

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 27th March, 2002

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

## PRAYERS

## NOTICE OF MOTION

SELECT COMMITTEE TO INQUIRE  
INTO ORGANISED ARMED GANGS

**Dr. Kituyi:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-  
THAT, whereas the Kenya National Assembly is committed to the rule of law and the protection and promotion of sanctity of human life; considering that the presence of armed pseudo-political gangs constitutes a potent threat to peace and security in our country, this House resolves to set up a Parliamentary Select Committee to inquire into and report on the origins, nature, extent and identifications of these organised groups and recommend remedial action necessary to remove the threat such groups pose to the country.

## ORAL ANSWERS TO QUESTIONS

*Question No.022*

### DEATHS IN KENYAN PRISONS

**Dr. Kulundu** asked the Vice-President and Minister for Home Affairs:-

- (a) how many people died in Kenyan prisons in the years 1999-2002; and,
- (b) whether he could give the five top causes of these deaths.

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

(a) The number of prisoners who died in our prisons in the years 1999-2001 were as follows:-

In 1999, 997 prisoners died. In 2000 and 2001, 763 and 482 prisoners died respectively. The total is 2,242 prisoners for the years that I have mentioned above.

(b) The five main causes of these deaths were tuberculosis, malaria, gastroenteritis, diarrhoea and typhoid.

**Dr. Kulundu:** Mr. Speaker, Sir, I think these figures have been doctored; they have been grossly understated. But nonetheless, the causes that he gives gastroenteritis, diarrhoea and typhoid are one and the same thing. Gastroenteritis diarrhoea and typhoid can also be gastroenteritis. But all these point to one thing; that, our prisons are filthy and congested. I want to know from the Assistant Minister; how many prisons has the Ministry extended over these same years? This is because I think there is problem of congestion and filth. How many new prisons have you built in the last three years?

**Mr. arap Choge:** Mr. Speaker, Sir, we have not done very much for the last three years because of lack of funds.

**Mr. Wamae:** Mr. Speaker, Sir, this is not a simple issue; it is a serious matter. What is the Ministry doing to improve the sanitary conditions in the prisons?

**Mr. arap Choge:** Mr. Speaker, Sir, right now, the population in our prisons has gone very high. We are now talking of a figure of about 40,000 in our prisons, but we would like to reduce it very much.

**Mr. Kamolleh:** Mr. Speaker, Sir, it is very saddening to find that in the prisons of this Republic, the conditions, especially for the prisoners, are appalling. There are not only diseases, but also mistreatment which we have also found via the Press; that, prisoners have been killed and the like. That notwithstanding, what is the Ministry

doing to make sure that they increase the capacity of the prisons so that, at least, there is no congestion? What is it also doing to make sure that they have resident doctors within the prisons so that they reduce these cases of diseases?

**Mr. arap Choge:** Mr. Speaker, Sir, we have nurses within the prisons compound, but we bring in Government doctors from Government hospitals to attend to these prisoners. Therefore, we are not short of doctors. We are short of accommodation, as I have said. This is because the number of prisoners has risen. When people have committed a crime, they have to put up with whatever facilities are available at the prisons. So, sometimes, the numbers go very high and sometimes they go very low.

**Dr. Kituyi:** Mr. Speaker, Sir, while appreciating the very gallant and daring efforts by the new Commissioner of Prisons to operate an open-door policy on critical issues, one is also seeing through that open door that there is a very critical problem of sodomy in prisons which augments the growing numbers of HIV/AIDS cases, and that is why partly we have TB and other diarrhoeal problems as causes of death. What specific measures is the Ministry undertaking to reduce the recurrence of sodomy in prisons?

**Mr. arap Choge:** Mr. Speaker, Sir, we have plans within the Ministry to extend nearly all the prisons in Kenya, but due to lack of funds---

**Dr. Kituyi:** What plans do you have for sodomy---

**Mr. Speaker:** Order! By the way, what is sodomy?

**An hon. Member:** "Wanaume kwa wanaume!"

*(Laughter)*

**Dr. Kituyi:** Mr. Speaker, Sir, he seems to know. Maybe, the Speaker does not know. If he does not know what sodomy is, he can say. But I am asking about the plans that he is talking about. Exactly, Mr. Choge, what plans do you have?

**Mr. Speaker:** Mr. Choge, have you understood his question?

**Mr. arap Choge:** Mr. Speaker, Sir, it is better for him to elaborate on that one.

**Dr. Kituyi:** Bw. Spika, ukinipa ruhusa, nitauliza swali hili kwa lugha ya Kiswahili.

**Mr. Speaker:** That is out of order!

**Dr. Kituyi:** Mr. Speaker, Sir, I will repeat the question in English. Part of what has emerged since Mr. Kamakil took over the Prisons Department is open dialogue about the problems that are facing it. There has been a prevalence of sodomy. Hardcore criminals have been sodomising particularly young criminals and even the remand prisoners, which is contributing to the spread of HIV/AIDS. What specific plans does the Assistant Minister have to deal with this problem?

**Mr. Choge:** Mr. Speaker, Sir, I wonder if that is part of the Question. However, I will try to respond to it. I think we treat young inmates just like any other prisoners provided they are of age. If they are underage, we know what to do with them. But if a prisoner is of age, we treat him like any other prisoner. We have to treat young prisoners differently from the other prisoners.

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir. First of all, is it in order for an Assistant Minister to give us a speculative answer such as "I think"? He is supposed to state what the position is. But be that as it may, when the Assistant Minister says that they treat young prisoners like the old ones, is that a plan to reduce sodomy or to avail the young prisoners to the hardcore criminals?

**Mr. Choge:** Mr. Speaker, Sir, I have not come across sodomy cases in our prisons as the hon. Member has alleged. There could be some isolated cases of sodomy, and when they are reported to us, we separate the attackers and put them in a different room.

**Mr. Kamolleh:** On a point of order, Mr. Speaker, Sir. I find it very abhorring again that the Assistant Minister has misinformed this House that he has not come across sodomy cases in our prisons. He has not been in prison and so, how could he have come across sodomy cases? Is he in order to misinform the House?

**Mr. Choge:** Mr. Speaker, Sir, if there is anybody in this House who has been in prison for more than five years, it is me, and I did not come across sodomy cases.

**Mr. Speaker:** Have you, Mr. Kamolleh?

**Dr. Kulundu:** Mr. Speaker, Sir, the causes the Assistant Minister gave for these deaths are highly preventable. What plans does the Ministry have to ensure that all would-be prisoners are vaccinated against diseases such as typhoid, tuberculosis and meningitis? Are there such plans? This would reduce the incidents of prisoners contracting these highly preventable diseases which are killing our people in prison.

**Mr. Choge:** Mr. Speaker, Sir, if Dr. Kulundu has not been to prison, I will now tell him from my experience that when a person arrives at a prison, the first thing that the hospital assistants do is to take his blood samples. They

sample the blood for all diseases and if that person is found to be sick, he is treated or vaccinated.

*Question No.005*

REMOVAL OF DRILLING RIG FROM MIGORI

**Mr. Achola** asked the Minister for Water Development:-

- (a) why the water drilling rig (R.12) meant for Migori District was removed from Migori;
- (b) where the rig is currently located; and,
- (c) who is paying for both its maintenance and salaries for its operators and engineers.

**Mr. Speaker:** Is anyone here from the Ministry of Environment and Natural Resources? We will leave that Question until the end. Next Question!

*Question No.023*

AWARD OF CONTRACT TO S.S. MEHTA AND SONS LTD

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

- (a) whether he is aware that M/s S.S. Mehta and Sons Limited was awarded contract No.0338 in the year 1997/98 for repairs and resealing of roads in Ruiru Township; D397, Gicheha-Gatundu; D398, Ruiru-Mundoro; and T.3207, Kahata-Roi, all for Kshs228,160,240;
- (b) what the scope of the works was and the total kilometres to be covered under the contract; and,
- (c) how much has been paid to the contractor, including compensation for idle plant and machinery and what the estimated value of the works not done is.

