

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 17th April, 2007

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

DRAFT RULES FOR ELECTING MEMBERS TO EALA

Mr. Speaker: Order, hon. Members! Please, take your seats! There is just one small matter that I would like to bring to the attention of the House clearly. In the last few days, hon. Members may have been reading in the Press my attempt to draft some rules for the consideration of the House to initiate a way in which we could elect our representatives to the East African Legislative Assembly.

The background is the following: That, upon the East African Court of Justice in Arusha declaring our election rules null and void, it simply means that this House does not have rules for the election of hon. Members to the East African Legislative Assembly as required by Article 50 of the East African Treaty for East African Co-operation. Because we do not have those rules and because nobody, until the time I initiated that initiative of putting in place our rules, had made any suggestions, as the head of this institution, I did make suggestions and I called them "Draft Rules." That was my thinking.

I wrote to the Leader of Government Business, the Minister in charge of matters of East African Community, to the Attorney-General and the Chief Government Legal Advisor, to the Deputy Leader of Government Business and Minister for Justice and Constitutional Affairs, to the Leader of the Official Opposition, Mr. Kenyatta, and Mr. Nyachae, being a leader of a party entitled to nominate a Member to that Assembly. I asked them to have a look at what I have thought and which could be a basis of making the rules. In fact, I told them: "Here are my thoughts, please make your comments and your input and forward them to me so that I can work on a further and probably better document that could be presented to the House Business Committee for allotment of time for this House to discuss whatever rules there will be."

Hon. Members, you know that every matter that is brought to this House is subject to the rules of procedure. That includes the power of the House to, first, amend those rules by way of substitution, deletion or addition. This House could also reject any rules that are brought before this Assembly. Upon those rules being cleared by the House in whatever format, they will deem fit, then those rules will be the basis upon which an election will be held.

There is nothing "Kaparo" about those rules. I think the only "Kaparo" thing about those rules is that, for the time being, the Speaker bears the name Kaparo. That should be a suggestion to the House as the way forward. I hope hon. Members are not going to criminalize initiative and thinking. I hope that this House will encourage initiative and thinking. It looks to me that some

sections in our society think that it is criminal to think. If that be the case, I will be very much ready to be associated with the crime of thinking.

Mr. Musyoka: Mr. Speaker, Sir, while thanking you for that clarification, it is not my intention to join issue with the Chair over that wonderful clarification. Certainly, it is not my intention to criminalize thinking and it is clear to us that those are your thoughts. But we hope that it will not go unnoticed that the party that formed the Government after the 2002 General Election was the National Rainbow Coalition (NARC). As I speak to you now, I am the NARC Member of Parliament for Mwingi North and I believe His Excellency the President is still the NARC Member of Parliament for Othaya. The Chairperson of that party happens to be Mrs. Ngilu, the Member for Kitui Central.

Mr. Speaker, Sir, in all fairness, even as you think, you should take that into account. When you address your thoughts to the Leader of Government Business to the exclusion of the Chairperson of the NARC, that does of necessity cause some concern. However, I must congratulate you for taking the initiative and we think that this country should not be the pariah State that it apparently is in the eyes of East Africans because somebody, somewhere has to do something. The fact that the East African Court of Justice made this ruling is a very important matter. We know that it is not possible for the East African Legislative Assembly to pass this year's budget without it being properly constituted.

Therefore, I want to call upon the Attorney-General to guide the minds of Kenyans properly. This is because when he goes on to gazette the names without consulting with every stakeholder using the gazette rules that are in contravention of Article 51 of the Treaty establishing the East African Community, we wonder whether he is not misadvising all of us.

Mr. Speaker: I really do not know whether we should get to the Attorney-General because I thought I was telling you about my thoughts!

Mr. Musyoka: Mr. Speaker, Sir, I congratulate you, and I am happy that this was not done at the instigation of anybody from the other side. But I think it is important for there to be full consultation. This matter should be approached with sobriety, and not the kind of attention that has now been brought about in East Africa, where you create an institution just because an administration in one country feels aggrieved.

Mr. Speaker: Very well. Can I just say the following. As I said, somebody had to initiate something. I took the liberty, as the head of this House, to provide the necessary leadership. That is what I did. In fact, I asked for comments. As to the leadership of various political parties, I appreciate the fact that the Chair must recognise the leadership of the various political parties. But my very good learned friend, the hon. Member for Mwingi North, knows as well as I do that, in fact, since they got into NARC in 2002 up to now, there has always been a cloud of uncertainty as to the leadership of that organisation. Provide me with the requisite certified information and I will deal with it. As you know, the Speaker is a friend of every party and every Member of this House. I want to assure my colleague here, and all my other colleagues, that, indeed, I wanted an input from every hon. Member. To date, the only hon. Member who has given me a comment, and it was not addressed to me, is the hon. Mutula Kilonzo; he was advising his party leader, and he gave me a copy. I have my own misgivings about certain observations that he made about my initiative, but that is a different matter. I congratulate that hon. Member for, at least, putting his thoughts on paper.

All of you, as hon. Members of this House, have an obligation to help your country, the Chair and this House, in getting together any regulations or laws that will enable us to transact business efficiently and quickly. The only thing I want to beg of all of you is that matters relating to our external relations should never be bogged down by our own internal bickering and disagreements. We must get out of that cocoon. Let us rise above the partisan and the petty and become leaders who will lead Kenyans into a viable and vibrant East African Community. You are all welcome to make your suggestions at any time in whichever form. I will be happy if any

Member were to prepare better rules than the ones I have suggested, and I will present them.

Hon. Members, I also want it to be on record that in 2001 I, again, took an initiative as I have done now, to make rules for doing exactly what we are alleged not to have done, and, in your collective wisdom, as Members of this House, particularly the ones who were then on my right hand side as Government, shot them down. I am now being asked to bring them back by the same people who shot them down. Let us be consistent.

Thank you.

(Applause)

Prof. Anyang'-Nyong'o: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! I think I have finished with that. Give me your views, if you want.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I gave you my views by e-mail.

Mr. Speaker: Order! Prof. Anyang'-Nyong'o, please, give me your views!

Prof. Anyang'-Nyong'o: I have already sent them by e-mail, Mr. Speaker, Sir.

Mr. Speaker: Thank you, I will retrieve them.

Next Order!

(Laughter)

NOTICE OF MOTION

IMPROVEMENT OF EDUCATION STANDARDS IN MARGINALISED REGIONS

Dr. Shaban: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, aware of the important role that education plays in the development of any country; noting with great concern that admission to under-graduate courses at public universities has become extremely competitive for thousands of students who attain minimum qualifications for admission, yet end up being shut out of university education; taking cognisance of the fact that students who come from marginalised areas are the most disadvantaged in that respect; thereby reinforcing the marginalisation of such areas; this House urges the Government to urgently consider:

Equipping schools in marginalised areas with requisite facilities to increase their competitiveness in the national examinations;

Creating a special bursary kitty for students from ASAL areas; and,

Establishing one public university at the Coast, Eastern and North Eastern Provinces as a means of stimulating local interest in university education.

QUESTION BY PRIVATE NOTICE

INCREASED INSECURITY IN BARINGO DISTRICT

Mr. Boit: Mr. Speaker, Sir, I beg to ask the Minister of State for Administration and National Security the following Question by Private Notice.

(a) Is the Minister aware that in December, 2006, armed raiders gunned down a child at Kapturo Sub-location in Ngorora Location and a large herd of livestock was stolen from Yatya Sub-location in Kipkata Location?

(b) Is the Minister further aware that three people were killed by gun-totting raiders at Rugus and Kiserian in Mukutani Division on 25th and 28th March, 2007 respectively?

(c) What concrete measures is the Minister taking to guarantee the security of people and their property in Baringo District?

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

(a) I am aware that in December, 2006 armed raiders gunned down a 14-year-old boy at Kapturo Sub-location in Ngorora Location and stole 19 head of cattle from Yatya Sub-location of Kipkata Location.

(b) I am further aware that three people were killed by gun-totting raiders at Rugus and Kiserian in Mukutani Division between the 25th and 28th March, 2007.

(c) We have beefed up security in the entire Baringo District. Further concrete measures have been taken to ensure the security of the people and their property. For instance, we have deployed additional security personnel in the affected areas; we have established police posts at Mukutani and Nginyang, and have established administration police posts at Rugus and Kiserian.

(Loud consultations)

Mr. Sungu: On a point of order, Mr. Speaker, Sir. Have you noticed that we cannot hear what the Assistant Minister is talking about because there are loud consultations?

Mr. Speaker: Order, hon. Members! Order! There are some hon. Members who cannot hear my loud call for order.

If you cannot hear me, how can you hear the Assistant Minister? You are duty-bound to listen to me and the Assistant Minister.

Thank you for listening!

Proceed, Mr. Kingi!

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Speaker, Sir, we have also opened up a few other roads that were impassable in the past. The exercise of branding animals is on-going. We have also intensified police patrols.

Lastly, there is a programme of educating and sensitising the public through *barazas* by the Provincial Administration to address community policing and peaceful co-existence among members of the communities.

Mr. Boit: Mr. Speaker, Sir, I want to thank the Assistant Minister for trying to answer my Question. But, I am not satisfied with his response. He has taken us through a very long answer. He has talked about security personnel being deployed in Baringo District. He has also talked about police posts. But, since 1999 up to now, many people have died as a result of insecurity in that area. That is going on despite the Assistant Minister talking about community policing and holding *barazas*. How many people does the Government want to die so that it can take action? He is talking about a police post which does not even exist! Up to last month, people were dying---

Mr. Speaker: Order, Mr. Boit! If I were you, I would have stopped at your very last question to the Assistant Minister. You asked: "How many people must die before the Ministry takes action?"

Mr. Kingi: Mr. Speaker, Sir, I have already enumerated the steps that we have taken to ensure that people's lives and their property are protected. It is only once in a while that people lose their lives, which is a very unfortunate. But I have already said that we have beefed up security in that area. We have intensified patrols. We will ensure a continuous surveillance in the area so that people do not lose their lives and property.

Mr. M'Mukindia: Mr. Speaker, Sir, insecurity in this country has been going on for a very long time. Some of those acts of insecurity include cases of cattle rustling, the recent burning of houses in Meru District, the burning of houses in Banana Hill only yesterday and the stealing of

livestock in Baringo District. When will the Assistant Minister have a security marshal plan to ensure that this country is safe and secure? When will he tell this House, and the country as a whole, especially during this election year, that all Kenyans, wherever they are, are safe?

Mr. Kingi: Mr. Speaker, Sir, I appreciate the sentiments that have been expressed by the hon. Member. I wish to assure hon. Members that we are endeavouring to put in place measures that will ensure that the lives and properties of people are safeguarded.

As for the marshal plan, we are in the process of preparing one. The moment it is ready, we shall pass the information to hon. Members.

Mr. Sungu: Mr. Speaker, Sir, the Assistant Minister has said that they have put in place measures to control cases of insecurity. Could he specifically tell us which measures they have put in place? Name them!

Mr. Kingi: Mr. Speaker, Sir, I have said that we have established police stations and patrol bases in many areas of this country. We have also given our police officers vehicles so that they can continue carrying out inspections. We have also increased the number of police officers in most of the areas that are affected. We have initiated the community policing system. There are many other things that we have done. We are only asking for public support so that we can work together as we operate in this country.

Mr. Speaker: Last question, Mr. Boit!

Mr. Boit: Mr. Speaker, Sir, eleven people were shot dead in Baringo North Constituency while the Assistant Minister was hovering around Baringo East Constituency with another warlord called Mr. Kamama! They used a helicopter--- No! Sorry, Mr. Speaker, Sir!

(Applause)

Mr. Speaker: Order! Yes, Mr. Kamama!

The Minister for Water and Irrigation (Mr. Katuku): On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member to drag the name of Mr. Kamama into his argument and calling him a warlord?

Mr. Speaker: Order, hon. Members! We are talking about the security of Kenyans and their lives and yet, hon. Members, knowingly, breach the rules of the House. Mr. Boit, how dare you call an hon. Member a warlord? Would you, please---

Hon. Members: LDP! KANU! Orange Party of Kenya!

Mr. Speaker: Order, hon. Members! I am not the registrar of parties! You can keep your parties to yourselves!

Mr. Boit, will you, please, unconditionally, withdraw and apologise?

Mr. Boit: Mr. Speaker, Sir, that was a slip of the tongue. I withdraw and apologise, accordingly.

I am glad the Assistant Minister has talked about police posts. Could he tell this House and the people of Baringo North Constituency when those police posts will be erected and police officers deployed there permanently? That way, we can ensure a permanent surveillance. The *barazas* will also be very effective.

But, in the meantime, Mrs. Lucy Kibaki can tour that area. She went to Mt. Elgon District and I can see there will be some order there!

Mr. Kingi: Mr. Speaker, Sir, I agree with you that, when we are discussing serious issues like the security of our people, we should not allow our tongues---

(Loud consultations)

Mr. Speaker: Order, hon. Members! The rules of the House are very clear. When an hon. Member is not debating, that hon. Member must remain silent. Apparently, we do not follow that.

So, could we, please, remain silent, so that we could hear one another and follow what is being said?

Proceed, Mr. Kingi!

Mr. Kingi: Mr. Speaker, Sir, I was saying that I quite agree with you because this is a very serious matter. It needs to be given the seriousness it deserves. The programme of putting up police stations and police posts in Baringo District is on-going. If the hon. Member wishes, I could give him a list of places where we have already put up those police stations. That way, he can follow up that matter with us.

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

Mr. Speaker: What is it?

Mr. Angwenyi: Mr. Speaker, Sir, could I offer an answer to that question? Could the Assistant Minister remove the Police Station at Rioma in Kitutu Chache Constituency and transfer all the police officers to Mr. Boit's constituency to protect his people?

Mr. Speaker: Mr. Kingi, what is your response? There is an hon. Member who is very concerned about the safety of Kenyans. He has offered that you transfer some police officers from his constituency and take them to Baringo North Constituency!

Mr. Kingi: Mr. Speaker, Sir, there must be a good reason why we put up that police station where it is! We have not said that we will not put up police stations in Baringo North Constituency. We will do that. We do not need that kind of generosity here.

Capt. Nakitare: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it?

Capt. Nakitare: Mr. Speaker, Sir, the Assistant Minister cannot go away scot-free! The Assistant Minister is trying to cover up the ringleaders of certain organisations that are behind several cases of insecurity in many areas. I neighbour Mt. Elgon District. We know who instigates trouble. We have said that on the Floor of this House. What is the Assistant Minister doing to contain those ringleaders who are fighting and killing our people?

Mr. Kingi: Mr. Speaker, Sir, if the hon. Member wants to ask a question on the Mt. Elgon skirmishes, we will endeavour to answer it.

ORAL ANSWERS TO QUESTIONS

Question No.006

INVASION OF WETLANDS BY WATER HYACINTH

Mr. Speaker: The Minister for Water and Irrigation has requested the Chair to defer this Question to either tomorrow afternoon or Thursday afternoon. Prof. Olweny, could I defer it to Thursday afternoon?

Prof. Olweny: Mr. Speaker, Sir, that is okay with me. I hope he will answer it when he comes.

Mr. Speaker: Okay! The Question is deferred to Thursday afternoon.

(Question deferred)

Question No.035

ONGOING ELECTRIFICATION PROJECTS IN TESO DISTRICT

Mr. Ojaamong asked the Minister for Energy:-

- (a) what the ongoing electrification projects in Teso District are;
- (b) when the works on these projects were started and when they will be completed; and,
- (c) who the contractors for the above projects are and how much they were contracted for.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Speaker, Sir, first of all, I would like to apologise for not being able to answer this Question last week. However, I beg to answer.

(a) In total, there are six ongoing electrification projects in Teso District which are Machakusi Market, Kakemer Market, Okiludu Market, Angurai Market/Divisional Headquarters/Health Centre, Simba Chai Market/Kaliwa Secondary, Moding and Apkor Markets.

(b) Construction work on Okiludu Market started on 15th September, 2006. The expected date of completion is 30th June, 2007, while that of Machakusi Market started on 28th May, 2006, and the expected date of completion is 30th June, 2007.

(Loud consultations)

Mr. Speaker: Order, hon. Members! I really want to know one thing from the House: Do we want to listen to one another or do we just treat it as a free-for-all? I am sure, no hon. Member will say we want it free-for-all. I am sure that is not what we came here for. Please, look at the galleries. Our people are there, watching how we transact business here. Our children are even there! Please, can we listen? I do not want to call for order all the time. Please, listen! We are honourable Members!

Proceed, Mr. Kiunjuri!

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Speaker, Sir, you have now warned us enough and I think you should take more serious precautions against us.

Construction work on Kakemer Market has been awarded to Ms NGM Contractors and is expected to start on 1st May, 2007 with the anticipated date of completion being 30th June, 2007.

(c) Okiludu Market project is being implemented by Ms Cargil Enterprises at a cost of Kshs5.7 million, Machakusi Market by Ms Raichas Electro Services at a cost of Kshs1.55 million, while Kakemer Scheme has been awarded to Ms NGM Contractors at a cost of Kshs3 million. Kenya Power and Lighting Company (KPLC) has surveyed the route for the other three projects. The company is currently designing the two schemes namely; Angurai Market, Divisional Headquarters and Health Centre and Moding and Apkor Markets, and acquiring right of way (wayleave) for Simba Chai Market and Kaliwa Secondary School, as its design has already been completed.

