chambers in time. Those kind of payments are induced by people working for the Government, especially at the Sheria House. The motto the officers have at the building makes no sense to them.

In some cases, you will find a Ministry losing a case against a contractor because a

wheelbarrow which is wheelless was left on site, in the name of not completing the project. When the Ministry loses the case, the Attorney-General and his team do not advise the Ministry to go for an appeal. I know of a case where a Permanent Secretary recommended for an appeal but was advised not to worry about the case and to settle it outside court. Obviously, that was done for a kick-back and the Government lost a lot of money. The reasons why we lose money, including in the Anglo Leasing type of projects is because of lack of technical legal advice. If the Attorney-General, the chief legal adviser to the Government can flout the law, how can he advise others? There is no way he can advise other people because those concerned will go after him. So, he would rather advise wrongly and cover his own mess.

The Committee noted with concern that there was a lot of delay in settlement of payments against the Government. The Committee was informed that the delay by Ministries in settling claims after judgements had been passed by courts was caused by failure of the Attorney-General's Office to communicate court awards to Ministries in time. The Treasury's slowness in granting authority to settle awards and lack of budgetary provisions because of expenditure was unbelievable.

The Committee heard the following concerning the Ministry of Health: First, that the Ministry of Health is the one which mostly incurs *ex-gratia* payments. The Attorney-General did not inform the Ministry when judgement was entered against it in a civil suit in 1998, against a civil application of the year 2000. The Ministry learnt about the judgement through the media. The media acted the role of the Attorney-General. Four civil suits and judgements were entered against the Ministry of Health in December 1997, and it was ordered to pay £586,000. The Attorney-General informed the Ministry in August, 1998.

Despite the Attorney-General being given instructions to enable him file a defense for a civil suit in 1981, the Government went unrepresented, prompting the court to enter judgement against the Ministry on 21st January, 1991. The Ministry learnt about the judgement ten years later. This is similar to the issue of the contractor leaving a wheelbarrow on site. You can see how much more we have lost, courtesy of this weakness.

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

*The Temporary Deputy Speaker
(Capt. Nakitare) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, in the course of taking evidence, the Committee further noted, with regret, that the Attorney-General rarely won cases of the Government. Again, this is an issue that we, as a nation, must fully address. The Committee did not hear of any case the Attorney-General had won. In most cases, the awards were given to the complainant and the Ministry ordinarily lost because that was an easy pipe for exiting public resources. His office was either overwhelmed by the work load, there was laxity or he was incapable of representing the Government in court.

Mr. Temporary Deputy Speaker, Sir, due to the foregoing, the Committee recommends that the Government's representation in court should be decentralized from the Attorney-General's office. One key recommendation is that every Ministry should have a legal division with experts who can represent it in court in order to avoid payment of colossal sums of money and accrued interest arising from judgement against the Government.

Mr. Temporary Deputy Speaker, Sir, on evasion of payment of duty and other taxes, the Committee noted with utmost concern that a lot of rice was imported by NGOs such as M/s

Woman Kind and M/s International Child Trust (ICT) without payment of duty. M/s Woman Kind, which was allowed to import 200,000 metric tons under Treasury exemption for free distribution to refugee camps also cleared 35.215 metric tons without payment of duty. What we realised is that these goods, which were imported for distribution of relief food, were eventually sold.

The Treasury had exempted 4,000 metric tons of rice from duty payment by M/s ICT, but the NGO cleared a further 22,518.75 metric tons without paying any duty. The cover was the one exemption and upon that they loaded more. The two NGOs ceased their operations in the country. We recommend that the Commissioner-General takes such kind of measures to plug in the revenue leakage.

Mr. Temporary Deputy Speaker, Sir, on diversion of transit goods for home use without payment of duty, this was another issue that was noted. Most goods meant for transit do not attract duty at the port of Mombasa, but as soon as the goods are inland, they are diverted to the Kenyan market. This, therefore, compromises competitive marketing and gives other traders undue advantage in the pretext of having goods for export.