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

- (a) Yes, I am aware.
- (b) The total distance of the roads to be covered under the contract was approximately 79 kilometres and the scope of the works was as follows:-

- (i) site clearance and top soil stripping;
- (ii) crack sealing;
- (iii) pothole patching;
- (iv) recarpeting;
- (v) improvement of drainage;
- (vii) shoulder reinstatement, surface dressing and the reinstatement of furniture and road markings.

(c) The contractor was paid Kshs227,793,166.50, which included interest claims payments to the contractor following delays in payments. The estimated value of works not done is Kshs71,896,317. There was no claim or payment for idle plant and machinery.

**Mr. Muithia:** Mr. Speaker, Sir, the Assistant Minister, on 3rd October, 2000, requested the Chair to give him three weeks so that he could come here with an answer to this Question. After two years, he has come to mislead this House. I would like him to answer this Question as truthfully as possible, regarding what transpired on this contract.

The document I am holding in my hands, which I will table before the House, is from the Ministry of Roads and Public Works. It has the crown of this country and the logo of the Ministry of Roads and Public Works. On page six, it states that the Ruiru-Kiganjo Road contract was awarded at a cost of Kshs228,160,173. The road was completed and the contractor fully paid for the 100 per cent completion of the work.

*(Prof. Saitoti entered the Chamber and was applauded by the Opposition side)*

Maybe, the Vice-President will help the Assistant Minister in answering this Question. We have just been told by the Assistant Minister that the estimated value of works not done is only Kshs71 million. The document which I will table before the House from the Ministry of Roads and Public Works shows that on the Ruiru/Gathage Road, 6.2 kilometres have not been done. It also shows that on the Ruiru/Kiganjo Road, 23.8 kilometres have not been done, and on the Kiganjo/Mundoro Road, 11 kilometres have not been done. On the Kahata/Roi Road, 2.1 kilometres have not been done, and on the Gatundu/Kiganjo Road, 7.5 kilometres have not been done. This shows that a total of 50.6 kilometres have not been done, out of 79 kilometres, yet all the money has been paid.

Could the Assistant Minister tell us whether this money was paid irregularly? It appears as if it was paid irregularly.

**Mr. Speaker:** Mr. Muihia, you are now taking eternity.

**Mr. Muihia:** Mr. Speaker, Sir, he should also tell us whether he will follow this issue up to ensure that this work is done to completion. I will table this document.

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

**Eng. Rotich:** Mr. Speaker, Sir, I stated that we paid Kshs227,793,166 to the contractor. The estimated value of the works not done is about Kshs71 million. I am not aware of any other work that was not done. But we have certain outstanding works valued at Kshs71 million.

**Mr. Ndicho:** Mr. Speaker, Sir, as you can rightly see from this Question, these are roads that I share with Mr. Muihia, the hon. Member for Gatundu South. It is a big shame that out of the 79 kilometres whose work was valued at over Kshs200 million, the contractor has only done 20 kilometres, yet he has been paid the whole amount of money that was tendered for without him having done 50 kilometres. You will agree with me that this contractor should be subjected to the Anti-Corruption Police Unit investigations. This is cheer corruption! There is no way in which the Assistant Minister can justify why this contractor was paid all the money yet he had done only 20 kilometres out of 79 kilometres? Will the Assistant Minister agree with me?

**Eng. Rotich:** Mr. Speaker, Sir, I do not agree with the hon. Member. It is true that the works have not been completed. That is a fact. One of the reasons why the cost went up is that we had under-estimated the works and then we failed to pay on time. So, we received interest claims. Those are some of the reasons why the cost of the contract went up.

**Mr. Angwenyi:** Mr. Speaker, Sir, the Government is being fleeced of its funds through the road works. Could the Assistant Minister tell this House, out of the Kshs227 million paid, how much was taken as interest expense and how much was to cater for road works?

**Eng. Rotich:** Mr. Speaker, Sir, I do not have the total cost figures which the hon. Member is talking about, but part of the figure was Kshs25 million on interest rate.

**Eng. Toro:** Mr. Speaker, Sir, the problem which has faced the Ministry of Roads and Public Works is the fleecing of public funds over the years. Could the Assistant Minister tell this House why they paid Kshs25 million as interest and Kshs252 million for the road works, yet the total contract sum was Kshs227 million, which was supposed to re-seal the 79-kilometre road? Why did the Ministry pay the full amount if the road works were not completed?

**Eng. Rotich:** Mr. Speaker, Sir, as I stated, the problem was on the side of the person who estimated the total cost. It was underestimated completely!

**Mr. Muihia:** Mr. Speaker, Sir, the Assistant Minister says that there was an underestimation of the road works. We are talking about a contract where the contractor tendered and quoted the figures for the amount of work he was going to do. Was the contract tendered for, single-sourced or was it a "brother" issue?

**Eng. Rotich:** Mr. Speaker, Sir, the underestimation was not on the part of the contractor but on the part of my Ministry.

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

**Mr. Speaker:** Eng. Rotich, the question is: Was this contract as a result of a tender or was it otherwise? If it was otherwise, how?

**An hon. Member:** Correct! These are issues of law!

**Eng. Rotich:** Mr. Speaker, Sir, it was through a tender.

**Mr. Wamae:** On a point of order, Mr. Speaker, Sir. This is a very serious matter, and I get worried when I see the Assistant Minister smiling. Is he aware that this was a contract and the contractor tendered and, therefore, there was no question of underestimation on the part of the Ministry?

**Eng. Rotich:** Mr. Speaker, Sir, the contractor quotes on the basis of the quantities that are put on the bill of quantities. They do not have to quantify on the ground. They just quote on the basis of what we estimate on paper. We might have made a mistake of estimation and that is where the problem was. But the contractor tendered on the basis of what was on the bill of quantities.

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House and himself? According to the law, on the issue of contracts, if the person invited makes a mistake to tender, he cannot shift that blame to the person who is paying the money; a thing which the Ministry is now condoning and accepting

liability caused by a mistake of the tenderer. Is the Assistant Minister in order to mislead the whole nation about that?

**Eng. Rotich:** Mr. Speaker, Sir, the quantities that we quote are our own and we ask them to quote as per cubic metre or square metre. So, the quantities that we put on the tender is what they quote.

**Mr. Muihia:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is misleading this House! Did the contractor perform the works for the 79-kilometre road for which he quoted?

**Eng. Rotich:** Mr. Speaker, Sir, I admit that the total work was not done and, therefore, it has not been completed.

**Mr. Speaker:** Order! Order, hon. Members! Mr. Assistant Minister, I think you are worrying this House and the country! If we are going to go by your words, then we are in a lot of trouble! Are we not? You are saying that the contractor was not obligated to do what he undertook to do because, somehow, your Ministry could not do what they are paid for! Then what is the remedy?

**Eng. Rotich:** Mr. Speaker, Sir, the problem was on the estimation of quantities and we needed an extra Kshs71 million to complete the job and we did not have the money.

**An hon. Member:** That is not the remedy! What is the remedy?

**Mr. Omingo:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to even ignore the Chair's question; what is the remedy?

*(Applause)*

**Mr. Speaker:** Eng. Rotich, we are still on you!

**Eng. Rotich:** Mr. Speaker, Sir, I am not sure whether I have ignored anything at all. With regard to remedy, we have taken steps to ensure that we do not repeat the same mistakes. At the moment---

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. Why is the Assistant Minister admitting that they did a mistake? They never made a mistake! The mistake lies on the side of the contractor who never completed the job, and for making his own mistakes of quoting less money. Why is he admitting somebody else's mistake, and who is going to compensate Kenyans for that mistake that was made?

**Eng. Rotich:** Mr. Speaker, Sir, when you quote for something and you are given quantities, you do exactly that. But if the scope of work was done wrongly, then you will not complete the job! We have already rectified the position and I do not think it will ever occur again.

**Mr. Muihia:** Mr. Speaker, Sir, may I invoke Standing Order No.18---

**Mr. Speaker:** Order! Order, Mr. Muihia! You do not have the Floor! Mr. Muihia, learn the rules! If you want to invoke Standing Order No.18, you know how to do it. If you do not know how to do it, I am sorry!

**Mr. Muihia:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** What is it?

**Mr. Muihia:** Is the Assistant Minister in order to mislead this House when he says that the quotation was as per their estimates? Is he telling the House that he gave the estimates to the contractor to tender on? The Assistant Minister is misleading this House!