Mr. Ojaamong: Mr. Speaker, Sir, first of all, I must thank the hon. Assistant Minister for the answer. However, it is true that these projects were initiated three years ago. Could he inform the House whether his Ministry signed any performance contracts with these contractors because it has been a very long time since these projects were started?

Mr. Kiunjuri: Mr. Speaker, Sir, let me admit that previously we have not been signing performance contracts with contractors. Most contractors have been a letdown to us. However, as from November last year, we started signing contracts. This year, no contract is being awarded before signing performance contracts. I would also like to request hon. Members to also assist us. Now we are able to know who the contractor is and who is supposed to be working on a given project. Whenever there is delay, please, let us know. This is because whenever an hon. Member complains, they go there for three to four days, and then they disappear again.

Mr. Mwanicha: Mr. Speaker, Sir, electricity is one issue which all of us are interested in.

From the time we came here, there was a programme called French Phase II which was supposed to bring power to all our constituencies. Could the Assistant Minister enlighten the House on what happened to French Phase II Programme?

Mr. Kiunjuri: Mr. Speaker, Sir, it is true that the work on the French Programme was in two phases. We have the survey and design works which were undertaken by the consultants. We have asked the consultants to submit all their reports by the end of this month. In fact, the contracts have already been awarded. I want to assure hon. Members that by mid-May the contractors will be on the ground and the projects will start rolling. We are approximating that by around September/October, most of these works will be completed.

Mr. Omingo: Mr. Speaker, Sir, despite the fact that this Assistant Minister has confirmed that contractors undertake to sign performance contracts. The good Assistant Minister came to this House last year and actually confirmed that most of the projects which had been awarded were ongoing and some complete. Nyatike is one of them which is similar to Amagoro. What is he doing to ensure that the contractors who cannot perform since 2004 for Nyatike project, for example, are actually deregistered from the KPLC?

Mr. Kiunjuri: Mr. Speaker, Sir, we have started doing so. I had the same case in my own constituency where a contractor has taken two-and-a-half years to complete a project that was not worth even Kshs4 million. I would like to receive all those complaints. We are deregistering them.

Mr. Ojaamong: Mr. Speaker, Sir, could the Assistant Minister tell us when he will volunteer to visit and see these projects, so that he feels how frustrated *wananchi* are on the ground?

Mr. Kiunjuri: Mr. Speaker, Sir, we are organising an inspection tour. We will start from North Eastern Kenya. I will be consulting hon. Members to accompany us in the tour of these projects. We will practically visit each province, sample out some of these projects and see how we can speed them up.

Mr. Speaker: Next Question by Mr. Ndambuki!

Question No.167

COMMENCEMENT OF REP IN
KAITI CONSTITUENCY

Mr. Ndambuki asked the Minister for Energy when the rural electrification project for Kisyani-Kikoko-Kalongo and Kaumoni will commence.

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

Contracts for construction works for Kikoko, Kalongo and Kaumoni markets have already been awarded to M/s Guy Contractors and M/s ABB Kenya who are expected to be at the sites within the course of this month. I want to confirm that they are already on site. The expected date of completion is 30th June, 2007. Kisyani Market will be considered for financing by the Ministry during 2007/2008 Financial Year.

Mr. Ndambuki: Mr. Speaker, Sir, I would like to thank the Assistant Minister for the answer. But I would like to inform him that this contractor for the Kikoko-Kalongo project brought the materials for the project in January this year and now we are in April. He did not do any work in January, because he claimed that it was raining heavily. However, since that time he has not shown up. Could the Assistant Minister tell this House why the contractor brought all that equipment, including transformers, wires and many other things, and then abandoned the work and left?

Mr. Kiunjuri: Mr. Speaker, Sir, first of all, I would like the hon. Members to understand

that, as a Ministry, we have done our level best. We have provided the contractors with materials, but the problem is that they took more projects than they could handle. That is the problem we are experiencing now. We are now taking away contracts from those contractors who have more projects than they can handle and giving them out to other contractors. Also, we have already interviewed more contractors and we are awarding additional contracts.

But in the hon. Member's case - and I believe whenever an hon. Member asks a Question, they run to the site and do some work and then leave - we shall ensure that they speed up their work. We have also agreed, as Ministry, that because the major hindrances are funds, we are now going to pay them per certificate. If they do half the work, they can now come to us and we will pay them some money, so that they can continue working. That way we shall empower them to perform their work in a better way.

Mr. Owino: Mr. Speaker, Sir, as you will realise, the preceding Question is about the same issue of Rural Electrification Projects (REPs). Could the Assistant Minister inform this House whether he is in a position to inform hon. Members of Parliament in their respective constituencies, which REPs are in those constituencies?

Mr. Kiunjuri: Mr. Speaker, Sir, we have tabled that information many times. Any hon. Member of Parliament who would like to know what is going on in his or her constituency can always come to our office, and he or she will be given the list of what is going on in his or her constituency.

Mr. Speaker: Last question, Mr. Ndambuki!

Mr. Ndambuki: Mr. Speaker, Sir, I would like the Assistant Minister to assure this House and Kenyans, that these contractors are going to be on site this month, because they came a long time ago and left the equipment there.

Mr. Speaker, Sir, could he ensure that they are on site and the work starts? Every customer who wanted to be connected with electricity has done wiring and paid the connection fees to the Kenya Power and Lighting Company (KPLC), but they are not yet getting the service.

Mr. Kiunjuri: Mr. Speaker, Sir, this is the age of performance contracts. Even those people who work with the KPLC are under performance contracts. Ministers and Assistant Ministers are also under performance contracts. The issue is not about the contractors coming because they are doing a favour to us; it is because they must perform. We will use every possible way and means to ensure that they are properly facilitated and that they are on the ground working.

Mr. Mwanha: On a point of order, Mr. Speaker, Sir. Hon. Owino asked the Assistant Minister if he could enlighten the House about which projects we all have in our constituencies. However, he is asking 210 hon. Members of Parliament to go to their offices to get that list of projects. Would I be in order to ask him to do print-outs of all these projects for every hon. Member, and put them in our pigeon holes? He could even table the list in this House for hon. Members to peruse.

Mr. Kiunjuri: Mr. Speaker, Sir, the tradition of this House is that whenever a Minister lays a document on the Table of this House, it is now the initiative of the hon. Members of Parliament, who would like to get more information, to get copies of that document from the Clerk.

Mr. Speaker: Exactly, Mr. Kiunjuri! That is what is called "initiative." So, could we all have some form of initiative? Approach the Table and you will get---

(Loud consultations)

Order! This House is a problem! Hon. Members, why can you not listen? Approach the Table when a document is tabled, and you will have it. That is it.

Next Question by Mr. Owino!

Question No.016
ACQUISITION OF NJABINI LAND
BY MIDLANDS LIMITED

Mr. Owino asked the Minister for Lands:-

(a) under what circumstances the company by the name Midlands Limited acquired land at Njabini Farm; and,

(b) what portion of land the company acquired, for what purposes and at what cost.

Mr. Speaker: Mr. Assistant Minister, I am made to understand that this Question was before the House.

The Assistant Minister for Lands (Mr. Kamama): Yes, Mr. Speaker, Sir.

Mr. Speaker: What was left?

The Assistant Minister for Lands (Mr. Kamama): Mr. Speaker, Sir, there was only one aspect that was left out; about the directorship of hon. Kimunya in this company in the year 2005.

The list that I tabled here did not contain his name, because he had resigned by then. But I wish to confirm that both lists are correct. Mr. Kimunya was a director of this company in 2005. I also wish to confirm that they followed the correct procedure to acquire this land. It is Midland Company with 14,000 members of the public which acquired this farm.

I wish to confirm that and table the list.

*(Mr. Kamama laid the document
on the Table)*

Mr. Speaker: Maybe, we should get it right. Consequent upon this Question coming before the House, last week, the Deputy Speaker, deferred it for the Chair to be able to find out whether, as a matter of fact, the hon. Minister and others are directors of this company. The Chair has received a letter, dated 13th April, 2007, listing all the current directors of that company. Among them is one hon. Amos Mweiga Kimunya.

(Applause)

I am reading this information from a letter signed by one W.G. Gikonyo, for Registrar-General, dated 13th April, 2007. In fact, the Registrar says:-

"The latest records filed in this Registry notification of directors, dated 2nd April, 2005 and filed on 12th September, 2005, indicates the following persons as the directors and their particulars---"

That is all there is contained in the letter. So, the position as far as the Registrar is concerned is as brought forward. The Clerk may have that letter.

*(Mr. Speaker handed over the
document to the Clerk-at-the-Table)*

Mr. Cheboi: On a point of order, Mr. Speaker, Sir. There is something which I want to seek your guidance on. What steps are taken against Ministers when they deliberately mislead the House on matters of very great concern as this one? The Assistant Minister told us, in the list which he produced, that hon. Kimunya was not among the directors.

Mr. Speaker: Order, hon. Members! I am very disadvantaged in this matter, because I did

not follow the Question from the beginning. I think the fairest thing for me to do, is to defer it to tomorrow morning, when the hon. Mr. Deputy Speaker, who was seized with this matter will be in the Chair, because he will then have known what transpired last week. I do not know what transpired last week!

An hon. Member: No!

Mr. Speaker: Order! You cannot say "no." To whom?

(Laughter)

The Assistant Minister for Lands (Mr. Kamama): Mr. Speaker, Sir, this matter has dragged on for some time. Since we have known the correct position, I think we should just let this matter rest because it has taken too long; it has taken more time than necessary.

Hon. Members: No! No! No!

Mr. Speaker: Order! Order! Order! Occasionally, we become too active when we smell blood!

(Laughter)

I hope we do not behave that way. I think we should relax.

Do I take it that the only pending issue last week was the confirmation of the current directors of the company by the Registrar-General of Companies? Was that the pending issue? Now, if that was the pending issue, it has been provided and the matter is over!

Hon. Members: No! No! No!

Mr. Speaker: Indeed, it is!

(Loud consultations)

Order! Order! Order!

Mr. Maore: On a point of order, Mr. Speaker, Sir. I do agree that, that was the contentious issue. But the issue raised by hon. Cheboi is very pertinent because the Assistant Minister stood before this House and persistently insisted that hon. Kimunya was never a director of this company. Hon. Kimunya himself was seated there, very dignified and never uttered a word. He has never been involved in this type of debate in the House.

Would I be in order to seek your indulgence for this Assistant Minister to apologize to the House and to the nation for this misconduct?

(Applause)

Mr. Speaker: What is your reaction, Mr. Kamama? You are all putting me in a very difficult position because I was not here!

The Assistant Minister for Lands (Mr. Kamama): Mr. Speaker, Sir, the information that I got was correct and I will not apologize.

(Loud consultations)

Mr. Speaker: Order! Order! Order, hon. Members! There are a few things that we must understand here. First, we transact Business in this House for and on behalf of the people of Kenya.

(Applause)

Secondly, it is not a personal contest between an hon. Member and a Minister and it should never be. Thirdly, I think hon. Members must, with dignity, try to pursue the truth. Hon. Members are also bound to be truthful in their queries and their answers. I really do not know what to do in the current instance. I am disadvantaged, as I said earlier---

Hon. Members: Defer the Question!

Mr. Speaker: For how long?

Hon. Members: Until tomorrow!

(Loud consultations)

Mr. Speaker: Order! Order! Order, hon. Members! It is my business to adjudicate!

*(Mr. Maore consulted
with Mr. Okemo)*

Order, Mr. Maore!

The business of the Chair is to adjudicate, and therein lies the peril of the Chair. The Chair cannot please all sides at all times, and the Chair should never attempt to do that! It is the business of the Chair to issue both pain and pleasure as the occasion demands. To be able to do that, the Chair must have the requisite information about what has transpired.

I think it is wrong to ask me to either issue pain or pleasure in the absence of knowledge. Let me find out what transpired!

An hon. Member: Tomorrow!

Mr. Speaker: Not necessarily tomorrow! There is something called "dictatorship" that I hate!

(Laughter)

The Chair will do this in good time.

Next Question!

(Applause)

Question No.156

IRREGULAR CHANGE OF SHAREHOLDING
IN NAKURU WATER COMPANY

Mr. Mirugi asked the Minister for Water and Irrigation:-

- (a) whether he is aware that the Municipal Council of Nakuru changed the shareholding of Nakuru Water and Sewerage Company and later conducted an irregular election of the Board of Directors;
- (b) whether he is further aware that the company is not yet registered; and,
- (c) what measures he is taking to ensure that the company is legally constituted to enhance transparency and accountability in its management.

The Assistant Minister for Water and Irrigation (Mr. Wanjala): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the Municipal Council of Nakuru changed the shareholding of Nakuru Water and Sanitation Services Company.

(b) Nakuru Water and Sanitation Services Company is registered under the Companies Act as a private company limited by shares. The company was incorporated in September, 2003, under Registration Certificate No.C105538.

(c) The company is legally constituted.

Thank you, Mr. Speaker, Sir.

Mr. Muriithi: Mr. Speaker, Sir, could this Question be directed to a different Ministry because I see no reason why the Ministry of Water and Irrigation is being given this responsibility.

Mr. Speaker: Has he answered the Question well? Let me hear from the hon. Member who asked the Question.

Mr. Mirugi: Mr. Speaker, Sir, last year, in February, the company held a Special Annual General Meeting and they changed the shareholding such that now, all the councillors are shareholders in the water company. Nakuru Town has been suffering from water shortages for a very long time. It is one of the biggest challenges which that town suffers from. Why is the Ministry averse to this situation, whereby the shareholding was changed in February, 2006, and the election was held on 8th August, 2006, whereby three directors representing the various stakeholders were kicked out of the Board of Directors. Now, the company is being led by somebody who is implicated in a Kshs12 million scandal in the Nairobi City Council revolving around the theft of water meters. Could the Assistant Minister explain why they have not addressed that matter?

Mr. Wanjala: Mr. Speaker, Sir, first, I want to tell the hon. Member that what he has said is hearsay. The Nakuru Water and Sanitation Services Company was registered in 2003 under the Water Act and, up to date, this letter was written on 13th April, 2007, from the Department of the Registrar-General of Companies and the following are the directors or shareholders of Nakuru Water and Sanitation Company Ltd:-

His Worship, the Mayor of Nakuru, one share; Nakuru Town Clerk, which is also an office, one share, the Treasurer of Nakuru Municipality, one share, and the Municipal Council of Nakuru itself has 4,997 shares, making a total of 5,000 shares. I wish to lay this letter on the Table for the hon. Member to acquaint himself with the real shareholders.

Thank you, Mr. Speaker, Sir.

*(Mr. Wanjala laid the letter
on the Table)*

Mr. Waithaka: Mr. Speaker, Sir, when the Question about Midlands Limited was being answered, you said that sometimes the Chair might have some information. This Question was asked last week, on 12th April, but it was deferred because the Assistant Minister could not tell us who were the shareholders of the Nakuru Water and Sewerage Company.

I have a copy of the answer that he read, which reads: "Yes, I am aware that the Municipal Council of Nakuru changed the shareholding". In today's answer, he is talking of a different thing. He has said: "No, I am not aware". The two answers are signed by the same person.

Mr. Speaker: Can I have a look at that HANSARD?

Mr. Waithaka: Mr. Speaker, Sir, I am talking about the written reply which he read last week.

(Mr. Waithaka handed over the document to Mr. Speaker)

Mr. Speaker: This is not the HANSARD!

Mr. Wanjala: Mr. Speaker, Sir, I wanted to put it clear that whatever changes that have not been registered and whatever is not known to the Rift Valley Water Services Board is illegal. I do not deal with illegalities and that is why the answer was changed. I objected to the answer that I was given last week.

Mr. Speaker: These are Oral Answers to Questions and the Minister comes to the House and orally replies to the Question. There is another set of Questions called Questions by written reply and the Minister gives a written reply, which goes only to the HANSARD. It does not come to the Floor of the House. The Minister is bound, in the latter case, by what he writes in the answer to his written reply.

With regard to Oral Answers to Questions, like the one we have now, the Minister is bound by what he says on the Floor of the House. We are guided in that by the HANSARD. I think hon. Wanjala is right. If he does not agree with what was written, then we hold him by what he says on the Floor of the House. I was hoping hon. Waithaka had a copy of the HANSARD of last week, that contradicts what the Assistant Minister is saying now. As it is, this is not the HANSARD.

Mr. Waithaka: On a point of order, Mr. Speaker, Sir. If that is your ruling, because we would like to get the correct answer to this Question, you should also consult the HANSARD, so that you can know what he said on 12th April, on the Floor of the House, and what he has said today on the Floor of the same House.

Mr. Speaker: Is there any difference because the Chair does not act in vain?

Mr. Waithaka: Yes, Mr. Speaker, Sir. He actually said that he was aware.

Mr. Speaker: Did you say that, hon. Wanjala? Let us have it straightforward!