Mr. Temporary Deputy Speaker, Sir, on the appearance of the Attorney-General and the Head of the Public Service and Secretary to the Cabinet before the Committee, this was done and we shared

with the two. We got the co-operation required. Mr. Temporary Deputy Speaker, Sir, the Committee wishes to thank the Speaker, the Deputy Speaker and the Clerk of the National Assembly for organising its sittings and funding its trips to Canada and the United States of America (USA). We never went there for holiday, we came back with a report. We tabled that report, but it has not found its way to this House. It is gathering dust somewhere in the shelves, courtesy of the House Business Committee.

The Committee also wishes to thank the officers from the Treasury, the Kenya National Audit Office and the National Assembly for their services. The procedural advice given, records received and scrutinized and organisation of meetings and record keeping by the officers contributed a great deal towards the production of the Report. I want to specifically thank the Clerk of that Committee, Mrs. Munga, who spent sleepless nights drafting this Report. Every time we were ready to meet, she was ready with the reports.

Mr. Temporary Deputy Speaker, Sir, I want to draw the attention of the House to page 131 of this Report, which talks about the Department of Defence (DoD). The cunning ways by which Ministries spend money is by committing themselves to spend under pending bills so that the following year, they can legitimise the expenditure. It is not necessarily that the pending bills are flawed. The issue is that they are committing Government to give them funds before Parliament gives the approval. That is a serious irregularity that needs to be addressed.

Mr. Temporary Deputy Speaker, Sir, besides the pending bills, some of which are actually illegitimate, they actually do things upside down. They will commit them the first day and say let us regularise that next year, to the extent that Parliament now becomes a rubber stamp. This is the case where a pending bill of close to Kshs500 million was pending in DoD. That is not acceptable.

*[The Temporary Deputy Speaker
(Capt. Nakitare) left the Chair]*

*[The Temporary Deputy Speaker
(Mr. Poghio) resumed the Chair]*

Mr. Temporary Deputy Speaker, Sir, talking about the same compensation and *ex-gratia* payment, I will talk about the Attorney-General. The most unfortunate thing is that we actually pay

money without necessarily having to advise the Ministry to pay in good time through the Attorney-General's office.

Mr. Temporary Deputy Speaker, Sir, I want to say something about the Ministry of Roads and Public Works. I want to draw the House to page 202. There is an issue where, again, pending bills are involved. On page 207, a payment voucher of Kshs323,000 was made and committed as *ex-gratia* payment because of interest and balance which was delayed payment. I also want to draw the House' attention to Ziwa-Kitale Road which I did mention on page 212, where roads are done, no value for money is given and the public coffers continue paying. The Committee was appalled by the reckless manner in which the contract was awarded and implemented leading to a loss of K£224 million, an equivalent of Kshs500 million. This is not something that anybody can take for granted. If a Government can lose, with one transaction, Kshs500 million, then we are losing much more. In this regard, the contractor who was on site, Messrs TMAM was recommended to be precluded from tendering for Government services.

Mr. Temporary Deputy Speaker, Sir, I want to move finally to the Kenya National Assembly which acquired its own premises a while ago. Colossal sums of money were spent in the acquisition of property, under the advice of the Attorney-General who acted for the official liquidator of Continental House and also acted for the Government. The building was bought from the Official Receiver where the Attorney-General was the Official Receiver. It was bought by the Government where the Attorney-General was also the legal advisor. This is a contradiction and conflict of interest. As a result, Parliament lost billions of shillings.

Mr. Temporary Deputy Speaker, Sir, that is not enough. I can assure you that the Ministry of Roads and Public Works this time round acted fairly and advised that, that building called Continental House should not be renovated, because the cost of renovating an existing building was sufficient to build a new one. That is the same thing we have been arguing about preserving the sanctity of this Chamber as opposed to doing a quality job and maintain this as an archive. But people want to make quick kills out of it. They were advised objectively by the Ministry of Roads and Public Works that the cost of renovating this building is more than double the cost of acquisition and were told to use that money to build a bigger complex where Parliamentarians can even have changing rooms when they come from constituencies.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Order, Members! Mr. Omingo, you will continue Moving the Motion when the Debate resumes. Hon. Members, it is now time to interrupt the business of the House. This House, therefore, stands adjourned until tomorrow Wednesday, 6th December, at 9.00 a.m.

The House rose at 6.30 p.m.