**Eng. Rotich:** Mr. Speaker, Sir, the bill of Quantities shows the quantities one was supposed to quote for. The contractors put the prices where the quantities are, but they do not specify the quantities. It is the Ministry which specifies the quantities and the contractors specify the price.

**Mr. Speaker:** Eng. Rotich, what is the percentage of your error? Is it 10 per cent, 20 per cent, 5 per cent, 70 per cent or 100 per cent?

*(Laughter)*

**Eng. Rotich:** Mr. Speaker, we had estimated an error of 10 per cent, but it was much beyond that estimation; it was about 20 per cent and that is the mistake we made.

**Mr. Speaker:** Very well. Next Question, Mr. Angwenyi!

*Question No.010*

#### TARMACKING OF NYAKOE-MIRUKA ROAD

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

(a) whether he is aware that the Government has made several specific promises since 1991 to

tarmac Nyakoe-Marani-Kegogi-Miruka Road in Kisii Central and Nyamira;

(b) whether he is aware that this road is extremely important for tea leaves deliveries to factories, trade and general communications; and,

(c) when a detailed survey and technical design of the said road will commence, and how much money has been set aside for this.

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

(a) I am not aware that the Government has ever made specific promises since 1991, to tarmac Nyakoe-Marani-Kegogi-Miruka Road in Kisii Central and Nyamira Districts.

(b) I am aware that the road is important for tea leaves deliveries to factories, trade and general communication.

(c) So far, no funds have been set aside for this exercise. However, a detailed survey and technical design of the said road could only commence if funds are available.

**Mr. Angwenyi:** Mr. Speaker, Sir, the Head of the State, His Excellency the President, on 17th September, 1991, announced that this road would be tarmacked. It has never been done. In 1996, during the by-election in Kisii District, His Excellency the President announced in Nyakoe that this road would be tarmacked within that year. It has not been done.

**Mr. Speaker:** Order! Obey the Standing Orders. You know what they demand of you. Will you put your supplementary question?

**Mr. Angwenyi:** Mr. Speaker, Sir, the Government, at the highest level, told members of the public that this road will be tarmacked. Which other Government could have seen to it that this road is done, if the Assistant Minister says he is not aware?

**Mr. Mokku:** Mr. Speaker, Sir, the Nyakoe-Marani-Kegogi-Miruka Road is a minor road. It is classified as Road D208. It is 20 kilometres long. It is in Kisii Central. As I speak, eight kilometres of this road have already been gravelled under the *El Nino* Emergency Project Fund. This was done between January and March this year. Those eight kilometres of the road are in a very good condition. The remaining 12 kilometres of the same road are also in a good condition. These are motorable, but it is not as good as the eight kilometres which had already been gravelled. Although this road is not tarmacked as the hon. Member says, it is in good condition and motorable.

**Capt. Ntwiga:** Mr. Speaker, Sir, we passed a Motion in this House that 24 per cent of the Fuel Levy money will be channelled directly to the districts for the maintenance of roads. Why is this money not forthcoming? Is that money being used to pay the interest rates and pending bills?

**Mr. Mokku:** Mr. Speaker, Sir, as I speak, the Government has already released Fuel Levy money to all districts in this country. The hon. Member can confirm this with the District Works Officer.

**Dr. Kituyi:** Mr. Speaker, Sir, normally, in an election year, this Government repeats promises of works on roads that have been asked for. This road has been asked for and it was promised to be tarmacked during the election years in the past, just like the Kisii-Chemosit Road and Kibabii TTC. This is an election year and you will say you will actually do it. But all of a sudden, the Assistant Minister stands here and says this time they will not do it. Is it because now you are becoming more honest, or because you believe whatever you do you cannot win votes in Kisii District? Why are you now not doing what you usually do; promise the road will be done?

**Mr. Mokku:** Mr. Speaker, Sir, whether there are elections or not, roads are done if funds are available. So, I am not aware that the Ministry committed itself to do the roads when there was election. As I speak, roads are being done, and yet there is no election.

**Mr. Angwenyi:** Mr. Speaker, Sir, the Assistant Minister agrees this is a very important road. I am the hon. Member for that area and I know this 20-kilometre road is impassable from Marani to Miruka. Nyakoe is a very productive area. Could the Assistant Minister undertake to use fuel levy money and tarmac this road as promised by the President many years ago before the President retires?

**Mr. Mokku:** Mr. Speaker, Sir, I said the Government has already released the fuel levy money to all districts in the country. Mr. Angwenyi is a member of the DDC. So, they can prioritise the tarmacking of this road because the money is already with the District Works Officer.

**Mr. Angwenyi:** On a point of order, Mr. Speaker, Sir. I think the Assistant Minister is confused. Each constituency got Kshs2 million from the fuel levy. However, it is only 24 per cent of fuel levy money that is supposed to be spent on this type of project. Could the Assistant Minister undertake to tarmac this road using the 24 per cent of fuel levy?

**Mr. Mokku:** Mr. Speaker, Sir, I said eight kilometres of this road were gravelled. I told the House that the remaining 12 kilometres, which is actually not in a very good condition, are in the work plan of the Ministry in the 2002/2003 financial year.

**Mr. Speaker:** Next Question, for the second time, Mr. Achola.

*Question No.005*

REMOVAL OF DRILLING RIG FROM MIGORI

**Mr. Achola** asked the Minister for Water Development:-

- (a) why the water drilling rig (R.12) meant for Migori District was removed from Migori;
- (b) where the rig is currently located; and,
- (c) who is paying for both its maintenance and salaries for its operators and engineers.

**Mr. Speaker:** Is there anyone here from the Ministry of Environment and Natural Resources? Where is the Minister for Water Development? Sorry, Mr. Achola, I have nobody to answer your question. What do I do?

**Mr. Achola:** Mr. Speaker, Sir, can it be deferred to next week?

**Mr. Speaker:** Very well. I will defer it to Tuesday.

*(Question deferred)*

**QUESTIONS BY PRIVATE NOTICE**

RELOCATION OF RESERVISTS IN TURKANA NORTH

**Mr. Munyes:** Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President the following Question by Private Notice.

- (a) How many police reservists have been relocated to Kakuma and Lokichoggio towns from border areas?
- (b) How many are serving in Kakuma Refugee Camp under UNHCR, and how many are in Lokichoggio UNICEF - Operation Lifeline Sudan Camp?
- (c) What steps is the Minister taking to relocate them in the locations previously intended for them?

**Mr. Speaker:** Do we have anybody here from the Office of the President? Mr. Haji, would you like to answer the Question?

**The Assistant Minister, Office of the President** (Mr. Haji): Mr. Speaker, Sir, I am not even aware of the Question.

**Mr. Speaker:** Who is aware, Mr. Haji? There is nobody ready to answer this Question? Mr. Munyes, what do I do?

**Mr. Munyes:** Mr. Speaker, Sir, could you defer it to Thursday next week?

**Mr. Speaker:** The Question is deferred to Thursday next week.

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. We believe that His Excellency the Vice-President is still the Leader of Government Business in the House. He owes this House an explanation. He should tell us where the Ministers are. What is happening?

**Mr. Speaker:** Prof. Saitoti, you are being asked: Where are your colleagues?

**Mr. Ndicho:** You are the Leader of Government Business in this House, your Excellency the Vice-President!

**The Vice-President and Minister for Home Affairs** (Prof. Saitoti): Mr. Speaker, Sir, that is indeed true. We do have a number of Ministers here. I suspect that some may have been delayed on the way from a graduation ceremony at Jomo Kenyatta University of Agriculture and Technology (JKUAT). But, I do not want to give that as a reason. We will look into this matter.

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. The Vice-President knows that I was with him at JKUAT for the graduation ceremony. The graduation ceremony ended at 12.00. So, by 12.30 p.m. we were all on Thika Road coming to Nairobi.

**Mr. Speaker:** Order! In fact, there is no excuse whatsoever for either the Minister or an hon. Member to be absent from the business of the House. But Mr. Ndicho, you must realise that the Chair is getting increasingly lonely here because of the absence of Members from both sides of the House. This applies to Members of the Front and Back Benches. So, will you all help the Chair to get hon. Members to this House so that the Chair is not lonely?