Mr. Wanjala: Mr. Speaker, Sir, I am very clear and straightforward like I have always been. The answer I was given last week was wrong and that is what resulted in the deferment of this Question. I have corrected it and I have even went further to table before the House the most recent letter from the Registrar-General, which shows the directorship of that company.

Mr. Speaker: That makes sense! The whole idea of deferring a Question is to get the Minister to get the true state of affairs of a particular issue, which he or she has responsibility over. That is why we defer Questions.

If the Minister should go out there and make findings that the true state of affairs are different from what he or she was initially given by his or her officers, the Minister is entitled, and in fact, bound, to come to the House and give the facts as they actually are. We should commend the Assistant Minister for doing that. I do not think we should condemn him for doing the right thing. He has brought a letter from the Registrar of Companies showing the shareholding. Why do you not commend him? Would you like to commend him, Mr. Mirugi?

Mr. Mirugi: Mr. Speaker, Sir, I would like to commend him for his answer. I would also like to commend him for agreeing that it is an illegality that the shareholding changed, if it so happened.

The spirit in which the Water Act was enacted in 2002 was preceded by the Water and Sanitation Sessional Paper. This company changed its shareholding and it is now wholly owned by the councillors. All the stakeholders, namely, the Kenya Manufacturers Association, the consumer and women representatives are hand-picked by the councillors.

Mr. Speaker, Sir, if the shareholding changed, could the Assistant Minister now take action and cancel this contract and give the water service provider agreement to another company?

Mr. Wanjala: Mr. Speaker, Sir, I would like to request the hon. Member to repeat the last

bit of his question. His question was a bit lengthy.

Mr. Speaker: Mr. Mirugi, have you had the opportunity to look at the letter from the Registrar of Companies indicating the shareholding? If you have, do you dispute it?

Mr. Mirugi: Mr. Speaker, Sir, I have a document that is signed by the Managing Director, showing the minutes of the Special Annual General Meeting, which was held in February last year.

Mr. Wanjala: Mr. Speaker, Sir, anything that is happening within the Nakuru Water Services Company must conform to the agreement between the company and the Rift Valley Water Services Board. So, whatever the company did was illegal and the Rift Valley Water Services Board does not agree with that.

The Registrar of Companies will not register the new shareholding. The letter from the Registrar of Companies is confirming the first directors who were registered.

Question No.121

PENSION DUES FOR
MR. KIVUTHU UVATHA

Mr. Speaker: The Minister of State for Defence would like this Question to be deferred to Thursday.

Mr. C. Kilonzo: Mr. Speaker, Sir, I have no problem with that, but this is the second time the Question is being deferred.

Mr. Speaker: Order, Mr. C. Kilonzo! The Minister of State for Defence has sought time to get the requisite information. I know this Question was here sometime ago, but he wants to get all the requisite information and come to the House on Thursday. Is that the position? I got a call from the office of the Minister.

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, he will answer the Question on Tuesday next week.

Mr. Speaker: Why not on Thursday?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, with the concurrence of the House, we request that this Question be answered on Tuesday next week.

Mr. Speaker: Will that be okay with you, Mr. C. Kilonzo?

Mr. C. Kilonzo: Very well, Mr. Speaker, Sir.

Mr. Speaker: Very well. The Question is deferred to Tuesday next week.

(Question deferred)

Question No.141

NUMBER OF SCHOLARSHIPS FOR LAISAMIS

Mr. Lekuton asked the Minister for Education:-

(a) how many Government scholarships were awarded to people from Laisamis Constituency since 1963;

(b) whether he could table a list indicating names of the beneficiaries; and,

(c) what steps he is taking to ensure that children of Laisamis benefit from Government scholarships especially in the light of the fact that the area is marginalised.

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

(a) The Ministry has been awarding scholarships in terms of regions, provinces and not constituencies. The available records held in the Ministry are most recent. Records dating way back to 1963 are not available and, therefore, it is not possible to give the number of Government scholarships awarded to the people of Laisamis Constituency since then.

(b) Due to the reason given in part "a" above, there is no list of beneficiaries from the constituency.

(c) Most of the scholarships are received from friendly countries, and are normally advertised for qualified students to apply. Competitive interviews are then held and the scholarships are thereafter awarded based on merit, area of study, regional balance, affirmative action and conditions of offer by the friendly countries. Potential applicants from the hon. Member's constituency, who meet the minimum requirements, should apply whenever there are advertisements and will be considered along with others.

Thank you, Mr. Speaker, Sir.

Mr. Lekuton: Mr. Speaker, Sir, the answer is totally insufficient. The fact is that the Ministry of Education does not have records, and so he cannot give me an efficient answer. What do I tell my constituents? That is just another way of putting down those of us from northern Kenya, and we refuse to accept this kind of answer. What is the last time the Ministry kept a record? He should be able to tell me from 1970 or 1940 or whichever year--- This answer is zero. That is the problem.

Dr. Mwiria: Mr. Speaker, Sir, I think the hon. Member is asking me when we began to desegregate. I was asked another Question recently in this House on scholarships for the period 2003 to 2007, and I answered it. But I must also say that in 1963, there was no constituency called Laisamis. So, it is not possible for me, even if I wanted to, to go back and give information on Laisamis Constituency covering that period.

Dr. Rutto: Mr. Speaker, Sir, the Assistant Minister knows very well that scholarships in his Ministry have not been awarded transparently before. He knows that the answer he has given us is a public relations exercise kind of answer. What mechanisms has he put in place to make sure that scholarships in the Ministry are given fairly, and with affirmative action in mind?

Dr. Mwiria: Mr. Speaker, Sir, I am, indeed, aware that before this regime, scholarships were never given fairly. That is why in 2003, we came up with criteria, which is based on all the factors that the hon. Member is talking about. I said that we consider regions, gender and areas that have been disadvantaged historically. I did answer an almost similar Question in the last Session of this Parliament. I did give a list of distribution of scholarships for the period 2003 to 2006. We did explain and it was found that a great deal of effort had been made to ensure that we are much more transparent, and that merit and other considerations that the hon. Member has referred to are considered when we award scholarships.

Prof. Olweny: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House by saying that they give scholarships based on regions, and yet this country is not divided into regions but rather into provinces and districts? What regions does he mean to talk about?

Mr. Speaker: What is the difference between a region and a province?

Prof. Olweny: Mr. Speaker, Sir, there is a big difference. Provinces are not regions in this country. What does he mean by regions?

Dr. Mwiria: Mr. Speaker, Sir, I mean provinces.

Mr. Speaker: Very well. Finally, we shall have Mr. Karaba and then I will finish with Mr. Lekuton.

Mr. Karaba: Thank you very much, Mr. Speaker, Sir. I am sure that my colleague is imagining that there are scholarships for both local and overseas studies. My interest is in

scholarships for local studies. I am sure that the Ministry does not have enough money to provide scholarships to students studying in our local institutions. What measures is the Assistant Minister taking to ensure that there is enough money to award scholarships to students from marginalised areas? Could he consider introducing an education levy to cater for such scholarships?

Dr. Mwiria: Mr. Speaker, Sir, there is no measure I can take to ensure that there is enough money. It will never be enough, but we can give the first priority to those areas. I said before that if you look at the list of the scholarships that we have awarded since 2003, you will see that every effort has been made to ensure that regions such as north eastern Kenya have been included in the awards. With regard to local scholarships - the bursaries - again, this money is given on the basis of need. We make an effort to assist most parts of this country, especially those which are disadvantaged. Unfortunately, the money that we have is never enough. All we can do is hope that we will have more resources to be able to support as many students as possible, especially the needier ones.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I appreciate the Assistant Minister's very genuine attempt to answer this Question but, there is a very serious problem in Uganda. Kenyan students studying in Uganda have complained that 79 per cent of the bursaries going to Uganda go only to one region. There is an uproar in Uganda about the bursaries and scholarships given to students studying there.

Could the Assistant Minister clarify to this House whether this is true? If it is, what is he doing about it?

Dr. Mwiria: Mr. Speaker, Sir, if I knew it was true, I would have done something about it. Unfortunately, I do not know. Actually, I would like to believe that it is not true. I would like to have some evidence about it, because it is a serious allegation. We consider ourselves a Government that should have the interests of all regions in mind.

So, please, if I could have some information, I would be quite happy to react to the allegation but, I would hate to believe that this is the way we have been going as a Government, because it is not.

Mr. Speaker: We must finish with this Question now.

Mr. Lekuton: Mr. Speaker, Sir, I asked this Question because, year after year, students from my area have applied for scholarships but none of them has ever gotten one since Independence. This is totally embarrassing, and it is one way of holding us back in our educational endeavours. If every Kenyan has the right to get those scholarships, so do we.

Mr. Speaker, Sir, the Ministry should have taken into consideration the fact that this is one way of creating a big gap between the rich and the poor. This is a big contribution to that situation.

Thank you.

Mr. Speaker: Dr. Mwiria, do you agree with the hon. Member's comment?

Dr. Mwiria: Mr. Speaker, Sir, if he was saying that we must make an effort to ensure that we address the needs of the disadvantaged, how can I not agree with him?

Mr. Speaker: Very well. Thank you.

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

Order! Order! Hon. Members, you can see that Question Time is over. I will appreciate the fact that I took a little time myself to explain to the House the initiatives I took in trying to put together some rules for electing our representatives to the East African Legislative Assembly.

I appreciate the fact that the House listened to me, and I further thank you for the support you gave me. But let us make sure that this is not going to be the habit. Question Time will remain

one hour. So, Question Time will always end at 3.30 p.m. The balance of the time was taken by me and, maybe, because of your generosity, I became a little generous, too. So, that ends Question Time.

Mr. Murungi, you had a Ministerial Statement to issue? Mr. Billow wanted to seek a Ministerial Statement. He will do so after Mr. Murungi issues his Ministerial Statement. Who else wants to seek a Ministerial Statement?

Prof. Anyang'-Nyong'o: I do, Mr. Speaker, Sir.

Mr. Speaker: I did not know about it. So, I am only aware of Mr. Billow.

Mr. Githae, do you have a Ministerial Statement?

The Assistant Minister for Transport (Mr. Githae): Yes, Mr. Speaker, Sir.

Mr. Speaker: Very good! You know, it helps when every hon. Member who wishes to seek a Ministerial Statement, and every Minister who wishes to issue a Ministerial Statement, informs the Chair about it, for better management of the time of the House. So, I will finish with Mr. Murungi, come to Mr. Githae and end with Mr. Billow.

MINISTERIAL STATEMENTS

COUNTRYWIDE SHORTAGE OF PETROLEUM PRODUCTS

The Minister for Energy (Mr. Murungi): Mr. Speaker, Sir, on 11th April, 2007, the Member for Keiyo North, Mr. Chepkitony, requested a Ministerial Statement from me on the current countrywide shortage of petroleum products, particularly diesel and petrol. He specifically wanted to know the causes of the shortages and the intervention measures the Government is taking to alleviate the shortage of both diesel and petrol in the short-term and the long-term.

Mr. Speaker, Sir, it is true that Kenya and the neighbouring countries of Uganda, Rwanda, Burundi and Eastern Democratic Republic of Congo have been experiencing an unprecedented challenge of petroleum product shortages, especially diesel and, to a lesser extent, petrol, since the third week of March, 2007. Mr. Speaker, Sir, I would like to inform this House and, indeed, the entire country that we have adequate stocks of both diesel and petrol at our Kipevu Oil Storage Facility in Mombasa, which is owned by the Government. The causes of the current shortages are as follows:- First, there has been a very sharp rise in the demand for petroleum products in the region, as a result of rapid economic growth. The demand for petroleum products in the domestic market has also risen by 14 per cent every year, from 237 million tonnes in 2004 to 306 million tonnes in 2006. That demand has further risen sharply because of the unexpected demand for diesel in Uganda, where it is required for generating electricity on emergency basis because of a drop in the levels of the River Nile. That rapid growth in demand for petroleum products has not been matched by rapid expansion of our product transport capacity. Therefore, the immediate cause of the shortage is the inadequate petroleum product transport infrastructure.

Mr. Speaker, Sir, we have a limited product transfer capability from both the Kipevu Oil Storage Facility and the oil refinery to Shimanzi Oil Storage Facility from where road tankers and the railways lift the product for both Coast and upcountry consumption. The pipeline is severely constrained. Having been built in 1977, it is now operating efficiently at its maximum capacity of 440,000 litres per hour. The pipeline cannot pump more products than it is pumping now without further expansion.

Mr. Speaker, Sir, the railway system has not been able to provide adequate facilities for evacuation of the product from Mombasa *in tandem* with the rise in that demand. Further, transfer by road tankers has also been slow because it has taken time to transfer adequate stocks from the

Kipevu Oil Storage Facility to Shimanzi.

Mr. Speaker, Sir, the Government is taking the following short-term measures to alleviate that situation. First, we held a meeting on 13th April in which, all marketing companies agreed to import petroleum products through the Shimanzi Oil Storage Facility. Secondly, the Ministry has requested all oil marketing companies to make more road tankers available to lift products to upcountry and export destinations. Thirdly, the Kenya Pipeline Company (KPC) is constructing a pipeline, within four months, connecting Kipevu Oil Storage Facility to Shimanzi to increase the volume of products available for lifting by road and railway. Fourthly, we are making a review of the technical integrity of a 12-inch pipeline belonging to Total Kenya, which connects the oil refinery and Shimanzi. When that is done, more products will be pumped from the refinery to the Shimanzi Oil Storage Facility for uplifting by tankers and the railway.

Mr. Speaker, Sir, the Government is also taking the following long term measures. First, the KPC is expediting the construction of additional pump stations along the Mombasa - Nairobi Pipeline, which will double the product evacuation from the capacity of 440,000 litres per hour to 880,000 litres per hour by April, 2008. Secondly, KPC will construct a parallel 10 inch pipeline from Nairobi to Eldoret to compliment the capacity of the existing pipeline by October, 2008. Lastly, KPC will construct additional product storage tanks at Kipevu Oil Storage Facility by December, 2008.

Thank you.

Mr. Speaker: Who raised the issue? Mr. Chepkitony, do you want to seek any clarification?

Mr. Chepkitony: Thank you, Mr. Speaker, Sir, for allowing me to comment. First of all, I would like to thank the Minister for the precise way in which he has answered the question. I am satisfied with the way he has answered my query. I am only wondering why the Government waited until the problem became a crisis. That problem should have been foreseen some years back and measures taken to mobilise tankers belonging to the private sector.

Mr. Speaker: Is there anybody else?

*(Messrs. Arungah and Ligale
stood up in their places)*

Mr. Arungah, please, seek your clarification! Then, we will finish with Mr. Ligale and the Minister will respond.

Mr. Arungah: Thank you, Mr. Speaker, Sir. I am aware that oil companies submit the volumes of oil and petroleum products they expect from the oil refinery and storage facilities in Mombasa on a quarterly basis.

[Mr. Speaker left the Chair]

*[The Temporary Deputy Speaker
(Mr. M'Mukindia) took the Chair]*

I am aware that the East African Oil Refinery made available the required amount of petroleum products. I have difficulties, therefore, to understand why, all of a sudden, there was a shortage of petroleum products upcountry when, indeed, there were enough petroleum products at the storage facilities and the East African Oil Refineries. Could the Minister dispel the feeling that the shortfall was stage-managed to fast-track the awarding of certain contracts by KPC?

Mr. Ligale: Mr. Temporary Deputy Speaker, Sir, I also want to thank the Minister for the Statement that he has issued. I am a bit disappointed though, that we are slipping back. Our roads

have been spoilt very much by oil tankers. It has been our hope that with the pipeline, we would reduce the tankers that ply our roads. Certainly, when we concessioned our railways to a private company, we had hoped that it will reduce the destruction of our roads and rail transport would become very efficient. Now, the Minister has said that more tankers will be used to ferry oil products from Mombasa. Is that not a step back? Is there no way we can ensure that the railway becomes more efficient? I believe another Ministerial Statement will be requested on the concessioning of Kenya Railways. But, clearly, that is a slip-back and the Government must ensure that our railway becomes more efficient so that we can reduce the number of tankers on our roads.

Thank you.

The Minister of Energy (Mr. Murungi): Mr. Temporary Deputy Speaker, actually, the immediate cause of the shortage, as I have said, is due to a very sharp demand for diesel for generating electricity in Uganda as a result of unforeseen and unexpected drought in that country. We have done sufficient planning. The pipeline expansion has been on-going for several years and, as we speak now, the implementation is going on.

Mr. Temporary Deputy Speaker, Sir, I think it not true even to imagine that, that shortfall is being stage-managed because it is real! We do not need to stage-manage anything because the capacity enhancement of the pipeline for both Line I and Line II was planned and is being implemented with or without the current shortfall.

Mr. Temporary Deputy Speaker, Sir, we also cannot avoid transport by road for, at least, the next one year because the upgrading of the pipeline from Mombasa to Eldoret will not be completed until that period. In the meantime, we have to cope with the tankers on our roads.

Thank you.

The Temporary Deputy Speaker (Mr. M'Mukindia): That is the end of that matter!
Mr. Githae!