**Mr. Angwenyi:** On a point of order, Mr. Speaker, Sir. Is it in order for Mr. Ndicho to ask questions? Could he declare his interest in this matter?

**Mr. Speaker:** Order! Mr. Angwenyi, you are very frivolous, but since I am in a good mood, you will get away with it.

Next Question, Dr. Ali.

#### VETERINARIES SANS FRONTIERES IN DRUGS BUSINESS

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

(a) is the Minister aware that *Veterinaries Sans Frontieres* (VSF) is carrying out veterinary drug business in Wajir?

(b) Is he further aware that this organisation uses Government officers and vehicles for its operations and does not pay for using Government facilities?

(c) What does the organisation do with the money collected as cost recovery from stock owners in respect of animal treatment activities?

**The Assistant Minister for Agriculture and Rural Development** (Col. Kiluta): Mr. Speaker, Sir, I have discussed this Question with the hon. Member. Having looked at the reply available, we have agreed with the hon. Member that this Question be deferred to Tuesday, next week, so that I can bring an appropriate answer.

**Mr. Speaker:** What is your reaction, Dr. Ali?

**Dr. Ali:** On Tuesday, Mr. Speaker, Sir.

**Murathe:** On a point of order, Mr. Speaker, Sir. By nature, Questions by Private Notice are supposed to be very urgent, but now we are postponing Mr. Munyes' Question to Thursday next week, and Dr. Ali's Question to sometime next year. I think we have a problem.

**Mr. Speaker:** Indeed, we do! But do you know where Lokichoggio and Wajir are? Have you ever been there? The Question is deferred to Tuesday next week.

*(Question deferred)*

Next Order!

#### POINT OF ORDER

##### PRESENCE OF FOREIGN MILITARY PLANES IN KENYA

**Mr. Imanyara:** On a point of order, Mr. Speaker, Sir. I would like to seek a Ministerial Statement from the Ministry of Foreign Affairs and International Co-operation with regard to the number of incidents for the last two weeks, where foreign aircraft from the United States, Germany and other countries have been landing and taking off from Mombasa under circumstances that have not been explained to Kenyans. Could the Minister for Foreign Affairs and International Co-operation issue a Ministerial Statement to explain to us the circumstances under which these aircraft are coming into the country?

**Mr. Speaker:** Where is the Minister for Foreign Affairs and International Co-operation? Prof. Saitoti, do you have any comment?

**The Vice-President and Minister for Home Affairs** (Prof. Saitoti): Mr. Speaker, Sir, I can only say I am distressed. But as I said much earlier, we will make sure that this situation does not recur again.

**Mr. Speaker:** Order! Hon. Members must understand that we are paid to discharge the business of this country. Every Minister and hon. Member is under duty and obligation to attend to the business of this House. I urge the Leader of Government Business to convey to his colleagues the Chair's concern about lack of seriousness on the Front Bench, or rather the whole House. As I said earlier on, I have noticed a very distressing fact since we came back, and that is non-attendance by hon. Members. I am distressed, and I am appealing to all hon. Members to be serious and come to the House.

Next Order!

#### MOTIONS

##### ADOPTION OF THE TENTH PIC REPORT

THAT, this House adopts the Tenth Report of the Public Investments Committee on the Accounts of State Corporations laid on the Table of the House on 14th August, 2001.



*(Mr. Parpai on 26.3.2002)*

*(Resumption of Debate interrupted on 26.3.2002)*

**Mr. Speaker:** Who was on the Floor? Mr. Katuku!

**Mr. Katuku:** Mr. Speaker, Sir, before we adjourned yesterday, I was seconding the Tenth Report of the Public Investments Committee on the accounts of State Corporations.

During our investigations, it was clear that the Government is killing all parastatals. We had asked the Government to bring a Paper in this House on the issue of privatization, but to date, it has not done so. The privatization of parastatals is happening without the knowledge of this House. We have recommended again, that this report must be brought to the House.

Mr. Speaker, Sir, with regard to the issue of "killing" parastatals, you would note that, for example, the National Cereals and Produce Board is a very important organ to this country, but as we are talking now, it is not able to perform its functions as per the Act because this Government owes it about Kshs5 billion. This makes it ineffective. In 1997, with respect to the maintenance of strategic reserves, the Kenya Government owes about Kshs3.5 billion, and Kshs1.9 billion with respect to famine relief food. As we are talking now, there are farmers who elected us to this House but they are suffering because there is nowhere they can sell their maize. The National Cereals and Produce Board has no money to buy the maize, and yet the Government is not ready to pay for what they owe this Corporation. It is high time this Government became serious, because unless the farmer is paid for his maize--- For example, the farmer from Mwala Constituency cannot sell his maize anywhere. In my constituency, a farmer is selling a bag of maize for between Kshs200 and Kshs500. That is exploitation.

Mr. Speaker, Sir, we also noted that the sale of public land owned by State Corporations has become a very lucrative activity. I would like to draw the attention of the House to one deal where the NSSF was a major target by those well-connected people. For example, we had an opportunity to take evidence on a plot which is on Ojijo Road. It is Plot No.209/6439 which belongs to the Kenya Railways Corporation. The corporation had seven residential plots in Westlands area. That plot was bought by a company called Guardian International from the Kenya Railways Corporation in a very dubious manner at Kshs77 million. The person behind Guardian International is a very senior Kenyan who I will name before I finish my contribution. She only paid Kshs19 million and then went ahead, within four months, to sell the same piece of land at Kshs174 million.

Within three months, NSSF lost Kshs174 million. They lost because after NSSF bought this land, it was declared a national monument. They cannot develop the land. It is now under the Ministry of Heritage and Sports as a museum. Now the NSSF has lost Kshs174 million to one individual. The deal was very dubious. The land was valued by Gatheru and Company Valuers at a cost of Kshs51 million, but when it was being sold to NSSF, other valuers gave very interesting valuations. For example, Lloyd Masika valued it at Kshs300 million; Milligan at Kshs283 million, and another company at Kshs150 million, and yet when it was being bought from Kenya Railways, it was valued at Kshs53 million.

This was a conspiracy, more so, because this very senior citizen in this country went to change the use of that land with City Council through the back door. The normal procedure, if you want to change a plot from residential to commercial use, is to apply to the City Council, and it must be approved by a full council meeting. Because this individual is the top civil servant, she used her authority to exert pressure on the City Council, the Kenya Railways Corporation and the NSSF, which caused the contributors to NSSF to lose Kshs174 million. Guardian International is a company owned by none other than Dr. Sally Kosgey.

That is unfair and we are saying, as a Committee, that this House should look into the matter. The matter almost made the Committee split! I thank Members of the Committee because they were not split over that issue, even though when we were writing our Report--- If you look at our Report, it is one of the most interesting that has ever come to this House. On that matter, we went up to the extent of voting and as you always say, the minority had their say, but the majority had their way. If you look at the way that decision was taken---

**Mr. Speaker:** Mr. Katuku, I being the overall in charge of this House and Committees thereof, are you, by any chance, suggesting that there was some misdeeds in the Committee?

**Mr. Katuku:** Mr. Speaker, Sir, I said that I thank the Committee for not being split over the issue. But as I was trying to explain, in taking the decision itself, the issue was so serious that some Members felt that those chief civil servants should be held responsible, while other Members felt otherwise! That is what I am saying, but, at the end of the day, the majority had their way. The point I am raising is very clear in our minutes. If you look at our minutes on page 715, the matter is very clearly illustrated. But I am surprised that if you look at that part of the Report, it is weakly fixed. I am not sure why it is not bound---

**Mr. Speaker:** Order, Mr. Katuku! You are treading on very dangerous grounds! You are now kind of

casting aspersions on your colleagues. You are almost coming back to the start! What are you up to?

**Mr. Katuku:** Mr. Speaker, Sir, I am out of that issue and I am talking about the Report. The binding of the Report--- If you look at what I am talking about, it is not part of this report. It is just fixed there! I am wondering: Why is it like that? Is it because it is talking about Dr. Sally Kosgei? It should be bound properly like any other report and be put here for record of this country. It is not properly put in the record and I am saying that if the record that I have here is the same as the other Reports, it is unfair! But it will remain the record of this House!