STATUS OF CONCESSIONING OF FORMER KENYA RAILWAYS

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, on 10th April, 2007, the hon. Member for Kisumu Rural, Prof. Anyang'-Nyong'o sought a Ministerial Statement on the status of the Rift Valley Railways (RVR). I am, therefore, pleased to give the following Ministerial Statement.

First, he wanted to know the position of the RVR given the many court cases that are facing the RVR-Uganda. In response, I would like to say that there are no court cases in Uganda involving the RVR-Uganda or RVR-Kenya which are the two companies the governments of Uganda and Kenya signed concession agreements with, to operate their national railways. There is also no court case involving RVR Investments which is the holding company for both RVR-Uganda and RVR-Kenya.

The matter before the High Court of Uganda is between the shareholders of RVR Investments; namely Sheltam Railway Company on one hand, Mirambo Holdings of Tanzania and Prime Fuels of Kenya on the other hand. So, this is purely a shareholding agreement that has no effect on the concessionaire.

On the second issue, the hon. Member sought to know how we can guarantee and protect public interest in the former Kenya Railways Corporation (KR), given the fact that some properties and interests of the workers are still not yet guaranteed. In response, I would like to say as follows:-

In respect of properties, I wish to clarify that the KR is still a parastatal fully owned by the Government of Kenya as provided under the Kenya Railways Act, Cap.397. All the properties conceded to the concessionaire remain the property of the KR. The concessionaire agreement

provides the concessionaire right to manage and operate the said assets and such other as they may procure from time to time to enable him to meet his daily business requirements and comply with performance target stipulated in the concessionaire agreement. Indeed, even some of the assets to be financed by the concessionaire and approved by the KR will become conceded assets financed by the concessionaire and, therefore, be taken over by the KR at the end of the term of the concession. For this purpose, the KR's revised core mandate is to monitor and regulate the performance of the concession company.

Mr. Temporary Deputy Speaker, Sir, in respect of the workers, all the historical pension liability of the KR staff and those staff transferred to the concessionaire from the previous service with the KR was taken over by the Kenya Railways Staff Retirement Benefits Scheme upon transfer of assets of value equivalent to KR Pension Liability as determined by an independent actuarial consultant to the KR Staff Retirement Benefit Retirement Scheme. Retrenched workers are being paid their retrenchment dues in full, prior to separation.

On the third issue, he wanted to know the status of the efficiency of the RVR in service delivery, given the fact that thousands and thousands of containers destined for the market in Uganda have been compounding at the port of Mombasa, thereby frustrating the transaction of business in the East African Region.

In response, I would like to say that we are a bit disappointed by the performance of the RVR in terms of freight throughout. This is so because in the first three months; that is, from 1st November, 2006 to 31st January, 2007, since they took over, the operations of the railways declined by 6.5 per cent from 433,000 tonnes to 405,000 tonnes prior to the month of take over by the RVR. Similarly, the freight haulage in terms of net tonne-kilometres also declined marginally by 3 per cent from 0.3397 billion net tonne-kilometres to 0.3297 billion net tonne-kilometres. However, the gross income generated by the RVR in the period was higher than the KR revenue in the three months prior to the concession.

Mr. Temporary Deputy Speaker, Sir, the deteriorating performance is largely as a result of back-log in the maintenance of locomotives, wagons and infrastructure that arose from lack of capital investment by the KR for many years due to financial constraints. The RVR is yet to start investment, as expected, partly from the need to undertake a comprehensive needs assessment and also the time lag required for ordering, delivering and installing critical investment inputs.

Resulting from the above, coupled with the 16 per cent increase in daily demand for containers, the RVR has been unable to meet the traffic demand on offer at the port of Mombasa. However, within the constraints obtaining, the RVR and the Kenya Ports Authority (KPA) are examining ways and means of improving efficiency of operators to increase the up-take of cargo from the port for up country destinations.

Thank you.

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

The Temporary Deputy Speaker (Mr. M'Mukindia): Who sought this Ministerial Statement?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for a very comprehensive answer. However, I would like to raise two issues just for clarification. He said that the issue before the court in Uganda is a shareholders' disagreement. However, precisely because it is a shareholders' disagreement, could he clarify to the House whether this disagreement will affect the mobilisation of capital by the shareholders to be invested in the RVR? The whole essence of concessioning was that shareholders would mobilise sufficient

capital to make the RVR efficient. As it stands, it looks, to me, as if the disagreement in Uganda is part and parcel of stopping the mobilisation of capital into the railways so that it can perform. Could the Assistant Minister really explain to us whether that is something that the Government or the KR, as a regulator, can look into and reassure Kenyans that, indeed, capital will go into the new venture?

Finally, I am glad that the Assistant Minister accepts that the RVR is, indeed, inefficient. However, he observed that in terms of revenue, within the three months period that they have examined, the RVR has returned more revenue than the previous KR. However, the flip side of this is that more revenue is coming from a lower volume of goods being moved. This means that the RVR is charging a higher value per goods moved than the previous KR. This, essentially, means that people are moving away from the RVR and going to the roads which is what we have been trying to avoid in this country: Remove heavy haulage of goods on the roads and take them to the railways. What this South African is doing is charging more, moving less and not investing capital into the railways.

(Applause)

So, I would like our Government to be very careful about dealing with this South African because from the very beginning I was suspicious that he was going to con our country. He is in the process of conning our country!

Mr. Marende: Mr. Temporary Deputy Speaker, Sir, what is happening with Kenya Railways Corporation is, indeed, a very sad spectacle. If this Government has any conscience, then, obviously, it ought to put in place measures that will reverse the current situation urgently. As we speak now, if you look at the premises of the Kenya Railways Corporation, they are so forlorn. The rolling stock is also wasting away. What urgent measures is this Government taking to begin the recovery of the operations of the Kenya Railways Corporation?

Mr. Billow: Mr. Temporary Deputy Speaker, Sir, just as Prof. Anyang'-Nyong'o mentioned, this idea of concessioning was aimed at generating investment for the railway system in this country, but it is proving to be the opposite. There are genuine concerns that the Rift Valley Railways is engaged in what is called "asset stripping". Essentially, it is a fraudulent concessioning which is not generating investment. In fact, what we are seeing now is a management that is purely trying to sell off the assets of an existing company.

Could the Assistant Minister deny or confirm that, that is the current situation in that company?

Mr. Arungah: Mr. Temporary Deputy Speaker, Sir, I am aware that the terms of this concessioning were that all employees of Kenya Railways Corporation will be compensated in terms of benefits and so forth. Could the Assistant Minister confirm whether the former workers have been paid their benefits or not?

Could he also confirm whether the concessionaire actually paid the amount of money that he was supposed to pay on signing the agreement?

Lastly, there must have been some performance threshold that was set. In view of the fact that they are not meeting the performance target as was expected, what time frame have they been given to comply and what will happen to them if they fail to do so?

The Temporary Deputy Speaker (Mr. M'Mukindia): One more person, please, and then we come to the end of this matter.

Mr. Ligale: Mr. Temporary Deputy Speaker, Sir, I wanted to raise the question of function, but since my colleague, hon. Arungah has raised it, I do not need to repeat what he has asked.

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Speaker, Sir,

in answering Prof. Anyang'-Nyong'o's question, I would like to assure him that the disagreement between shareholders will not affect the performance of the Rift Valley Railways. Why am I saying so? It is because the disagreement is between the 65 per cent shareholding and not within the shareholding of the other companies.

Under the Concessioneing Agreement, the leading investor must hold not less than 35 per cent of the voting shares. So, even if they were to lose the case, they would still end up withholding more than 35 per cent. Concerning whether this disagreement will affect their capacity to mobilise sufficient capital, I would like to assure this House that, that will not affect the mobilisation of sufficient capital because they have been able to get some two other shareholders; that is, Trans Century Limited, 20 per cent; ICDCI Investment, 10 per cent; and a technical strategic partner, Babercon and Brown of Australia, 10 per cent, who have a lot of experience in the running of railways.

So, even if they were to lose the case in Uganda, that will not affect the operations of the concessionaire because they have other partners who have adequate and sufficient capital. As we speak now, the ruling from Uganda was that the value of the shares be deposited in the High Court in Uganda and that has been done. So, it will not affect the concessionaire's operations.

Concerning the allegation that they are achieving higher revenue because of charging higher levies, I think that is not exactly correctly. This is because they have not increased their charges at all. In fact, they have continued with the charges that the Kenya Railways Corporation used to charge. The increase in revenue has been from the sealing of loopholes through which revenue used to get lost when it was being run by the Kenya Railways Corporation. For example, in the commuter service, quite a number of commuters were not being charged and they were sharing that money with the conductors.

Presently, tickets are obtained in advance. That way, they have been able to seal some of the loopholes through which the Kenya Railway Corporation lost revenue.

With regard to Mr. Marende's worry that the company may be selling its assets, I would like to assure this House that the Rift Valley Railways has no authority to sell even a nut or a bolt. What may have come to his notice is the sale of scrap metal which is being sold by the Kenya Railways Corporation. The scrap metal and all the assets that were not required by the Rift Valley Railways were left in the hands of Kenya Railways Corporation. So, it is the latter which is selling the scrap metal and not the former.

With regard to hon. Billow's view that this is fraudulent transaction and that this company from South Africa cannot be trusted, again, I have said that, really, they have not been allowed to sell any assets. At best, the only thing they could probably take away is the revenue that has been generated. However, they report to the management of the Kenya Railways Corporation and every month, they give statistics showing the revenue collected, how much freight has been carried and so on. Therefore, the Kenya Railways Corporation is also a director of the Rift Valley Railways and is in a position to monitor what is happening. I would, therefore, like to assure this House that this Government will not allow the Rift Valley Railways to sell any assets, strip away the company, or divert funds from the operations of the Kenya Railways.

Concerning hon. Arungah's question, I would like to assure him that all the employees whose services were terminated have been paid. The only ones who have not been paid are those ones who were taken over by the Rift Valley Railways and their money is held by the pension scheme so that any time they want their money, they can access it.

Under the Concessioneing Agreement, it is true that there are sanctions, but they will come into effect only after two years. That is when there will be a review of all the operations. If there is any breach in the Concessioneing Agreement, then it will be terminated. Again, I would like to assure hon. Arungah that, indeed, we received the concessioneing amount that was due under the

Concessioning Agreement before they were given the assets. Even Uganda also received its assets.

What has happened is that the economy has grown and as a result, there is a pile up of containers at the Port of Mombasa. Also, the containers have piled up because they have been diverted from the Port of Dar es Salaam to Mombasa. Now that they have ordered for more locomotives and wagons, we hope that within the next six months, they should be able to reverse the current situation. However, I would like to assure this House that this Government will never allow, or even enter into an agreement which is fraudulent.

POINT OF ORDER

OUTBREAK OF UNIDENTIFIED LIVESTOCK

DISEASE IN MANDERA

Mr. Billow: Mr. Temporary Deputy Speaker, Sir, I would like to seek a Ministerial Statement from the Minister for Livestock and Fisheries Development. Although he is not here, I believe his colleagues will take note on his behalf.

Since January, 2007, hundreds of animals, particularly camels, have died in Mandera District. These animals die from an acute fatal disease which is yet to be identified by the veterinary department in the district. The Chair will recall that area has just recovered from an outbreak of Rift Valley Fever (RVF) which killed thousands of livestock.

Several weeks ago, I understand blood samples were taken to Animal Health and Industry Training Institute (AHITI), Kabete, for testing, but to date, there is no response. Many camels are dying in their hundreds.

Could he investigate and report to this House the circumstances surrounding the mysterious deaths of these camels? He should also inform the House the measures the Ministry is taking to contain the epidemic.

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I will give that information to the Minister for Livestock and Fisheries Development. I hope, he will be in a position to issue a statement.

The Temporary Deputy Speaker (Mr. M'Mukindia): Order! Mr. Githae, I think you are part of the Government. Therefore, you have to make an undertaking that you will give the Statement, for example, by Thursday. As far as this House is concerned, whether the Minister is here or not, the Government is represented! So, could you, please, commit yourself to that?

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, we will give the Statement on Tuesday, next week.

Mr. Billow: Mr. Temporary Deputy Speaker, Sir, given the fact that these animals are dying in their hundreds and the Ministry is not doing anything, could the Chair order the Assistant Minister to provide this response by Thursday?

The Assistant Minister for Transport (Mr. Githae): We will do so, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. M'Mukindia): Very well.
Next Order!

MOTION

ADOPTION OF 1999/2000 PAC REPORT

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.

(Mr. Omingo on 12.4.2007)

*(Resumption of Debate interrupted
on 12.4.2007)*

The Temporary Deputy Speaker (Mr. M'Mukindia): Who was on the Floor?

Mr. Muturi, please, proceed!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, as we adjourned last week, I was making references to the various issues raised in the PAC Report. I was raising the issue identified as evasion of duty and taxes from the Port of Mombasa and various Non-Governmental Organisations (NGOs) that were exempted from paying duties and Value Added Tax (VAT). Examples of these NGOs were given as M/s Womankind and M/s International Children Trust. The NGOs disappeared without trace. Indeed, even the insurance companies, clearing agents and all those involved in issuance of bonds and clearing of goods from the Port of Mombasa have since ceased operations.

Mr. Temporary Deputy Speaker, Sir, the Committee noted that there has been laxity in the enforcement of its recommendations. Just to echo what many other hon. Members said, if you look through these Reports, year in, year out, there is some deafening silence from one particular office. That is the Office of the smiling Attorney-General, Mr. Amos Wako. The man just laughs all over and does very little. In fact, he has done a lot of disservice to this House. Many recommendations from this House addressed to the Office of the Attorney-General, do not seem to receive any attention at all. Therefore, I feel that time has come when this House must express its displeasure with the performance of that office. It should also request that urgent remedial action be taken against the holder of this office. This is because he has shown he is not capable or does not measure up to the job that was given to him by Kenyans.

Mr. Temporary Deputy Speaker, Sir, the Committee says that many Ministries do not make payments or settle claims arising from suits filled against the Government. Again, if you read through this Report, blame goes to lack of communication from the Office of the Attorney-General to the various Ministries. In rare cases where the Attorney-General has appeared in court, a judgement entered against the Government in respect to a particular Ministry, his office sits on the results. As is stated in this Report, the Ministries prepare their budgets unaware that judgement had already been entered against them. As a result, year in, year out, the Ministries seem not to make sufficient provisions in their budgets regarding such claims. Some of them, fall in the way of *ex gratia* payments and compensations. All these are issues that are within the knowledge of the Attorney-General. However, as is pointed out in various pages of this Report, when the Permanent Secretaries appear before the Committee, the explanation they give is that they were not made aware that they had been condemned by the courts to pay certain compensations, or damages, in respect to suits.

Mr. Temporary Deputy Speaker, Sir, in a number of instances also, indeed, the Attorney-General does not even appear to defend Government Ministries. It is the responsibility of that office, at all times, to detail certain senior officers to know which cases the Government is being sued or ought to sue. In fact, it is a very rare thing to hear that the Attorney-General is filing a case on behalf of the Government against this particular company or individual. However, we know that the Government is in the business of--

QUORUM

Mrs. Kilimo: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in this House. In fact, there is nobody on the Government side!

An hon. Member: And this is a very important Motion!

The Temporary Deputy Speaker (Mr. M'Mukindia): We do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. M'Mukindia): Order, hon. Members! We now have a quorum.

Proceed, Mr. Muturi!

Mr. Muturi: Thank you, Mr. Temporary Deputy Speaker, Sir. Luckily, the Government side has woken up. It is good that they keep awake. I was saying that there have been a lot of delays in communications from the office of the Attorney-General to various Ministries regarding situations where the Government is sued.

In this Report, there is a serious indictment on Treasury itself in the way in which they treat several contingencies funds. Contingency Funds are emergency funds but the way Treasury has operated is that they advance Ministries from a normal basis, funds from that account. Indeed, in some situations, because it has to be done so casually, you find that some of the Ministries who have been advanced money from the Civil Contingencies Fund end up surrendering part of it back to Treasury. That is an unacceptable situation.

The other indictment that has been there is that, several Ministries did not present their accounts for audit. I am raising this issue, even though the Report we are discussing is for 1999/2000, of course we now have the largest Government since Independence, therefore, the problem that has been identified here by the Controller and Auditor-General regarding how many Ministries submit their reports for audit is a real one. Some of those Ministries like the Ministry of Information and Communications and the Ministry of Transport which have been mentioned on Page 13 of this Report, just in case somebody thinks that we are making spurious allegations, the Ministries said that their statements had not been prepared and could not, therefore, be submitted for audit.

An hon. Member: Which year?

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I do not wish to respond to road-side comments.

The Minister for Planning and National Development (Mr. Obwocha): You are the one who is doing it, actually!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, if you could ask Mr. Obwocha to keep cool because he is making too much noise.

What I am saying is that the three Ministries have been singled out and I am saying--

The Minister for Planning and National Development (Mr. Obwocha): On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear the hon. Member say that Mr. Obwocha is making noise. Hon. Members do not make noise; they consult loudly.

The Temporary Deputy Speaker (Mr. M'Mukindia): I think that is correct. You are out of order.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, it is a well-known fact that when people consult very loudly, the deal tends to be noisy. But that is a side issue. I do not want to deal with that.