Mr. Speaker, Sir, I have another case with the National Social Security Fund (NSSF) involving another plot which was similarly acquired in dubious ways from the Catering Levy Trustee (CLT).

**Mr. Speaker:** Just a moment, Mr. Katuku! What page are you referring to?

**Mr. Katuku:** Mr. Speaker, Sir, I am referring to page 175.

**Mr. Speaker:** Order, Mr. Katuku! I cautioned you that you are trying to cast aspersions---

*(A mobile phone rang in the Chamber)*

Order! Who is it?

*(Mr. Mkalla pointed at Mr. Kombe)*

**An hon. Member:** Please, forgive him!

**Mr. Speaker:** He must go! Mr. Kombe, out, out, out!

*(Mr. Kombe withdrew from the Chamber)*

Order, hon. Members! As I was cautioning Mr. Katuku, he is, kind of, casting aspersions on his colleagues in the Committee, and again, on my staff on the printing of this document. I wish to assure this House that I am in possession of a copy of the Report, which is here. It contains intact page 715 referred to by Mr. Katuku. The only conclusion I can arrive at, taking into account his demeanour, is that he, himself, has torn a page from his own Report. Mr. Katuku, can I, please, ask you to be honourable to your colleagues and members of staff? There is nothing that will make my staff tear off the pages. The Report is here. So, please, debate while respecting your colleagues. Indeed, every Member of the Committee has the right to vote against your way of thinking and there is nothing to talk about it. It is the decision of the majority that carries the day. So, please, talk about the other subject and leave out your colleagues and members of staff.

**Mr. Katuku:** Mr. Speaker, Sir, I would agree with you if you had looked at my Report. I have not torn the Report and if you look at it, the pages are separate. But that is not the issue. The issue is that whatever is contained in the Report is what I am trying to expose to Kenyans---

**Mr. Kikuyu:** On a point of order, Mr. Speaker, Sir. Although I am not challenging your ruling, you seem to have one of the best bound Reports. Even this one of mine has something missing and it seems there is something queer that will not go into the annals of history of this House!

**Mr. Katuku:** Could I continue, Mr. Speaker, Sir? I am proved right!

**Mr. Speaker:** Just a moment! Mr. Kikuyu, I am referring to the document that I have and it looks to me intact. Could I assure the House that this will be the official version and it will be put in the Library?

**Mr. Kikuyu:** Mr. Speaker, Sir, thank you very much!

**Mr. Speaker:** Proceed, Mr. Katuku!

**Mr. Katuku:** Mr. Speaker, Sir, I am not arguing with your ruling. That is what I wanted to indicate. I have seen many other copies. My point there was that as per the evidence that we received, it was very clear that there was an element of abuse of office by a senior citizen who is also a senior civil servant. Even now, we feel strongly that those who were involved in that scam--- The Managing Director, Mr. Muindi, the Board of Trustees, Guardian International and those involved should be investigated over the big scandal. That was not the only scandal, and it appears that the NSSF was the target of the same.

Mr. Speaker, Sir, we have another company known as Newman Investments. It is not a new man as such. In my view, it is a corrupt company which went to buy a plot from the CLT at a cost of Kshs70 million, and within the same financial year, that is within three months, sold it to the NSSF at Kshs225 million. You know who owns Newman Investments? It took the Committee too much time to establish who owns Newman Investments and Guardian International. We established that Newman Investments is owned by Mr. Gedion Moi. It took us time to get records from the Registrar of Companies, Mr. Omondi Mbago, who in a past report, this House recommended that

because of his unco-operative attitude--- It is difficult to get records from the Registrar of Companies. The Managing Director then was Mr. Lazarus Amayo who, after those deals of selling land which was not advertised or any procedure followed, was promoted to an Ambassador to India. I want to assure you that when we were in India, he treated us so well! In fact, he gave a very good reception to a Committee of this House, but immediately we got here, we called him to answer those charges.

Those who were responsible like Lazarus Amayo, Gideon Moi and the rest should refund this money to the Catering Levy Trustee. It is not by word of mouth; it is the evidence we have which is in the report. Within the period that we examined the NSSF accounts, we found out that billions of shillings had been mismanaged through shady deals. This is irresponsible. Despite that, the person who was responsible for this mismanagement of funds at NSSF was promoted to High Commissioner to Nigeria. These are serious issues and the Government must take them seriously. We cannot have such scandals. Instead of punishing such people they get promoted. What are we saying? This is a big shame to this Government. It is the same thing we noticed when a contract was awarded---

**Mr. Speaker:** Your time is up!

**Mr. Katuku:** I beg to second, Mr. Speaker, Sir.

*(Question proposed)*

**Mr. Speaker:** Mr. Muite!

**Mr. Muite:** Mr. Speaker, Sir, once again, we have to go through this ritual of examining these reports, which we normally do almost every year. Perhaps it is a ritual because when you look at page III, most of the accounts of these parastatals which we are discussing are for the years 1997/98. Some of them go back to 1993/94 and 1994/95. These are the accounts which we are looking at now. It is many years ago. If this House is going to be effective, we have to revise our Standing Orders so that instead of the PIC and PAC acting like pathologists, coming to tell this House and the country how or why the patient died---

**Mr. Parpai:** On a point of order, Mr. Speaker, Sir. The Motion before the House is a very important one and it will require some implementation by the end of the day. Now that we do not have the Treasury in attendance in this House, who is taking minutes? Who will by the end of the day take notes? Is it in order that we proceed in this manner without the presence of the officers that we expect to take action?

**Mr. Speaker:** Order! There is no rule that says that civil servants should be present to take notes. However, good sense would indicate that the responsible Minister and his technocrats ought to be present. I do not understand why they are not present here. As I said earlier, I am totally at a loss as to why the House is not serious with the Business of the House. This includes the Front and the Back Benches of your own side Mr. Parpai, and of the Government side. I am perplexed that we cannot have 30 hon. Members to form a quorum. Is there anybody from the Treasury here? I think we ought to take this debate seriously, particularly on accounting by the Government to Parliament. It is the prime duty of Parliament to hold the Government accountable to the people of Kenya through Parliament. If Ministers cannot discharge that duty, then they are not doing what they are paid to do. Mr. Keah, are you from that Ministry and are you fully briefed?

**The Assistant Minister for Transport and Communications** (Mr. Keah): Mr. Speaker, Sir, your sentiments and those of this House are highly appreciated and I will make sure that I phone the Ministry of Finance and Planning in the next few minutes to ensure they report to this House. Like the Chair and every hon. Member in the House, I am concerned about the lack of the relevant Ministers here. We share that concern. Due to collective responsibility I will undertake to phone the Ministry and ensure that the Ministers and officers concerned are here in the next few minutes.

**Mr. Speaker:** Very well.

**The Vice-President and Minister for Home Affairs** (Prof. Saitoti): On a point of information, Mr. Speaker, Sir. You may very well have observed that the Chief Whip is not here. He has already been detailed to inform the officials of the Ministry of Finance and Planning, including the Minister or Assistant Ministers to be here. I am just re-affirming what he said.

**Mr. Speaker:** Well, I thank you, your Excellency the Vice-President, but that does not absolve the Minister, his Assistant and technocrats from being here to perform their national duty. We thank you, the Chief Whip and Mr. Keah, but nevertheless the Government must be serious.

Proceed!

**Mr. Muite:** Mr. Speaker, Sir, I do hope that the time that was taken up will be excluded from my time for contribution. I hate seeing---

**Mr. Speaker:** I will give you that time because I think an important issue was raised which took a lot of time.

**Mr. Muite:** Thank you, Mr. Speaker, Sir. I had seen Mr. Lomada who is an Assistant Minister in the Ministry

of Finance and Planning. Perhaps the Vice-President could send somebody to check whether Mr. Lomada is having a cup of tea in the cafeteria. It is quite possible that, that is the case.