I was saying that when we have Ministries being indicted for non-submission of their

accounts for audit, it is a serious issue. I have just been pointing out cases where the office of the Attorney-General is accused of not communicating.

(Loud consultations)

If I have to respond to everything--- Somebody is being called Ms. Martha Karua's son. It is not fair. I did not know that Ms. Karua had a son here; Mr. Wanjala.

We have seen situations which are synonymous with the issues raised about the treatment of the Civil Contingencies Fund. These situations gave rise to the numerous or the very heavy pending bills that we witness today. This is an election year and we have begun seeing very interesting signs. We have started witnessing shortages of fuel. We only hope and I want to caution that those shortages are not used as excuses to circumvent the clearly laid down procurement procedures in an effort to procure certain goods and services for this country. I am saying this because if you read through this Report, there are numerous cases of clear violation of the procurement regulations and/or violation of duty on the part of officers of Government in the various Government Ministries that were involved in the procurement of various goods and services.

Earlier on, when Mr. Githae was reading a Ministerial Statement, there was the fear raised by Mr. Arungah about the capacity of the Kenya Pipeline Company (KPC). We want the capacity of the Kenya Pipeline expanded in the normal way, but not in a hurry, as to justify---

The Assistant Minister for Water and Irrigation (Mr. Wanjala): On a point of order, Mr. Temporary Deputy Speaker, Sir. You realise that the hon. Member on the Floor happened to be in a Government that caused a lot of backlog in the Public Accounts Committee (PAC) work. Even the Report he is debating is for 1999/2000. Even up to now we are dealing with a backlog that came about during the last regime, which he was part of. Is he in order to insinuate that what used to happen in that Government that he served and which brought all these problems, will happen in the current Government that has efficiently dealt with the backlog of whatever they did? Is he in order to insinuate that we can also do the same?

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, that is a point of argument and not a point of order.

The Temporary Deputy Speaker (Mr. M'Mukindia): Order, Mr. Muturi! It is not up to you to rule on whether hon. Wanjala is out of order or not; it is up to the Chair. At least, you must give the Chair the due respect it deserves, because you are the one who put it here in the first place.

Mr. Wanjala, it is true that is a point of argument. So, you are not in order.

Proceed, Mr. Muturi.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I never even ruled or said that he is out of order. I merely said, in response, as should be expected, that he was raising a point of argument. I did not make any ruling, as I know very good that is a matter for the Chair. If he wants to argue that this Government is very good, he will be given a full 30 minutes to make that point.

Mr. Temporary Deputy Speaker, Sir, on this very Floor issues have been raised touching on the Ministry of Transport. We have already in the air speculation about the authenticity of a contract that has been varied by the Kenya Airports Authority. I know that this being an election year, a lot of things are going to be done to justify this or the other. We are going to demand that a special audit be carried out on that contract.

The Minister for Co-operative Development and Marketing (Mr. Ndwiga): Mr. Temporary Deputy Speaker, Sir, I think the hon. Member is out of order. First of all, there is the rule about relevance. Secondly, is he in order to cast aspersions on this Government and assume that some things will happen? He is terribly out of order, and that is not honourable at all.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I am not willing to engage in this filibustering. I am right to cast aspersions. It is this very Government which has not been able to explain to this House very many issues that we have raised. There is the issue of the Armenians. Public funds have been spent and we are discussing the Public Accounts Committee report, an issue of accountability. So, I am quite relevant and in order.

The Temporary Deputy Speaker (Mr. M'Mukindia): Order, Mr. Muturi! It is not up to you to rule whether you are relevant or in order.

The Minister for Co-operative Development and Marketing (Mr. Ndwiga): Mr. Temporary Deputy Speaker, Sir, on the rule about relevance again, how do Armenians come into the Public Accounts Committee Report?

Mr. Muturi: Public funds were used and it is, therefore, very relevant when we are discussing the report of the Public Accounts Committee.

With those few remarks, as much as my time has been wasted, I beg to support.

The Temporary Deputy Speaker (Mr. M'Mukindia): Order! Mr. Muturi, you are totally out of order! If you had gone on like that, I would have taken action against you.

The Assistant Minister for Planning and National Development (Mr. Ethuro): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this particular Motion.

Mr. Temporary Deputy Speaker, Sir, I had the honour of serving on this Committee in my other life. I want to pay homage to hon. Omingo, who chaired this Committee very ably, and to all the Members who were with us. I can see Prof. Ojiambo there; she was also with us. This House needs to acknowledge the commitment of that Committee for making a deliberate effort to tackle two years at a go in order to clear the backlog of audit reports.

Mr. Temporary Deputy Speaker, Sir, while we appreciate that the PIC and PAC should deal with dead matter, in the sense that they tackle posthumous and postmortem kind of business, we also wanted to see that there is not a lag period of five to 10 years; we wanted to have, at least, a lag period of about one or two years, so that we can deal with the issues in good time, make the necessary recommendations, and, hopefully, the Treasury, through Treasury memoranda, implement some of these recommendations.

Mr. Temporary Deputy Speaker, Sir, if you look at the recommendations of this Committee, in all the years, every recommendation is about reiteration. For instance, "the Committee reiterates its earlier recommendation..." is in almost every paragraph. "The Committee reiterates the further recommendation that the Accounting Officers should follow the laid down procedure..." is repeated. In fact, you do not need to read a lot of this. On page 7, it says: "The Committee reiterates its earlier recommendation under paragraphs 16 and 17 of 1998/99 that the Permanent Secretary, Treasury, should ensure that no funds are advanced from the Civil Contingency." The report is full of "The Committee reiterates" this and that. It is basically a litany of failure by the Treasury to implement what already this Committee has recommended.

Mr. Temporary Deputy Speaker, Sir, I want to submit that the two watchdog Committees have, on behalf of the entire House, a responsibility to play the role that we did, to be the watchdog and ensure that things are done properly, and that the taxes that Kenyans pay are appropriated properly. You tend to appreciate the kind of problems this Committee encountered. Even with the new administration and new officers appointed, we saw a lot of protectionism. Permanent Secretaries were protecting their predecessors even when they were serving two different regimes. I think this is just basic lethargy in administration and governance that needs to come to an end. I am convinced that, at least, this Government has the commitment to ensure that this bureaucratic red tape is looked into afresh.

Why do I say this? There are two institutions that play a big role in the way the PAC can be

effective. One is the Treasury, which has the singular responsibility to implement the recommendations of the Committee on behalf of the House. The second one is the Attorney-General. I must state in the strongest terms possible my embarrassment, that when the Attorney-General appeared before this Committee, even the queries that the Controller and Auditor-General had raised with his office, he could not reply to them. We have to take our jobs seriously. We have to take our positions in public office seriously. Even the correspondence between the two could not be reconciled, to the extent that they came all the way to the Committee. It was one of those meetings where we were looking for to meeting the "Big Five", but they were not ready. It is a mockery. I think we need to borrow from the Ugandan experience and appoint an Inspector-General of Police to sit with the PAC, so that somebody who is not doing his job seriously can be booked into a small cell in the House for a few hours to learn what it means not to take our work seriously. Not a single case where Government was taken to court could be won. The office of the Attorney-General always recommended consent judgement. One is left to wonder: Is the Office of the Attorney-General working for the Government or for the contractors? That applied to cases where we had very clear circumstances that the Government should not have lost money. We are talking about a constitutional office holder who should protect the Government. We have not recovered a single shilling.

Mr. Temporary Deputy Speaker, Sir, let us just go beyond the business of auditing who stole what. We should also be auditing value for money. As the Assistant Minister for Planning and National Development, for example, I should account for my time in that Ministry. It does not matter whether I am in Government, the Opposition or somewhere in between. What matters is: Kenyans have given you a particular responsibility. You should deliver on that responsibility.

Mr. Temporary Deputy Speaker, Sir, this Report covers the problem of pending bills. In fact, in that particular financial year, we had a special audit of pending bills and the Committee covered that. The Ministry of Roads and Public Works had its own committee. The Treasury had a committee on pending bills. We now have another committee - the Pending Bills Closing Committee (PBCC) headed by Mr. D.G. Njoroge, who is a former Controller and Auditor-General. I have listened to several contributions of hon. Members and some of them have cast aspersions on the integrity of Mr. D.G. Njoroge. They wondered why he should be in that committee. I do not know Mr. D.G. Njoroge as a person. But when I look at the reports of the Controller and Auditor-General that we rely on as the Public Accounts Committee (PAC), I cannot find another appropriate personality in the whole Republic to sit in that committee, if not Mr. D.G. Njoroge.

(Applause)

Let us not be blinded by the fact that, maybe, there are skewed employment opportunities in Public Service favouring certain regions. That is a fact that we must accept. Mr. D.G. Njoroge had the audacity to question the Kenyatta administration in the infancy of this Republic, and got away with it. He started with integrity. He maintained it through the Nyayo era. Do you think this is the time he can be compromised? Let us not use the privilege of this House, to abuse personalities that have stood the test of time. Those are people who have demonstrated extreme competence. They have given Kenyans so much hope that, even in the midst of scarcity of integrity, we can count one or two! Mr. D.G. Njoroge, in my view, is one them. The other one is Mr. Bethwel Kiplagat. Those are Kenyans we should treat as heroes. Just because I can hoist a flag somewhere, you want to treat me as a hero. We need to define what heroism is all about. Heroism should be the work of such people as the former Controller and Auditor-General, Mr. D.G. Njoroge. From the time of Independence up to the time he retired--- There was a time the Office of the Controller and Auditor-General was split into two. Mr. D.G. Njoroge was denied staff. But he still maintained his integrity and probed

Government accounts, including pending bills. Not only did he raise those issues, he monitored them. He was always arguing:-

"Why should we have pending bills when they should be the first charge in the following year?"

That was the work of Mr. D.G. Njoroge as the Controller and Auditor-General then. That is the Report of the Controller and Auditor-General that we rely on as PAC. If we do not trust him now, then on what basis are we going to talk about our own recommendations?

Mr. Temporary Deputy Speaker, Sir, if we need to do some soul-searching, let us do it in this House. Just last week, we had a Motion on the Kilifi Cashewnut Factory (KCF). That is an issue that had come before the Public Investments Committee (PIC). That is an issue where hon. Members from both sides of the political divide were represented. We could not resolve that issue. That was not because of the failure by the Controller and Auditor-General. It was the failure of the Committee to agree on the way forward. We have now come back to this House to form another Select Committee and spend more public money. That is a shame! Let us be serious! If that work came before our Committee - and I speak with a lot of pride and conviction because I served in that Committee--- I did not see anybody compromise that Committee. We acted professionally. We never lacked quorum. We dedicated ourselves to do a good job for the time we served in that Committee so that, when the time comes, Kenyans will count on us and say: "Yes! We sent the best to Parliament and they did a good job." We held a total of 105 sittings. That is not a joke! I have seen hon. Members in other committees waiting for close to two hours, and they never raise a quorum.

Mr. Temporary Deputy Speaker, Sir, this Report talks about corruption, particularly in our roads sector. We had an opportunity to visit the Cheptimoi-Cheptiret Road. I will use that road as an example. That is the road from Chepkoilel Campus of Moi University via Siwa, and it goes all the way to the junction of the Kitale-Makutano Road. That is the road that I use while going home. The job that was done on that road was very shoddy, and money was paid. Our professionals at the Ministry of Roads and Public Works - the so-called engineers - who always sign completion certificates even when a road has not been constructed properly--- Money was paid to the contractor, but that road is not passable even now. That is the kind of corruption that we need to bring out in our reports. We expect somebody at the Treasury to tell us what action was taken against those involved, and give us a memorandum of the implementation status of our recommendations. We would have expected the Ministry of Roads and Public Works to have acted and blacklisted such contractors. But what are we witnessing? We are being taken round in a circus. In the last Parliament, when Mr. Nyachae was the Minister for Finance, we still looked into the issue of pending bills.

Mr. Temporary Deputy Speaker, Sir, still on construction of roads, which relate to the same Ministry, there is an issue of revising contracts against laid down procedures. There is variation of tenders. A tender is varied to the extent that it is double the original price that was tendered. The rules are very clear. If you vary beyond 25 per cent, you should re-tender afresh. The problems we have in this country are not caused by a weak institutional framework. We seem to be concentrating a lot in terms of creating new laws such as the Public Officer Ethics Act and the Anti-Corruption and Economic Crimes Act. We have the Kenya Anti-Corruption Commission (KACC) which has not done much. The Director of KACC keeps on telling us that he is looking for small and big "fish". I wonder in which river he is looking for those "fish". It cannot be in Lake Victoria nor Lake Turkana. It cannot be on the surface. We just need to get down to the work that we have. Whoever varied a tender beyond the legal requirements should go to jail. The Minister for Justice and Constitutional Affairs is here and I am sure she is listening. Let us not play politics with thieves and corrupt people. Let us not try to be nice to each other.

Mr. Temporary Deputy Speaker, Sir, let us start with our own Continental House. Charity begins at home. Fortunately, PAC has a membership including the Government Chief Whip and the Leader of Official Opposition. Those are people who matter. We toured Continental House and looked at the figures. We summoned the Clerk of the National Assembly in his capacity as the Accounting Officer of Parliament. We went to see if that ventilation system is working. We visited the library and found out that the walls have cracked. We sit here and overpay them and, up to now--- We have our gym which the Press keeps on yapping that it is state-of-the-art. But we are almost suffocating to death. The contractors were paid a long time ago. The equipment that was put there was of low quality and poor specifications. That includes the partitioning of offices. The air conditioner has never worked!

We have no moral authority to talk about anybody else if we cannot even correct things within our own institution. That contract was awarded by the Speaker's Panel which does not comprise of the Speaker. It comprises of former Cabinet Ministers. This is what is contained in this Report.

Mr. Temporary Deputy Speaker, Sir, how many more reports of the PAC and the PIC are we going to deliberate upon before we resolve some issues within our own time? There is need for the Government to put serious efforts into this matter. I have heard my colleague, the hon. Minister for Justice and Constitutional Affairs, somebody I trust and I am convinced can deliver, saying part of the war against corruption would be implementing the recommendations of the PIC and the PAC. I want those recommendations implemented like yesterday. We debated the 1988/1999 Report last year and adopted it, but nothing was implemented. We must implement these recommendations. We are now debating the 1999/2000 Report. We will adopt it. I am sure, the 2000/2001 Report soon will be tabled before this House. I am sure the people who succeed us in these committees will continue making that reference that: "The Committee further reiterates its earlier recommendation". I had occasion even to make those recommendations, so I know what I am talking about. At this rate, the future reports of the PAC would read: "The Committee further reiterates" and we make them a litany of the preceding year. I will not be out of order if I made a recommendation to this House that we scrap these watchdog committees because they serve no purpose. Mr. Muturi was elected, the other day, as Chairman of the PIC. What for? To do a job. He will finish his term and go. Now, we are in an election year. We are discussing the 1999/2000 Report. Those ones who will come after us again, will do the same. It is like business as usual.

Mr. Temporary Deputy Speaker, Sir, we, as a Committee, took the trouble to look at the pitfalls. How do we make the work of the PAC and the PIC be more productive to serve the very purpose why these committees are part and parcel of parliamentary work? This was one Committee which was there at the very beginning. It is the very essence of parliamentary democracy. We recommended that the membership of this Committee be for two to three years, so that they will be able to track down the issues. This is because there is such high turnover which, unfortunately, may lead to memory lapse. Accounting Officers are very good at taking advantage of such weaknesses. I think the House would be advised to consider some longer tenure for members of these powerful committees. This is the only way of enhancing and making our work more productive. At least, relying more on random access memory rather than the one of the hard disk, which is the book.

Mr. Temporary Deputy Speaker, Sir, we made another recommendation that there was crucial need for Parliament to organise an induction programme. Not only for members of this Committee, which I am happy to report has been implemented, but also for Permanent Secretaries or Accounting Officers, so that they are told exactly what their roles and obligations are when they appear before the PAC. Many times they appear before us, but they do not have an idea of what is expected of them. In the past, we wasted a lot of time because they could not get us proper answers. Some of them were not fully prepared for our deliberations. I think that is not value for the money

and the time of hon. Members and that of the Accounting Officers. We all know that these are very responsible citizens of this Republic who should really ensure that every minute of their time counts.

Mr. Temporary Deputy Speaker, Sir, the PAC and the PIC play a critical role in enhancing accountability in our systems. This Report talks of lack of reports from the local authorities. The essence of the Local Authority Transfer Fund (LATF) was to allow the local authorities to retire bad debts and pay outstanding salaries in a period of five years. Hopefully, by that time, they should be able to be on the right footing. That recommendation was contingent on the fact that the local authorities will be submitting their books of accounts for auditing. The Controller and Auditor-General would confirm to you that her office has hardly audited any of those local authorities. I think it is important that when we, as a Government, have a particular programme of a five year period to inject certain funding to particular local authorities to do so. However, we have now made it like a real sustainable source of livelihood for them.