**Mr. Speaker:** No! We will not make the Vice-President a prefect.

**Mr. Muite:** I do not mean him, Mr. Speaker, Sir. We could send the Chief Whip or somebody else.

Perhaps this demonstrates the point I was making. There are two types of doctors. There is the physician who actually carries out a test to find out what is ailing the patient. The physician treats the patient so that the patient does not die. The pathologist dissects the body of somebody who is already dead to find out what killed this particular person. The PIC and PAC are like pathologists because they tell us why Ministries and public corporations have died. If the presentation of these reports is to cease being an annual ritual, we need to revisit the need to revise our Standing Orders. This will ensure that instead of the PIC acting like a pathologist it can become a physician. It can then monitor, on an ongoing basis, how money voted in the budget to the various corporations and Ministries is being spent. This is preferable to the present situation where we come here in 2002 to be told how money was misappropriated in 1993 or 1994. If you go through this report you will note that we are looking at the accounts of 1993, 1994 and 1995 and yet this is 2002. The PIC is acting like a pathologist by telling us why the corporations have died, and why and how money has been misappropriated.

Mr. Speaker, Sir, if you look at page 14 which touches on that particular land, LR. No.2096439 on Ojijo Road which hon. Katuku was referring to, you will notice that it was purchased from the Kenya Railways Corporation for Kshs77 million in June, 1995. The same piece of land was sold for Kshs174 million. Somebody operating a company called Guardian International Limited made a profit of Kshs97 million within a matter of days. When you go through the records of the Registrar of Companies, you will not find the records of most of these shell companies. So, PIC needs to be strengthened. We again need to amend our Standing Orders so that PIC can access, on its own volition, the services of the police and the Criminal Investigation Department (CID) to establish exactly who are the directors and the shareholders of these shell companies.

PIC should be able to summon the Director of CID and to give him instructions and directives that: "We want you to carry out investigations and question everybody that you want to question. We want to know the identity of the directors and shareholders and go even further." This is because it is in respect of some of these companies that you have nominee directors and shareholders while the names of the real beneficiaries do not even appear here. How do you explain this situation where, even before this piece of land had been transferred to this company, it had already been offered to the National Social Security Fund (NSSF)? In fact, the balance of the purchase price, that was paid to Kenya Railways Corporation, came from the NSSF. It was sold before the seller had acquired a title.

Mr. Speaker, Sir, you will remember that, about this time, the World Bank had advised Kenya Railways Corporation that because of the inefficiency and cash flow problems, it should retrench some of its employees and yet the Kenya Railways Corporation, from the turn of the century from about 1900, has been one of the largest land owners in this country from Mombasa, Kisumu and everywhere. It was a recommendation of the World Bank that, in order to restructure the Kenya Railways Corporation, it needed to get rid, by sale, of properties which they did not need in order to generate enough cash, first and foremost, to pay its employees who it was retrenching and then have some adequate cash flow to restructure its operations to make it a profitable corporation.

Now, some people somewhere twisted that recommendation by the World Bank to their advantage. You will find that it is not only this piece of land, because the Kenya Railways Corporation, from Mombasa to Nairobi and everywhere, disposed of all their land and houses, but at throwaway prices to certain individuals who were politically well-connected and that is how this particular plot comes into the picture. The Kenya Railways Corporation allocated houses and plots to politically well-connected individuals who then proceeded to sell them either to NSSF or even to Asians in the country and ended up making enormous profits. Just before you arrive at Parklands Club next door, there were substantial houses there, standing on very substantial acreage of one to one-and-a-half acres. These were very valuable properties which were allocated to individuals at peanuts and sold the following day each at between Kshs40 million and Kshs60 million.

Mr. Speaker, Sir, you and I are citizens of this country. Where is the justification for you and I to wake up as poor people and by evening I have got an allotment letter of a very valuable property and by the following day, I have sold it and I have got Kshs60 million in my pocket? We have said many times that if, for any reason, any public land or house is not needed by the Government, let it be put up for sale at a market price so that the highest bidder can buy it so that the sale proceeds can go, not into the pockets of an individual, but to the public coffers so that we can have our roads repaired and we can give access to affordable health services to a majority of our citizens. Let us get that money so that we can, at least, be able to fund our schools, universities and what-have-you rather than enriching a small circle of the politically well-connected.

Mr. Speaker, Sir, this is a good example to show why the constitutional reform process which is on-going must resolve the land issue. Any persons, like the owner of this Guardian International, who have enriched themselves

unfairly from public land, houses and forests must be made to refund to the public coffers the equivalent of that money together with interest. Let us go back to 1963. I am not saying that these things have just started now. There were days when the Government knew it had a responsibility to assist in the provision of housing. So, if the Government decided to cut a chunk of land in Kileleshwa for the purposes of putting up houses, it would sub-divide it and then advertise it in *The Kenya Gazette* and then people would apply for it. One of the requirements would be that you would have to show that you do not have a house. The second requirement is to show that you have the ability to build a house and you are even required to build that house within two years. There was transparency.

We are not against that sort of regular assistance towards housing. What we are against is where you leave this Parliament, follow Haile Selassie Avenue and within three minutes you are in Upper Hill--- There were plots there that used to house judges. These were wooden houses which were constructed on half an acre or one acre plots. There were very valuable properties, but what happened to them? If the Government did not want these properties, instead of advertising them so that the highest bidder buys, they were given to individuals either to buy their political support or because they were politically-correct. This is why we are saying that, as part and parcel of the healing process in the constitutional reform process, this issue should be addressed since one of its objectives is to give our country a new beginning. If Kenya is going to have a new beginning, the issue of land and unjust enrichment must be addressed in the context of the new constitutional order. We must have this tribunal. The Ghai Commission must address this issue and truly bring about justice so that we can have a new beginning without the bitterness which has been generated.

Mr. Speaker, Sir, if you look at page 17, you will find there a deposit made again by NSSF to a company called Prudential Building Society. A lot of money is being recommended to be written off because it cannot be recovered. Now, if PIC is going to acquit itself and do its duty to this House and to the country, it is not enough to tell us about a deposit which was made to Prudential Building Society. We want to know how such large sums of money came to be deposited in Prudential Building Society. We all live in Kenya and we know these things do not just happen. The only reason why these sort of deposits could have been made to Prudential Building Society Limited was because of the calibre and status of the shareholders and directors.

So, again, Mr. Speaker, Sir, the PIC requires the services of the police and the CID. We need to go behind the veil of incorporation. We do not want a name like "Prudential Building Society." We want to know who the shareholders and the directors are. Above all, are there shareholders or directors who are nominees of some other very powerful individuals behind the scenes, who are able to pick up a telephone and direct the poor officials running the NSSF to deposit Kshs1 billion or Kshs2 billion with a particular financial institution? That is the way we can be able to unearth the rot. These names of companies are not good enough. We need to go behind them so that the truth is unearthed.

Mr. Speaker, Sir, a very worrying issue appears on page 35 of this Report; about the Pension and Provident Fund of the Kenya Posts and Telecommunications Corporation (KPTC). There is a figure there of just over Kshs1.8 billion, the whereabouts of which cannot be explained. The employees have worked but the money deducted from their salaries is missing. The KPTC is now supposed to add its own contribution to this Pension Fund. Pension funds are supposed to be invested so that they can start earning interest and so that when these poor individuals retire, the money they will be paid as their pension payments can be adequate to sustain them. But clearly, what is happening if Kshs1.8 billion pension funds that should have been invested have not been invested and their whereabouts are not known? It is clear that, that money has been misappropriated. What could be a bigger crime than for a corporation like the KPTC to misappropriate pension funds for workers?

Mr. Speaker, Sir, another major issue is the payment of professional fees by the KPTC. If you look at page 39, there are some consultants who have been paid just over Kshs52 million and a further amounts of Kshs57 million as professional fees. On page 41, there is another figure of Kshs44 million. On the same page, there is a further claim of Kshs783 million as consultancy fee. It would appear that the KPTC was spending enormous amount of money to pay for professional services. Again, this is questionable. Rather than just bring this figure of Kshs783 million claim for professional services, again, it demonstrates the need for the PIC to be strengthened in terms of accessing the police so as to investigate the matter. On the face of it, this appears to be a conspiracy. Somebody from the KPTC is conspiring either with the lawyers, surveyors or engineers, to create a conduit for misappropriation of funds. We all live in Kenya, but this can only be established by the police investigating these issues. So, we do not want just to be brought figures. The Public Investments Committee has done a commendable job and I am suggesting that it can improve on that by being permitted by our rules to give instructions and directives to the CID.