Mr. Temporary Deputy Speaker, Sir, we lament that these parastatals are a drain on the Exchequer. Most of them were actually meant to be able to remit money to the Treasury. They were not meant to be getting money out of Treasury every year. We have made recommendations that those kind of parastatals should be privatised, so that they do not continue being a drain on the Exchequer. Some of these recommendations need to be implemented because it is for our own good. If we do so, we will retain more money in the major budget that we can distribute to line ministries for them to continue rendering services to Kenyans. I do not see the recommendations of the PAC as one-sided because it comprises of Government and Opposition Members. I see it as a product of the whole House. It should never be seen to be a partisan affair. It should be seen as a product of this House for the good of the Government of the Republic. That is why we call everybody, including the offices of the Clerk and Speaker, Treasury and the Leader of Government Business, to ensure that the work of the PAC is taken very seriously.

I think those days when there were rumours about corruption in the Committee are long gone. At least, for the time I served as a Committee Member, and as a result of enabling environment created by the NARC administration, we never entertained anybody bribing our Committee. I know that because I do not sleep on my job. I was around the Chairman and many other Members and I did not see anything to that effect. When we throw dirt or mud at each other without really proper information, we lose the very purpose and basis of why we were elected.

Mr. Temporary Deputy Speaker, Sir, I was pleasantly surprised that in that Committee we acted across the political divide with a lot of maturity. Whether a Member was from the Government or Opposition side, we always acted for what we felt was good for the country, guided by the Report of the Controller and Auditor-General. We did not play favourite. This is what this Parliament ought to be. We should be people of integrity. That is why it hurts me to see what is happening in places like Shimoni and Loitokitok. The Permanent Secretary can confirm that the value for all the buildings in Shimoni Customs could only be Kshs100 million, yet, we paid almost Kshs1.2 billion. We recommended here that, that contractor should never be given a contract.

Mr. Temporary Deputy Speaker, Sir, at the Loitokitok Customs, across the Tanzanian border, the Tanzanians have done their bit, including constructing the road. But for us, even the money that we were given by the African Development Bank (ADB) to construct the road disappeared. This happened in Loitokitok which is occupied by peasant pastoralists who should be eking a living from the woods. I really pray that the excesses of the past regime do not come to haunt us. I am happy that even when we talk about small problems here and there, to me, they are just a follow-up of the previous regime.

But that thing is coming to an end, because where I come from, children were dying at a tender age, before they reached five years. If these resources had been made available to our

hospitals, the way now we have dispensaries and health centres with medicine throughout the year, then no Kenyan would die. That is why we have these Committees; to ensure that every public money is accounted for, so that, that money can be put to proper use.

The Treasury should enhance its accounting procedures, so that we move to the other level of auditing that we found in Canada, for example, when we were visiting. People there do not talk about petty theft. If they have Ksh1, they talk about how they can make it more productive and maybe, multiply it to Kshs5. These are the kind of issues that we should be looking into. That is why they keep referring to us as a Third World. In Kenya, if you go to the store, they would tell you that they bought a biro pen for Kshs100, yet, we know through proper tendering practice that it would cost only Kshs10. These are the kind of issues that we should look into. I am really praying that the Pending Bills Committee will finally bring the work of pending bills to rest. If there is one person in the entire Republic of Kenya who will be able to address that particular assignment, is a man known as D.G. Njoroge. I really plead with the House not to vilify the Kenyans that we trust they can do a good job. If hon. Ethuro can do a good job, let us give him that job. But, of course, you cannot put all the Turkanas in a public office. Even though, I think, if we really want to get rid of tribalism in this country, you need to appoint me as the President of the Republic of Kenya, because I will not have enough people to employ.

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

Mr. J. Nyagah: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion and thank my colleague, Mr. Omingo and his team, for a job well done.

As we all know, it is not an easy job trying to comment, several years after Government expenditure has taken place. The circumstances under which this particular Committee works are very difficult. So, I would like to thank them for what was, indeed, a major effort. I do hope that as we proceed, we will be more up-to-date. At the moment, we are still far behind. We are talking about things that happened seven years ago. Therefore, to some extent, they are not very relevant. From the experience of the past, we hope that it will be possible for us to catch up and ensure that in the future, the Government does not misuse the resources that Kenyans put at its disposal. I do not know what procedure we can use to do this.

I am not sure what this House needs to do; whether to skip a few years or to give some of these reports just a one-hour attention, so that we can catch up. What I am sure of is that it appears that there is need for us to be up-to-date, so that we can be commenting on things that happened last year, for example, and not what happened in pre-historic times, and start putting blame on people who are not even in positions of responsibility. I hope this House will find a system that will bring us up-to-date.

I know that this point has been made over and over. It makes us, as a House, look in the eyes of Kenyans, as if we are not serious. When Kenyans, tonight, watch news on televisions and read newspapers tomorrow and find that we are talking about things that happened seven years ago, I guarantee that they will think that we are lazy and ineffective. They will also think that we do not know what we are doing when, in fact, it is not our fault, as parliamentarians, but that of the system that delivers this report. I would like to know, when the Minister responds, how far we are up-to-date. Is the Controller and Auditor-General up-to-date? Is he looking at last year's accounts? If he is not, then, as I said, we have a problem, and this House will continue looking not serious in the eyes of Kenyans.

Mr. Temporary Deputy Speaker, Sir, I was looking through the Report and found out that there is an issue of pending bills. Again, we are involved in another academic exercise. Pending bills has been an issue that has been discussed over and over. Committees have been set up, but because we are so far behind, we give Government officers and Ministries an excuse to continue having this problem of pending bills. Pending bills will be a problem for as long as we are not up-

to-date in our accounts. We can talk about cowboy contractors and all the contractors that we have to pay, but as long as we are dealing with pending bills of seven years ago, we are giving Government officers an excuse to continue misappropriating funds and pocketing the money that the very poor Kenyans work very hard to acquire or pay in form of taxes. Since this year we shall hold the General Elections, based on our past experience, we hope that pending bills are not going to play an important role in that exercise. We hope that this year, we will not see a repeat of what happened in the past. In the past, there was a tendency to sort out pending bills around October, November and December, just before the General Elections. I hope that this year will be different from other years. If there are pending bills, I hope that they will have been resolved well in advance, and that there will be no resolution of pending bills when Parliament has been resolved. There is a tendency to make payments when Parliament has been dissolved.

Civil servants and Acting Ministers in positions do deals with contractors, and that has been a problem in the past. I hope we do not get the same problem this year. I hope that this Government, which is made up of respectable gentlemen on the other side, will ensure that they do not play around with things called "pending bills", so that as we take over in January, 2008, we do not inherit huge commitments that would have been made by our friends on the other side.

Mr. Temporary Deputy Speaker, Sir, historically, there has been the problem of donor funding. I am happy to note that the Committee has pointed out this issue. This issue has, over the years, been a problem from several points of view. One, we have weak systems of monitoring them. And as these weak systems persist, we give an excuse to our donors to withdraw the funds. We have, in the past, made commitments that the counter funds on the Kenya Shilling component would be available and, very often, the Treasury has not budgeted or provided for those funds. The effect of this has been that, we have lost funding from donors, or the funding has stayed for a long time because we were not ready, as a Government, with the portion that is ours. I hope that the Government will continue working, on a medium-term basis, where they can programme in their budgetary process so that they can know, for instance, that they are getting money from Japan. I know that the Japanese system can be very strict. We must ensure that the Kenya Shilling is available for purposes that it was meant for.

Mr. Temporary Deputy Speaker, Sir, the second problem that I see with donor funding is that, sometimes, it is easy to misuse those funds when the control systems are weak. We also have to be careful to ensure that donors do not misuse us. Sometimes, they confuse our bureaucracy with many offers and complicated systems, and often, our Government officers are not necessarily well trained to deal with all those systems. We find weaknesses in the operative Ministries and in the Treasury when it comes to dealing with donors. Sometimes we are aware that donors confuse our people. Therefore, we need to train our officers in the art of negotiations with donors so that they can get the best possible packages that Kenya can attract from them. But, it is unfortunate when, at the end, we find that funds are not utilized either because of the ignorance of our negotiators or because we did not plan properly and well in advance and assured ourselves that we had money.

Mr. Temporary Deputy Speaker, Sir, another area which I have noted in the Report and for which I wish to thank the Committee for is that, the Government gets sued from time to time. When the Government is sued, there is a tendency for the Attorney-General's office and the parent Ministries to keep on blaming each other. You will hear an Accounting Officer from an operative Ministry saying: "We lost, but the Attorney-General's Office did not tell us that we had this court order or decision", or: "We lost because the Attorney-General did not call our officers as witnesses to come to court on time". I wish to confirm that, this confusion is sometimes deliberate because we all know how Government officers operate. They act as a cartel that can extend from an operative Ministry to the Attorney-General's offices. The fact that people do not turn up on time should not be taken lightly because it is, very often, deliberate collusion between people in the

Attorney-General's offices and those in the operative Ministries. The effect of this is that we have lost a lot of money as a country. The excuse that I read in the Report is that there was no sufficient budget. Surely, 43 years after Independence, the Government which is made up of experts and people who have Phd in the Treasury should have a feel of how much they should budget for and put aside for the annual suits that the Government is faced with. That is a simple calculation. All you need to do is to take into account how much, over the last ten years, we have been sued for, how much we have been made to pay for, then do an arithmetical or statistical progression, which will give you very clear figures. For instance, if we put "x" amount of shillings aside this year, we will be able to meet the obligation that the Government has. What is the effect of not paying these people their money? The effect is that we have destroyed many Kenyan businessmen. Many Kenyan businessmen have been destroyed by Government officers who deliberately mess them up. Then they continue to ensure that they also mess the Judiciary officers. When, finally, they win the cases after many years, the Government system says that we have no money to pay these Kenyans. So, we have destroyed our own Kenyan businessmen by not paying them on time!

Mr. Temporary Deputy Speaker, Sir, may I suggest that the Government should have a special amount of money to take care of past suits and awards and also to take care of the future projected ones in the Budget they are preparing. We are now told that the Government is collecting record revenues through the Kenya Revenue Authority (KRA). Why do we not put aside something so that we do not destroy our people?

Mr. Temporary Deputy Speaker, Sir, as you recall, we have problems with similar suits, for example, the Anglo Leasing affair. I know that this has not been picked up in this Report but we are looking forward to it in future. The Anglo Leasing issue was discussed in this House. The Anglo Leasing issue was implemented by this Government and we lost a lot of money in the process. Later on, some money was returned to this country. But my biggest fear is not what was returned or what happened. That does not bother me! What bothers me is that, we have promissory notes in which the Republic of Kenya said: "On this year, 2010, the month of July 1st, we will pay so much" or, "On this year, 2015, we will pay so much". That is what bothers me! Our children and grandchildren are going to be left in a very difficult position.

This year, I would like to see the Minister for Finance put substantial funds. Let us accept that we took money and we have problems with the Anglo Leasing issue. But that obligation is huge and we should budget and account for it. We should also be bold enough to bring it to this House and face the music for one week. But at the end of it all, we will have the money to meet those obligations that we undertook. I am not sure where we stand, sitting from where I am.

All I know, from my background on finance, a thing called promissory note becomes due on the due date. What happens when that date arrives? I do not know. I just hope that the Public Accounts and Public Investments committees, as they look into the current books of accounts, will address this particular issue because it has the potential of huge losses or big problems for the future generations or governments of this country.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that the Government will be obligated to pay fraudulent promissory notes?

Mr. J. Nyagah: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I did not say that. What I meant was that, this is an obligation which has to be dealt with legally and I am not sure I understand what we are doing legally---

Mr. Muite: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. M'Mukindia): Order, Mr. Muite!

The first one is not correct, Mr. Angwenyi! I did not hear Mr. J. Nyagah talk about fraudulence. He talked about promissory notes and he is quite in order to continue to do that. But now, I will pick Mr. Muite's point of information.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I just wanted to inform the hon. J. Nyagah that those were not just promissory notes. They were irrevocable promissory notes. So, you cannot even revoke them. Once you negotiate them, even if there was fraud between the original payee and you negotiate them or discount them with a bank, there is an absolute liability in law for the Kenya Government to pay the irrevocable promissory notes.

Mr. J. Nyagah: Mr. Temporary Deputy Speaker, Sir, I have been in international banking for 11 years and I wish to confirm that what hon. Muite has said is correct and hence my fear that I am not sure we are taking the correct legal action in terms of following up this issue. If we let these things slide down, I am worried about the obligations of the future generation because whether these things are fraudulent or not, when the day of payment comes, that obligation must be met because of the irrevocable nature of those promissory notes. I want to thank hon. Muite for that information because it has clarified the point I was trying to make. That is with regard to Anglo Leasing type deals. That then highlights other such deals that I am not aware of, that are not in the public domain.

I would like the PAC to delve into this subject much more closely. The Committee should go into the depth of these matters, and report back to us the effects of Anglo Leasing-type transactions where we know that whether we like it or not, when the day comes, we will have to meet that obligation, unless we sort it out legally in advance. I do not understand what "legally" means because I am not a trained lawyer. I am only a trained banker.

Mr. Temporary Deputy Speaker, Sir, I want to talk about the variation of contracts. This is one of the easiest ways of Government officers misappropriating money and becoming multi-millionaires. Since Independence, we have seen very poor people becoming very wealthy overnight through variation of contracts. I am speaking of Government officers, but they do this in co-operation with contractors. I hope, as the report says, the Government will continue to tighten systems so that variation of contracts eventually becomes something of the past. We should not have variation of contracts which make contracts much bigger than they are.

I do not know the details, but I am told that at the Kenya Airports Authority, we started with Kshs800 million. I am now told that we are in the region of Kshs10 billion to Kshs15 billion through variation of contracts. I am not even sure about the legality of these contracts. The magnitude of the contracts that we are dealing with is very huge. It is to the tune of Kshs15 billion. I recently saw an advertisement of the Managing Director in the newspapers trying to explain and justify that. To me, that is a totally new contract. When you go into the details of this contract, you get confused. This then raises a fundamental subject, which I, as an ordinary Kenyan, who never studied law, gets confused about.

According to the Constitution, the President should have created Ministries which should have been approved by Parliament. Once Parliament approves Ministries, a Cabinet should be appointed. That is what I have been told. This did not happen. Parliament never approved the list of the Ministries. Therefore, the Cabinet is illegal as per Chapter 16 of the Constitution. I am trying to sound knowledgeable.

Mr. Temporary Deputy Speaker, Sir, since the President did not bring to this House the list of the Ministries and we did not approve the creation of the Ministries, we have a lot of illegalities. Even appointments of chairmen and managing directors of parastatals like the Kenya Airports Authority could be construed to be illegal because Ministers did not have the authority to appoint them. This was an illegality from the beginning. This is what I am told by my lawyer friends.

The contracts have been varied from Kshs800 million to Kshs15 billion. We have a series of illegalities from the Minister who illegally appointed the managing director and who has continued to award contracts to the tune of Kshs15 billion. I have given that example because of the magnitude of what we are doing at the KPA.

In an election year, it is very easy to justify, for developmental reasons, why we need to award these contracts. Nobody has a problem with that. The PAC needs to look at these things to see if the way we constituted our Government on 14th January, 2003, was legal or illegal. I will be pursuing this matter later and I hope my lawyer friends will help me, so that we can get to the bottom of whether all the appointments that were done in 2003 were not, in fact, illegal. This is from Ministers, chairmen and managing directors of parastatals. I submit that these appointments were illegal.

Mr. Temporary Deputy Speaker, Sir, in conclusion, I would like the Committee to continue paying specific attention to the road construction. I asked a Question in this House last year as to what is the cost of constructing a kilometre of road in Kenya, Uganda and Tanzania. The cost of constructing a kilometre of road in Kenya is higher than in Tanzania and Uganda. All the road construction materials like bitumen come by road from Mombasa or Dar-es-Salaam to the hinterland and yet the cost of constructing a kilometre of road in Kenya is more expensive than in our neighbouring countries.

The Committee should go into the details of these things. It should not look at things superficially. It should sit with private and Government engineers and then help this House by informing us some of these things. The amount of money that is involved in some of these contracts is so huge that we need to have a better control than a sentence in a report, which implies that all is well, when in fact, all is not well.

There is a road I use every two weeks when I travel to Meru. The quality of the road from the border of Embu and Meru is sub-standard. The road from Makutano to Embu is of very good standard, but when I continue with my journey on my tours of Mt. Kenya East, I find that after Thuci River, the quality of the road is sub-standard. What is the cost of constructing a kilometre of road between Makutano and Embu Town and from Thuci to Meru Town? I suspect there are games being played by the contractor of the road from Thuci to Meru Town. This is my observation as a layman who uses that road once in a while.

I would like the Committee to stop addressing things from a light point of view and get into the details. The National Assembly should give the Committee tools with which to work. If the Committee is dealing with something of engineering nature, it should be allowed to bring in consultants, not necessarily from the Government, but also from outside, who can help us. That is the only way this House will perform its oversight role that it plays in terms of supervising the funds that we give to the Government to develop our country.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to talk about the Local Authority Transfer Fund (LATF). Every person who wants to be a councillor or a Member of Parliament in this country, the first thing they want to attack is the CDF. It is time this Committee looked at the magnitude, as our colleague said earlier, of LATF's sums of money. We are being put on the spot, through the Press, by the people who want our seats only by criticising the way the CDF money is being applied. Could the Press help start focusing on the very huge sum of money provided to local authorities through the LATF? Councillors share out this money amongst themselves in a very informal way. They misuse this money! What do they do when they want to attack a Member of Parliament, say, on a road construction project? They say that it is their road or their bridge when, in fact, it has been done using CDF money.