Mr. Speaker, Sir, on page 56 of the Report, you will find here that the PIC is castigating the Kenya Ports Authority (KPA) for paying directors sitting allowances for individuals who are not permitted by law to be paid. If you look at section (ii) towards the bottom, you will find a statement which reads:-

"The Office of the Attorney-General advised the Authority that Section 6 of the Kenya Ports Authority Act expressly prohibits payment of sitting allowance to directors in the Public Service in

receipt of salary."

So, on the one hand, we have a letter and the reference is given from none other than the chief legal adviser to the Government. The Attorney-General has written to the Kenya Ports Authority and he has quoted Section 6 of the KPA Act as expressly prohibiting payment of sitting allowances to directors who are also officers in the Public Service Commission. But yet, when you go to section (vii), one of the recipients of the illegal allowance is the hon. Attorney-General. You will find that State Counsels in his department have also been paid sitting allowance. How does the Attorney-General advise, in writing, that this is illegal and on the other hand, he proceeds personally to accept payment of those illegal allowances? How can this be? How could then this House or the PIC rely on the Attorney-General to prosecute anyone for breaching the law?

Mr. Speaker, Sir, let me very briefly touch on the Kenya Airports Authority (KAA). You will remember, back in 1982, the current Managing Director of the KAA, who at that time was a Deputy Director of Intelligence, which was then known as Special Branch, was transferred, in breach of the Police Act, from his position as a police officer. He was instructed, through a radio announcement, to go and rear pigs in Uplands. Quite rightly, Mr. Muriithi said he had been a police officer from the time he left school. He had done nothing else other than being a police officer. So, he knew nothing about pigs or the slaughter of pigs or the manufacture of bacon or sausages. So, he declined to go and for that reason, he was detained including my learned friend, Mr. John Khaminwa, who was his lawyer, because Mr. Muriithi refused to take an illegal transfer. Many years later, it is the same Muriithi who, instead of saying he does not know anything about aeroplanes or anything to do with the running of airports and aerodromes, accepted a position of the Chief Executive. Perhaps, this is why when you read the whole Report about the KAA, it is a horror story. Mr. Muriithi knows nothing about it. You will find from page 61, the Report says:-

"The Committee heard the evidence given by the Chief Executive that the accuracy of the accounts could not be determined as adjustments made to the accounts could not be vouched due to lack of supporting documents."

We are talking about a very important corporation. What do they proceed to do? If you look at page 63, they proceeded to allow the Commissioner of Lands to hive off land belonging to the KAA and to give it to individuals. I would like to compliment the former Member of Parliament for Githunguri, Mr. A.K. Magugu, who is listed as number one on page 63 as the recipient of this illegal land grabbing. Why do I compliment him? It is because he is honest. He does not have to hide behind a company. He was allocated land under his name, Mr. A.K. Magugu and partner. The only thing he did not do is to disclose who the partner was. If you go through the whole list, you will find Nadia Farm Limited. The PIC should tell us who owns Nadia Farm Limited. The others who have been allocated land are companies. The PIC has proposed that the land should be repossessed and reverted back to the public, and I endorse that. But they should have gone further and told us who the shareholders and the directors of these companies are.

Mr. Speaker, Sir, going through the Report quickly because of time factor, on page 92, the Committee has recommended that Mr. Lawi Kiplagat and Mr. Joshua Kulei should be banned from holding any public office conferred by the Republic of Kenya. Now, the PIC should have gone a little further and told us whether Mr. Joshua Kulei is the Personal Assistant to the President of the Republic of Kenya. Is he an employee of the Public Service Commission (PSC) or not? They have banned him from holding a public office under the PSC, but as a Personal Assistant to the President, does he actually receive his pay from the taxpayers' money or not? That is something which they should have established.

On page 240, which deals with the Agricultural Development Corporation (ADC) farms, there are many things which I will not touch on. There is no quarrel, if it is a landless person who is allocated this land. For example, I have no quarrel with the small portion of 20 acres given to the Speaker of the National Assembly. This is because, since the Speaker comes from a dry area, he is also entitled to a piece of land, where there is enough rainfall. This is covered on page eight of the supplementary which deals with land. I can see that the Speaker has been allocated 20 acres of land, while one Mark Too has been allocated 40 acres. In fact, Mr. Too comes from Nandi District where there is enough rainfall. He is the one who should have been allocated 20 acres and the Speaker 40 acres in a more productive area of the country.

*(Laughter)*

**Mr. Speaker:** How many acres should have been allocated to the Member for Kabete?

**Mr. Muite:** Mr. Speaker, Sir, next time, I hear that these ADC farms are being allocated, perhaps I will apply. I never heard when this land was being allocated to individuals. There are some peculiar things. For example, if you look at page 31, you will find that the address for all the beneficiaries of this ADC farm is P.O. Box 57 Kabarnet. Do all of them share one address? These are the anomalies which should be sorted out when we talk about the land issue.

Mr. Speaker, Sir, I beg to support.

**Mr. Kihoro:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to the Tenth Report of the PIC on the accounts of the State Corporations. I have seen that the Committee has come up with two volumes. Having looked and gone through the Report, from page one to the last page, and I hope all the pages are in my copy, I find that every page is about what should not have been done. It is a page about poor public investment; it is a page about what had been stolen from the public that should not have been stolen. It is regrettable that all this information is coming six or seven years later. If you go through all the State corporations which have been audited by the PIC, you will find that there are 43 public corporations whose accounts have been audited seven years later. It is sad that we can only look at figures about money and public investment seven years later. That is regrettable and every hon. Member has spoken about it. We really enjoy reading the Bible 2,000 years later. It is good for us because it replenishes our minds and souls. But when you talk about evidence that should have been acted on immediately after corruption was committed being acted on seven years later, it is regrettable. It should not take six years to get reports back to the centre. It is possible to skip the six years so that we can be up to date. That can go on public record because, after all, even after going through the other nine Reports, what has come out of them? It is important that those people who partake in public resources are known at the time they are doing it. I would like to propose that the 11th Report of the PIC, for the year 2002, should look at what has happened during the last but one financial year. I do accept that it might take time to collect all the information from the various corners of the Republic. If we give the Committee six months to look at these reports, we will have a report that will be relevant to ourselves and this country. So, that is what I would like to propose so that we do not deal again with post-mortems or with things which happened six or seven years ago.

Mr. Speaker, Sir, a very pertinent remark that has been made by the Committee is that the privatisation programme, which has been done by the Kenya Government, is lacking in transparency and accountability. All that has entailed losses of public assets in all the sectors where the Committee has inspected public records. We are talking about lack of transparency on a very important issue. The investment was supposed to have returns for the people of this country. If returns were realised during this period, this would have reduced the tax burden on Kenyans, who are burdened by taxation today. So, it is important that the privatisation process should be done in an open manner so that everybody will have an opportunity of partaking in the public assets which, today, go to the hands of the politically-correct people.

There are many areas where the public and the Government invested previously. It would be possible for us to put Kenyans in control of these parastatals.

The former Kenya Co-operative Creameries (KCC) has a milk processing plant at Kiganjo, which is in my constituency. Very recently, I visited that plant, where I found the watchman asleep. I asked him to open for me the door to the premises, which he did. When I looked inside, I found absolutely nothing. The plant has been vandalised or cannibalised. Some people in this country have set up milk processing plants using assets belonging to the former KCC. It is tragic that assets which were acquired using public funds now have become the wealth of a few individuals. They have actually stolen assets of the former KCC and put up their own milk processing plants. The former KCC used to support many of our farmers. It was an agent for spreading some wealth across the country. Where there was a cow, there was some income. If you did not sell your cow to the defunct Kenya Meat Commission (KMC) slaughterhouse at Athi River, you sold some milk and did realise some income, which you used to pay school fees for your children. It is tragic that the KCC and the KMC have collapsed.