Mr. Temporary Deputy Speaker, Sir, there is also a contradiction which the Committee should look into. Government officers in the Ministry of Roads and Public Works are claiming to have done roads that have been done using CDF money. We need to have a system in place for the Committee to begin to look at the whole issue of co-ordination of the application of LATF, the Ministry and CDF monies, so that all the blame does not go only to Members of Parliament and CDF, but is spread evenly among the LATF, the Ministry and the CDF, and also to ensure that the

money is applied properly.

With those few words, I beg to support.

The Assistant Minister for Information and Communications (Mr. Wamwere): Ahsante, Bw. Naibu Spika wa Muda, kwa kunipa nafasi hii ili niuchangie machache mjadala huu juu ya Ripoti ya PAC.

Ninataka kuongeza sauti yangu kwa sauti za wenzangu waliosema kwamba tatizo kubwa la Kamati za Bunge, ambazo hukagua matumizi ya pesa za umma, ni kwamba, hatimaye, mapendekezo ya Ripoti za Kamati hizo hayatekelezwi. Hatimaye, inakuwa Kamati hizo zimefanya kazi ya bure, ambayo ukiitizama vizuri utaona kwamba inaweza pia kutajwa kama ufisadi. Ninasema hivyo kwa sababu sielewi ni kwa nini Bunge, ambalo linauwezo mkubwa, haliwezi kutumia uwezo huo kuhakikisha kwamba mapendekezo ya Ripoti za Kamati zake yanatekelezwa.

Bw. Naibu Spika wa Muda, ukiliangazia jambo hili, utaona kwamba kuna uvivu wa makusudi. Kamati za Bunge hutayarisha mapendekezo, ambayo huletwa hapa kujadiliwa na kupitishwa, halafu tunarudi nyuma na kuacha mambo yaendeleo kama yalivyokuwa mwaka baada ya mwingine. Kama huo si ufisadi, basi sijui maana ya "ufisadi" ni nini. Huo ni "ufisadi" ambao unatekelezwa na Bunge, ambalo linatakiwa liwe bingwa wa kuhakikisha kwamba katika nchi hii ufisadi umeangamizwa. Ninashindwa ni kitu gani kinacholifanya Bunge lisiwe na ari ya kuhakikisha kwamba mapendekezo ya Ripoti hizo yanatekelezwa, au hakuna ufisadi nchini.

Utaona kwamba Ripoti hizo zinaongea juu ya vitendo vingi vyetu na, labda, tunaogopa kuzitekeleza tusije tukaumia sisi wenyewe. Kwa hivyo, ningetaka kuunga mkono matamshi ya mhe. Ethuro kwamba kama kwa kweli hatuna nia ya kuyatekeleza mapendekezo ya Ripoti za Kamati za Bunge, hakuna haja ya kuwa na Ripoti hizo. Ni afadhali tuwe waaminifu kwa dhamira yetu, tuseme kwamba hata sisi tunaunga mkono ufisadi nchini, potelea mbali, halafu litakalokuwa na liwe, badala ya kuongeza ufisadi juu ya ufisadi mwingine.

Bw. Naibu Spika wa Muda, ukiiangalia Ripoti hii, utaona kwamba ina lugha ya kushangaza. Kinachozungumziwa ni wizi wa pesa za umma, lakini lugha iliyotumiwa katika ile Ripoti ya awali ya mkaguzi wa pesa za umma, pamoja na lugha iliyotumiwa katika Ripoti hii, ni ya kuficha wizi. Tunaubatiza wizi kwa maneno mengine ambayo yanaufanya uonekane kana kwamba umestaarabika, au kana kwamba si kitu hatari ambacho kinaweza kumwuudhi mtu; kwa hivyo, tunauacha wizi ubaki hivyo.

Tulipokuwa katika Kamati ya ugaguzi wengine wetu tuliulizana: "Kwa nini tuendeleo kutumia lugha ya kunyerereza au kudanganya?" Kama tunapigana na ufisadi, kwa nini neno "ufisadi" halimo katika Ripoti hizo? Hakuna pahali utaona neno "ufisadi" aidha katika Ripoti hii au ile ya mkaguzi wa fedha za umma. Mfanyikazi wa Serikali, ambaye alifanya wizi wa moja kwa moja anasemekana kwamba "alijikopesha" pesa za Serikali. Kusema kwamba "alijikopesha" pesa za umma ni kusema nini? Mtu anachukua pesa za Serikali na kuzifanyia shughuli zake za kibinafsi halafu Ripoti inaongea juu ya mtu "aliyejikopesha" pesa za umma.

Bw. Naibu Spika wa Muda, mtu mwingine aliye nje ya Serikali akifanya hivyo, atakamatwa mara moja, kushtakiwa na kufungwa. Ni kana kwamba wizi Serikalini umehalalishwa kupitia lugha ambayo lengo lake ni kuficha uhalifu. Ningetaka kupendekeza kwamba kama Kamati zitakazofuata zitataka kufanikiwa zaidi ya Kamati zilizopita, ni lazima ziamue kutumia lugha ya wazi, na isiyo ya kuficha. Tunataka lugha ya kuita kijiko, kijiko, kuliita jembe, jembe, kuuita wizi, wizi na kuuita ufisadi, ufisadi. Lugha nyingine ni lugha za waongo, na lengo lake ni kuhakikisha kwamba wizi unaofanyika Serikalini hauadhibiwi moja kwa moja, na kwamba wizi huo unaendelea kuwepo.

Ufisadi, hata tukiufanyia utafiti gani, tusipouadhibu tunapoteza wakati wetu. Kusema kweli, ufisadi katika nchi hii haukosi kuadhibiwa kwa sababu hakuna ushahidi. Ushahidi upo chungu nzima. Ukiziangalia Ripoti hizi tunazozungumza juu yake utaona kwamba ni Ripoti za

ushahidi wa ufasidi, ushahidi ambao hautumiwi kuchukua hatua. Sasa ninashindwa kufahamu hili, kama ushahidi huu wote kuhusu ufasidi uliofanyika hautumiwi kuchukua hatua, na tunajigamba kwamba tumo vitani dhidi ya ufasidi, ni vita gani? Ni vita gani hivyo tunavyopigana dhidi ya ufasidi tunapokataa kuwaadhibu wafisadi waliodhihirika, ambao wametajwa katika Ripoti za Kamati za Bunge na Ripoti nyingine za Serikali?

Bw. Naibu Spika wa Muda, afisi za Serikali zilizo na mamlaka ya kuwashtaki wafisadi, zinangojea nini? Kwa nini hazichukui hatua mara moja, kuwashtaki watu hao na kuwafunga? Ninadhani ufasidi utakua nasi mpaka Yesu arudi. Yesu akirudi, atatukuta tukiwa bado tu wafisadi kwa, sababu tumeogopa na kuamua kwamba hatutaki kupambana na ufasidi. Tumeamua juu ya jambo hilo. Tusidanganyane eti uchunguzi juu ya visa vya ufasidi unaendelea, ama kunafanyika jambo moja au lingine. Ushahidi ulioko ni mwingi mno. Ni uamuzi tumefanya kisiri. Tumeamua kwamba hatupigani na ufasidi katika nchi hii. Kama nilivyosema, ufasidi katika nchi hii utaendelea mpaka Yesu arudi.

Kama Wakenya watakuwa na dhambi kubwa zaidi itakayowafanya wachomwe, itakuwa dhambi ya ufasidi, kwa sababu Wakenya ni wafisadi miongoni mwao kutoka walio katika ngazi za juu mpaka walio katika ngazi za chini. Tumeukumbatia ufasidi kwa mikono yetu yote. Huo ndio msingi wa utajiri wetu, lakini hatutaki kusema hivyo. Tukiongea juu ya ufasidi, unaweza kujiuliza: Hatima ya kashfa ya Goldenberg ni nini?

Kulikuwa na tume ya kuchunguza kashfa ya Goldenberg ambayo ilitoa repoti yake, lakini hatujui hiyo ripoti ilipendekeza nini. Sijui kama ilipendekeza kuwa Goldenberg ilikuwepo ama haikuwepo. Hivi sasa, wale watu ambao walitajwa katika kashfa hiyo wamegeuka kuwa watakatifu. Hakuna mtu yeyote ambaye anawaita wafisadi tena. Hatuongeti juu kashfa ya Goldenberg tena. Tumefika wapi, Bw. Naibu Spika wa Muda? Tumeambiwa hiyo kashfa ya Goldenberg imeisha. Huo ndiyo mwisho wake? Watu wamesafishwa na damu ya nani? Itakuwa damu ya NARC(K), damu ya Yesu au damu ya nani? Magazeti yanaongea juu ya watu hao kama viongozi wa kesho. Eti wengine watakuwa Rais wa nchi yetu mwaka wa 2012. Ni wale wale! Wengine wao wanatafuta urais. Jameni, mwizi anatafuta urais! Sasa, itakuwa ni nchi ya aina gani?

Nakubaliana na wale ambao wanasema hii nchi ni ya ajabu. Katika nchi zingine zote, hakuna mtu mwenye kesi ya ufasidi kortini anaweza kuthubutu kusema anataka kuwania kiti cha urais. Hii ndiyo nchi ya pekee ambayo watu wafisadi na ambao wamehusishwa na kashfa kubwa kama ya Goldenberg wanathubutu kusimama na kutuambia ya kwamba miaka kadha ijayo, wanataka kuwania urais wa nchi yetu. Watatupeleka wapi? Mtu kama huyo atatupeleka jahanam! Mtu kama huyo akishika hatamu ya nchi hii, itakwisha! Lakini bado wanaendelea kusema wanataka kuwania kiti cha urais!

Bw. Naibu Spika wa Muda, methali moja ya Kiswahili inasema: "Johari za mtu ni mbili - akili na haya" Kwa bahati mbaya, viongozi wetu wanakosa zote mbili. Wanakosa akili na, wakati huo huo, wanakosa haya. Hiyo ni kwa sababu, mtu mfasidi akisema anataka kuongoza nchi, basi nchi hiyo imo taabani kabisa. Kule kukosa somi ni kubaya kuliko kosa alilolifanya. Mtu kama huyo akishika hatamu za uongozi, tutaona cha mtema kuni, kama siyo kile kilichomfanya punda akose pempe. Ukweli wa mambo ni kwamba tuko taabani.

Nilimsikia Bw. J. Nyagah akisema ya kwamba mikataba iliyowekwa ya kulipa pesa wakati ujao ni lazima iheshimiwe. Mimi nikiulizwa ningesema: Mikataba iliyowekwa na Anglo Leasing haiwezi kuheshimiwa kwa sababu ilikuwa ya kimagendo. Sasa, usipomlipa mwizi, atakupeleka wapi! Unaweza kweli kuheshimu mkataba kati yako na shetani? Unaweza kuheshimu mkataba kati yako na mtu ambaye anakufanyia hila - mwizi? Katika nchi jirani ya Tanzania, hivi tunavyoongea, tangu wapate Rais wao mpya - mhe. Kikwete - wamekuwa wakitazama upya mikataba iliyowekwa hapo awali. Katika nchi nyingine kule Marekani Kusini, kuna Marais ambao wamechaguliwa na wameanza kuangalia mikataba kama ya Anglo Leasing iliyowekwa na Serikali

zilizotangulia. Wengine wamesema mikataba hiyo haiheshimiki na wakaibadilisha. Waliziambia kampuni husika: "Mfanye kazi na mikataba hii kama tilivyoibadilisha au mrudi mlipotoka!" Walitii amri hiyo kwa sababu waliona hakuna mchezo. Sasa hivi, tunasema tunalazimika kisheria kulipa bilioni zilizoko katika mikataba hiyo ya uongo. Tukilipa bilioni hizo, nchi hii itafilisika! Tutakuwa tumehalalisha ufisadi.

Bw. Naibu Spika wa Muda, kwa hivyo, kwa kweli ikiwa tuna nia ya kupigana na ufisadi, na isiwe sababu ya kuruhusu ufisadi huo wa Anglo Leasing uendelee, ni afadhali hata tupelekane katika mahakama ya dunia na hao wezi. Lakini tusithubutu kulipa pesa hizo. Itakuwa ni makosa! Hata wanasheria waseme nini!

Kwanza, wanasheria hawana haja ya kutuambia kitu. Ufisadi huu wote umefanyika kwa mapendekezo yao. Ni huyu huyu Mkuu wa Sheria ambaye tumemuuliza mara nyingi ajiuzulu kwa hasara ambayo ameiletea nchi hii, lakini hasikii. Yeye ndiye alipendekeza na akasema kisheria: "Hili linatosha na linafaa!" Kama kuna watu ambao hawafai kusikilizwa katika nchi hii, ni wanasheria! Wapotelee mbali na utaalamu wao! Ni utaalamu wa wizi. Ukipata ufisadi-- Mpaka sasa, tunaimbiwa ya kwamba system hii imekuwa ni system ya majambazi. Mawakili ni majambazi. Mawaziri ni majambazi! Maaskofu ni majambazi! Kila mtu---

Hata vijana wa ghetu wanasema hata wao ni majambazi! Nafikiria huo wimbo unatakiwa uwe wimbo wa Bunge hili, ndio tuelewe ya kwamba tumejenga mfumo wa kijambazi ambao umefanya kila mtu kuwa jambazi katika nchi hii. Kwa hivyo, hatuwezi kuambiwa: Kwa vile maoni ya mawakili ni hivo na hivi, ni lazima tutii mikataba ya kijinga kama hii. Hii ni mikataba ya kukatiliwa. Afadhali tupelekane na watu hao hadi mahakama ya dunia. Ikiwa tutashindwa, afadhali tushindiwe kule. Na, Bw. Naibu Spika wa Muda, tunaweza tukashindwa katika mahakama ya kibeberu na tukasema: "Potelea mbali! Bado tunakataa kulipa! Mkitaka kuleta majeshi yenu, leteni!" Kwani, watatufanya nini? Tunaweza kukataa kwa sababu hatuwezi kufuata mikataba ya kutumaliza. Kufanya hivyo ni kufanya makosa makubwa sana kwa vizazi vijavyo.

Bw. Naibu Spika wa Muda, kwa hivyo, sikubaliani na Bw. J. Nyagah ya kwamba kilichopitishwa ni lazima kitekelezwe. Wakati umefika wa kusema mikataba hiyo ni mibaya. Tufanye vile majirani wetu Watanzania wanafanya. Tukatae kutekeleza mikataba ambayo ni mibaya, mibovu na ya kututia hasara. Itatufanya tusiamke miaka yote!

*[The Temporary Deputy Speaker
(Mr. M'Mukindia) left the Chair]*

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

Bw. Naibu Spika wa Muda, ningependa kugusia swala la wapiga firimbi. Hao ni watu ambao wanatusaidia. Wanatuambia ufisadi uko wapi. Wanaiambia Serikali ufisadi huko wapi. Wanasema: "Ewe Serikali, tumesikia umetangaza vita dhidi ya ufisadi! Ufisadi uko hapa! Kuja!" Lakini ubaya ni kwamba, wanapotuambia palipo ufisadi, na ufisadi unatoa macho ya vita na kuelekea kuwapiga, sisi wenyewe hatuasimami nao!

Bw. Naibu Spika wa Muda, tunamkumbuka Munyakei! Ni shujaa ambaye anastahili kutuzwa na Serikali na Rais, hata kama atatuzwa baada ya kifo chake. Yeye ni mmoja wa wale waliofutwa kazi, akaishi katika taabu na hatimaye, akafa na kuiacha familia yake katika taabu kubwa. Hayati Munyakei hakuwa peke yake. Kuna wapiga firimbi wengi ambao walisema: "Hapa kuna ufisadi! Serikali, kujeni mpigane na ufisadi huu!" Badala ya Serikali kwenda kupigana na ufisadi huo, inaruhusu wapiga firimbi wapigwe vita.

Bw. Naibu Spika wa Muda, najua kuna ufisadi uliofichuliwa katika Chuo Kikuu cha

Egerton. Kulikuwa na wafanyikazi "hewa" - watu ambao hawamo! Lakini, kila mwisho wa mwezi, wanalipwa mshahara. Kulikuwa na watu zaidi ya 500. Kuna walimu na wafanyakazi waliohusika. Walimu hao wanatimuliwa mmoja mmoja na wenye kufanya ufisadi huo wanaendelea kujikita, kupata nguvu na hata kuongezewa madaraka.

Bw. Naibu Spika wa Muda, kama hatulindi wapiga firimbi, ni afadhali tuseme ya kwamba hatuna nia ya kupigana na ufisadi. Hakuna ufisadi unaweza kupiganwa nao bila ya kuwekea wapiga firimbi ulinzi. Sasa kuna sheria ambayo ingesaidia polisi na vyombo vingine vya dola kuhakikisha ya kwamba wapiga firimbi wanapewa ulinzi wanaostahili na kuhitaji. Kwa bahati mbaya, sheria hiyo haifanyi kazi.

Bw. Naibu Spika wa Muda, hapa kuna hoteli ya Grand Regency ambayo miaka mitatu iliopita waliwafukuza wapiga firimbi 11; wafanyakazi ambao walisema: "Hapa kuna ufisadi unaoendeshwa na Kamlesh Pattni" ambaye sasa amekuwa mhuburi mkuu. Ama ni askofu?

An hon. Member: Reverend!

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Naibu Spika wa Muda, baada ya kupata pesa, sasa ni kutafuta namna ya kumhonga Mungu. Sijui kama Mungu anahongeka!

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Wamwere! Please, try and stay within our Motion!

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Naibu Spika wa Muda, nilikuwa naonega juu ya wapiga firimbi. Ninachosema ni kwamba kulikuwa na wapiga firimbi 11---

Mr. K. Kilonzo: Hoja ya nidhamu, Bw. Naibu Spika wa Muda. Nimemsikiliza mhe. Wamwere akizungumza sana. Kwanza, amezungumza kuhusu majambazi. Amesema kwamba tunaongozwa na majambazi. Ni akina nani hao? Tunataka atuambie hawa majambazi wa Serikali ni kina nani?

Sasa amezungumza kuhusu kumhonga Mungu. Kweli, ni haki Mbunge kusema kuwa Mungu anahongwa na pesa za ufisadi?

The Temporary Deputy Speaker (Mr. Poghisio): I do not know what the point of order is. The only thing I can say is that, let us not discuss personalities; people who cannot defend themselves here. However, I do not see what your point of order is in this case.

Proceed, Mr. Wamwere!

Mr. K. Kilonzo: Bw. Naibu Spika wa Muda, hoja ya nidhamu yangu ilikuwa inahusu majambazi ambao wako Serikalini ambao hajatueleza ni nani. Ni heri atueleze hao ni akina nani. Kama kweli hana ushahidi wa kutosha, basi aondoe madai hayo.

The Temporary Deputy Speaker (Mr. Poghisio): Lakini sikusikia akisema hivyo!

Mr. K. Kilonzo: Bw. Naibu Spika wa Muda, ndio maana nakueleza. Sisi tuko hapa kusikiliza.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. K. Kilonzo! Sikusikia nikiketi hapa!

Tafadhali endelea, Bw. Wamwere!

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Naibu Spika wa Muda, nakupongeza kwa sababu una moyo thabiti wa kupigana na ufisadi.

(Laughter)

Na ni lazima nikushukuru kwa jambo hilo. Kama tungekuwa na Maspika kadhaa kama wewe---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Wamwere! Proceed! You are about to discuss the person of---

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Naibu Spika wa Muda, nilikuwa naonega juu ya wapiga firimbi. Nilikuwa nasema kwamba kuna wapiga firimbi 11 ambao walikuwa wameajiriwa kazi katika Hoteli ya Grand Regency ambao hatimaye ilijulikana kwamba walifutwa kazi kimakosa. Walitakikana kurudishwa kazini lakini mpaka sasa wafanyakazi hawa 11 hawajarudishwa kazini, ingawa tumepitisha sheria ambao inaruhusu Serikali kuwapa ulinzi na kuhakikisha ya kwamba wamerudi kazini kama ilivyo haki yao.

Utatokwa na machozi ukifahamu ya kwamba wafanyakazi hao wamemwandikia mhe. Michuki barua wakimtaka awape ulinzi ili waweze kurudi kazini. Walipokuwa wakiandika hiyo barua, walisema ya kwamba watoto wao walikuwa wametoka shuleni kitambo kwa sababu hawana pesa za kuwalipia karo. Walisema ya kwamba wanaomba chakula chao na cha familia kila siku. Walisema ya kwamba hata nyumba wanazoishi wanakodishiwa na watu ambao wanawahurumia. Ukisoma hii barua, utatokwa na machozi. Watu hao wanaadhibiwa, wanaumia, watoto wao wanakosa mahitaji ya kila siku kwa sababu, mhe. Michuki amekosa kuwapa ulinzi.

Bw. Naibu Spika wa Muda, isitoshe; Wizara ya Katiba na Haki, ya mhe. Karua, imeandika barua pia ya kutaka watu hao warudishiwe kazi lakini hawarudishiwi. Hatimaye, unauliza ni nani katika nchi hii ana nguvu za kuamuru jambo kufanyika na linafanyika? Ikiwa Wizara mbili zinaweza kushindwa kuhakikisha ya kwamba hao wafanyakazi wamerudishiwa kazi yao, unashindwa watamlilia nani. Watakwenda kwa nani ili wapate kurudishiwa kazi yao?

Katika barua ambayo nina nakala zake hapa, hao wafanyakazi wanamshtaki afisa mmoja wa polisi ambaye wanasema anaitwa David Kimaiyo ambaye anasemekana ni Deputy Operations Officer ama Commissioner ambaye wanasema ya kwamba amepa kwamba hawaturudi kazini mwao. Kama polisi wanaweza kukaidi amri ya Mawaziri wawili, unashindwa katika vita hivi ya kupigana na ufisadi, polisi wamo upande gani? Polisi anawezaje kukaidi Waziri wake na Waziri huyo asimfute kazi? Labda ndio sababu wengine wetu hatukupewa kazi za Uwaziri kamilifu kwa sababu kweli, mimi ningekuwa Waziri halafu afisa anikaidi kiasi hiki, nitamfuta kazi, liwalo liwe! Hii ni kwa sababu tungetarajia polisi wetu kuwa katika mstari wa mbele wa kupigana na ufisadi. Lakini kama wao ndio wanatetea wafisadi, kusumbua na kuhakikisha ya kwamba wapiga firimbi hawalindwi ijapokuwa kuna sheria inayowataka wafanye hivyo, basi unajua tuko taabuni. Kama polisi hawakuunga mkono vita dhidi ya ufisadi, hivi vita vitatushinda. Hatutafaulu! Polisi lazima wawe katika mstari wa mbele lakini nimeona hawamo.

Bw. Naibu Spika wa Muda, ninaweza kuongea juu ya kwangu Subukia. Nimeona polisi wakiajiriwa ni kama wanapewa kazi na matajiri katika Subukia. Kila wakati kukiwa na ugomvi kati ya watu ambao ni wa kawaida na tajiri katika Jimbo la Subukia, utawaona polisi kuwa mbio zao ni za kwenda kuwa upande mmoja na tajiri. Mwishowe unashindwa, hao polisi hawaelewi kuwa mshahara wanaolipwa umechangiwa na kodi ya maskini pamoja na matajiri na kwamba maskini wana haki kama vile matajiri? Kama tunataka kupigana na ufisadi, basi tuwashirikishe polisi. Ikiwa polisi watakuwa ng'ambo ile nyingine, tujue ya kwamba hatufaulu katika vita hivi! Kuna polisi wengi ambao waliugua kasumba hii ya kuwa upande wa ufisadi na wangali wanaugua. Ni kama hakuna daktari wa kuwatibu.

Bw. Naibu Spika wa Muda, sijui ni nani atamfikishia mhe. Michuki ujumbe wangu kwamba ni muhimu sana awapatie hawa wafanyakazi ulinzi. Hapa ninayo barua moja imeandikwa na Mkuu wa Polisi wa Mkoa wa Nairobi ikimwamuru OCPD wa Kituo cha Polisi cha Central awape hawa wafanyakazi ulinzi lakini amri hiyo imekaidiwa. Pana mtu mwingine ambaye amepiga simu na kusema, "Achananeni na mambo hayo." Ni kama tunaishi katika pori ambamo uhai wa kila mtu unategemea ukali wa meno yake na urefu wa kucha zake. Ikiwa meno yako si makali na kucha zako si ndefu, basi utaliwa mchana. Hivyo ndivyo imewafanyikia hawa niliowataja. Hiki ni kisa cha kusikitisha sana kwa sababu hata vyombo vya habari navyo vimeshindwa kulizungumzia

swala hili. Kwa nini haviongei juu ya mambo kama haya? Watu wanaumia ilhali wao wanaandika maneno ambayo hayana maana, kwa mfano, mambo ya mamluki waitwao Artur na ndoa inayopangwa baina ya mmoja wao na Bi. Wangui. Kwa nini wasishughulukie mambo ambayo ni muhimu?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Wamwere, your time is now up!

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Naibu Spika wa Muda, nasikitika, lakini naomba kuunga mkono.

Mr. Midiwo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this Motion. I would like to add my voice to very many issues which have been alluded to by the previous speakers.

First and foremost, I would like to thank hon. Omingo and his team. When they began to do their work, the Reports of the Public Accounts Committee (PAC) on the Government of Kenya Accounts were so many years behind. They did as much as they could until the powers that be thought that hon. Omingo was doing a bit too much and, therefore, had to be eliminated. Thanks to God, they did not get to his life, but he did a good job because he is a good Kenyan who meant well for this country.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Midiwo, please, use parliamentary language. What has elimination got to do with this?

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, he was "eliminated" from the PAC because they felt very uncomfortable him being there.

The Temporary Deputy Speaker (Mr. Poghisio): You know, you scare some of us here.

Mr. Midiwo: Not quite in that sense, Mr. Temporary Deputy Speaker, Sir. However, I am sorry for that.

Mr. Temporary Deputy Speaker, Sir, the Reports of the PAC on Government of Kenya Accounts need to be brought to date. Looking at the Reports of the Controller and Auditor-General, they are very many years behind and this has bred a lot of contempt because any Government of the day does not seem to care about the results and the recommendations of this watchdog Committee. There are several recommendations which have been made by the watchdog Committees of this House, that is, the Public Investments Committee (PIC) and the PAC. I want to go further and include the Departmental Committee on Finance, Planning and Trade because it looks into current issues that have to do with finance in this country. All the Reports churned out by these Committees are tabled in this Parliament, but their recommendations are never implemented by any arm of the Executive.

Mr. Temporary Deputy Speaker, Sir, I want to single out the 12th Report of the PIC. In a particular case, there was a company which stole over Kshs27 million from KEMRI and in that Report, it was recommended that a law firm belonging to M/s Rachier and Company Advocates and another company called Cyper Limited, belonging to Mr. Jirongo be arrested and prosecuted by the Police Commissioner. I wonder who the Police Commissioner works for if he cannot enforce recommendations by Parliament. It actually shows that, somehow, Parliament is inconsequential as far as the running of this country is concerned. That is a very worrying trend because when Members of Parliament take their time and come up with specific recommendations, which we believe are for the good of this country, somebody ought to listen. Nobody should abrogate the wishes and powers of Parliament. It is very sad that such a thing is happening in our country.

Mr. Temporary Deputy Speaker, Sir, I would like to talk about the road sector. This Report is about corruption in the public sector and corruption in the road sector is the single most reason why we cannot achieve development. When NARC was campaigning, if you look at their manifesto, they talked about creating 500,000 jobs and they justified it by saying that they created

those jobs in the road sector. When they came to power, they refused to reign in on corruption in the road sector. Three years ago, we were told in this House that the pending bills which were authentic were only Kshs250 million.

Today, Members of Parliament are asking, "How much are the pending bills and who is being paid what, where?" Nobody from the Government side is willing to commit who they are paying and how much. They now even have specific politicians roaming around in this town looking for people who purport to be owed by the Government. These people have been paid a lot of money in the name of pending bills. That is suspect, especially this being an election year. Most of the pending bills have to do with road sector.

Mr. Temporary Deputy Speaker, Sir, at the district level, the amount of corruption or the accounting that they provide about roads which they purportedly have done work on, is amazing. I want to say here, without fear or favour, that as long as road engineers serve as clerical officers or continue to do the work of tendering, they will remain thieves and that is for as long as we live in this country.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Midiwo! Please, use the language that is accepted here.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I would like to withdraw that and say that for as long as the system we are using remains in place, the roads engineers will continue plundering the resources of this country. They are the ones who are now controlling most of the wealth that belongs to this country. The amount of money which is allocated to construct roads in any district, including mine and yours, is enough to do those roads, any day, for five years, but because these engineers own the construction companies---They have now come up with a new thing. They say that the Government has bought equipment and placed them in every province.

At the province, the engineers say they are doing an in-house job. The levels of corruption in the Ministry of Roads and Public Works is worse than ever. In fact, it is worse than it was during the KANU Government. We need to fight it because we cannot achieve development without good infrastructure in place. We must work on our dilapidated infrastructure in this country. This can only be done with an organised system of resource allocation and expenditure.

In our case, we have a system which is working. That is the devolution of funds through the Constituencies Development Fund (CDF). This is a good thing that has happened during the NARC era. I think it will cure the disease contained in this Report. Civil servants in this country have shown ineptitude in management of our resources. We cannot find this ineptitude in CDF committees throughout the country. We need to go that direction. There is need for us to send money that goes to the District Road Committees (DRC) to the constituencies. Even if the Members of Parliament are not involved, we can have a committee that they can supervise. This will work wonders just like the CDF.

May I hasten to add that roads done using CDF money, even in my constituency, look far much better than roads these road engineers purport to be doing year in, year out. We should not be in the business of enriching civil servants who we have entrusted to help our people. The issue of corruption in the road sector and payment of pending bills must be taken up by the Government. This is an issue that we must seriously look into. We cannot achieve much in terms of development if we continue this way.

Mr. Temporary Deputy Speaker, Sir, the Government cannot sit back and watch as we make noise on the issue of the expansion the Jomo Kenyatta International Airport (JKIA). Even though we look like noise makers, as they call us, we talk about a tender that was varied from Kshs800 million to Kshs10 billion without re-tendering process. If that is not corruption, I would wish to be born again, so that in my next life, I get to know what corruption is all about. There is no way, a Government can abrogate its own rules and expect us, as the watchmen of the people, to

keep quiet.

The idea of expansion of the JKIA is good. However, the corruption there must be stopped. The variation of tenders must stop. There must be re-tendering, so that people know and the issues are made public. There is no way a tender can be varied from Kshs800 million to Kshs10 billion without anybody being greased.

Mr. Ojaamong: On a point of order, Mr. Temporary Deputy Speaker, Sir. Most hon. Members who have been contributing to this Motion have talked about the variation of tender at JKIA without providing substantial evidence. Could the hon. Member on the Floor substantiate this allegation? If possible, could he further table documents to show that the tender was varied from Kshs800 million to Kshs10 billion?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Midiwo, do you want to go that route? Do you have your facts right?

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, it is the obvious. I do not think I need to substantiate it. The Government itself has issued Press statements saying there is nothing wrong with that variation. They did that variation according to the rules of the game. Therefore, I am not accusing anybody of anything new.

The Temporary Deputy Speaker (Mr. Poghisio): Actually, it is not necessary that you have to accuse someone for it to be a breach of order. It is that you are responsible for the accuracy of the information that you give. So, if you stand up on the Floor of the House to say that the contract sum has been varied from this much to that much, it has to be accurate. That is what the rules say.

Mr. Midiwo: Mr Temporary Deputy Speaker, Sir, the Government itself issued a Press statement and they admitted that there was nothing wrong with that variation.

The Temporary Deputy Speaker (Mr. Poghisio): Again, if that information is from the Press, you cannot bring it to the House.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, if it is from a Government Minister, it should be authentic.

The Temporary Deputy Speaker (Mr. Poghisio): Not necessarily, if it is through the Press!

Basically, I will not ask you to substantiate or do anything. I am just saying that you need to know that any time you churn out information or statistics, it must be accurate.

Mr. Midiwo: Fair enough, Mr. Temporary Deputy Speaker, Sir.

Let me leave that aside and talk about what is happening at the Nairobi City Council (NCC). We have a Town Clerk by the name Mr. John Gakuo. He is a good Kenyan who deserves a medal. Lately, the Kenya Anti-Corruption Commission (KACC) went after Mr. Gakuo over corruption allegations. There are stories that this is happening because he has denied the powers that be a chance to "eat". This man has done a good job in Nairobi. For the first time, Kenyans walk freely in well-lit streets in Nairobi. We need to defend good Kenyans. Why is the KACC not going after the glaring "thievery" that is going on in the Government, instead of victimising a good Kenyan trying to do good work for this country?

The Temporary Deputy Speaker (Mr. Poghisio): Again, I must caution you about the language. There are other words that you can use which are acceptable.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I withdraw.

However, I am trying to express the fact that there is so much glaring corruption happening before us. We need to address this as opposed to going to tell the NCC that, "this account is entered in the wrong number it needs to be on this".

Mr. Temporary Deputy Speaker, Sir, corruption happens in several ways. We are talking about a Government which even spends taxpayers' money on feting mercenaries. The mercenaries

in this country are even given vehicles and earn police salary. These are issues of accountability. We, as a country, must be accountable to the people when we spend their money. When a thug is given a Government vehicle and he changes its number plate, we need to be concerned! There is no point bringing PAC Reports, year in, year out, while we cannot act and keep doing things against the recommendations.

Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to thank the Town Clerk, Mr. Gakuo, whom I do not know. When something is good, we must give credit where it is due.

I want to say that there are glaring issues of corruption---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghiso): Order, Mr. Midiwo, time is up! You will have 13 minutes to continue when the House sits tomorrow!

Hon. Members, it is time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 18th April, 2007, at 9.00 a.m.

The House rose at 6.30 p.m.