Mr. Speaker, Sir, some professionals have found a way of making very easy money through State corporations. The Teachers Service Commission (TSC), for example, was to put up its headquarters building in 1994 but, to date, the project is incomplete. The TSC paid consultancy fees amounting to Kshs47 million to an individual. It is very sad that when it comes to professionals in this country, be they lawyers, architects or civil engineers, their aim is to partake of public resources. They have, in a way, entered into conspiracies not to offer professional services, but rather use their professional background as a means of fleecing the public. That has been the trend among all kinds of professionals in this country. Even among doctors, who have taken an oath to attend to the sick and the dying with professionalism, it is only the corruption language that they can communicate in. Doctors who did not want to participate in corrupt practices have fled the country. I met some of them in South Africa and Botswana.

Mr. Speaker, Sir, to confirm the point of being up to date, in respect of our public accounts, I will give the example of Botswana. Last year I went to Botswana. That country has a population of only 1.5 million people, but it prepares its accounts and produces them within six months. When we visited its Parliament in Gaborone, we were told that the committee which deals with public accounts had reviewed accounts for all the years, including those of that particular year. Kenya has 30 million people, which is more than ten times the population of Botswana, but we cannot be up to date in reviewing public accounts. This is a very sad situation; there must be something rotten in the system.

Mr. Speaker, Sir, I would now like to refer to Volume II of the Public Investments Committee (PIC) Report, which talks about the people who have acquired land which belonged to the Agricultural Development Corporation

(ADC). We will always talk about land because even the purpose of our freedom fighters' struggle for Independence was really to liberate our land. You previously said that we do not want a Zimbabwe-style uprising in this country. That is why we continue talking about land. Unless something is done now, there could be a confrontation and people could die. After another war amongst our people, those who will remain will create divisions in this land. We do not want that kind of a situation.

Mr. Speaker, Sir, volume II of the PIC Report is about ADC farms and the people who have been allocated these farms. The ADC had a farm known as "ADC Farm Astra." The farm measured 15,000 acres, but it was allocated to three people only. Why was that the case? I have the names of the two people and that of one organisation. All of them appear to have been well-connected. At one time, they were in power. It appears as if they used their powerful positions to fleece the public. One of these persons is Prof. Philip Mbithi, who was allocated Plot No.9917/10, which measured 5,518 acres. For all that land, he paid Kshs3 million, which works out to only Kshs500 per acre. Everybody can afford to buy the land at that price. That is the amount I spent on my lunch today. He was allocated all that land for such little money and yet he was not landless. If landless people were to be allocated five acres each, 1,000 of them would have been settled on the 5,000 acres that were allocated to Prof. Mbithi.

The other beneficiary was a Mr. Charles Mbindyo, who was allocated 5,515 acres for which he paid Kshs3.3 million, which works out to Kshs500 per acre. The third beneficiary is the African Inland Church (AIC). The name of this church has featured prominently in this Report. People who should be leading us to Heaven have settled here on earth and become more corrupt than ordinary people. The AIC was allocated 3,851 acres. Be that as it may, this church did not pay a penny for that land. It is sad that people have even used religion to deny our people the opportunity to live comfortably in this world.

**The Vice-President and Minister for Home Affairs** (Prof. Saitoti): On a point of order, Mr. Speaker, Sir. The hon. Member is fairly articulate in what he is saying, but I wonder whether he is not misleading the House by claiming that the AIC was allocated the said land for corrupt practices. On the land referred to by the hon. Member, there is some kind of an institution which has been built for use by the people.

**Mr. Speaker:** Mr. Kihoro, first of all, is the issue you have raised part of the PIC Report?

**Mr. Kihoro:** Yes, it is, Mr. Speaker, Sir. The first page of the Report talks about "ADC Farm Astra." If you allow me, I will go through the text once again.

**Mr. Speaker:** Well, you are right on this one, but is it your premise that every allotment of land is corruptly done?

**Mr. Kihoro:** No, it is not, Mr. Speaker, Sir.

**Mr. Speaker:** Very well.

**Mr. Kihoro:** Mr. Speaker, Sir, but I am saying that in this particular situation, where you give a church organisation 3,851.71 acres, what value---

**Mr. Speaker:** Can he measure a little of this?

**The Minister for Public Health** (Prof. Onger): On a point of order, Mr. Speaker, Sir. Would I be in order to allude that the land that he is talking about is where a public university is built on? Is there no church university within that premise? He wants to refer to that - and it is for public use - as being corruptly given out?

**Mr. Speaker:** Order, all of you! I think, in the interest of this House, for any hon. Member contributing, let it be within your knowledge that certain facts do not withhold because we are not scoring political points here. We are trying to make amends to the wrongs committed. So, let everybody be honest. If there is a university on that land, say so. If it is empty, say so. If you do not know what is there, say so.

Proceed, Mr. Kihoro.

**Mr. Kihoro:** Mr. Speaker, Sir, I did not know, and I am not a Member of the African Inland Church. Those people who belong to that denomination, and who visit there every Sunday, most likely are the ones to give us that information. If they have gone there - maybe in company of somebody else - they should be able to tell us. It is information that they can provide. I do agree with you that, if you have got information that will be beneficial to this House, you should be in a position to communicate. I thought I will get that as a point of information, if they are prepared to give it to me.

**The Minister for Public Health** (Prof. Onger): On a point of information, Mr. Speaker, Sir. That particular piece of land that he is referring to is where a church university was allocated, and may it please him. He has quoted the LR number---

**Hon. Members:** Where?

**Mr. Speaker:** Order, hon. Members!

**The Minister for Public Health** (Prof. Onger): Mr. Speaker, Sir, it is in Ukambani.

**Mr. Keriri:** Where?



**Mr. Speaker:** Order, Mr. Keriri! Mr. Keriri, I expect you, of all those who went there, not to be in that company. Let the hon. Member say his bit. It is your business to listen. If you disagree, catch my eye, and I will allow you to speak. We are long time past the age of heckling!

Proceed, Mr. Kihoro! Have you finished?

**Mr. Murathe:** On a point of order, Mr. Speaker, Sir. I think we must understand something here. If the PIC raises some matters in their Report to the House--- If it was not irregular, obviously, we do not expect that the Committee would question that particular investment about a public utility. When an hon. Member raises something arising from that Report, I think we are questioning the legitimacy or the irregularity of the transaction. For your guidance---

**Mr. Speaker:** Order, Mr. Murathe! Are you suggesting that the full House sits as a rubber stamp of the PIC, and that PIC is infallible? All I can tell you is that the PIC is subordinate to the House, and that is why they report to the House, and that is why there is a debate. Let the debate flow, Mr. Murathe!

**Mr. Kihoro:** Thank you, Mr. Speaker, Sir. It will be beneficial to have a university built on a former ADC farm. That should be declared on every rooftop. I am not amused by that information. But in truth, and in respect of that piece of that land, if a private university has been built there, they did not need to buy that land because they are collecting fees from students. No amount of money is shown as having been paid or demanded. So, it must have been given for free, and I believe there must have been influence peddling.

**Mr. Muite:** On a point of information, Mr. Speaker, Sir. I just want to inform Mr. Kihoro that Mr. Jones Kaleli of that church, who also preaches every Sunday, and we see him on the KBC TV, is also a beneficiary of the ADC land. It is on page 4.

**Mr. Kihoro:** Mr. Speaker, Sir, I think---

**The Vice-President and Minister for Home Affairs** (Prof. Saitoti): On a point of order, Mr. Speaker, Sir. I do believe that Mr. Kaleli is not the ADC Farm. I think, as I stand here, I am a Catholic myself; by denomination. I am not holding any brief at all for the AIC. But we all know that churches, as charitable non-profitable organisations, have normally been allocated free land for their own churches and for the schools. In this particular case, there is, definitely, a university which has been built, and that is for the service of all Kenyans.

**Mr. Speaker:** Order! I do not know what is the intention being pursued here. If the intention is to show those who have been allocated those parcels of lands, and the document is there, I do not know whether Mr. Kihoro intends to read it out from No.1 to the very last. If not, what is the selectiveness for?

*(Laughter)*

**Mr. Kihoro:** Mr. Speaker, Sir, I do not think that will prevent me from giving a second case, where the AIC was given 30 acres of land at the ADC Ngata Farm. If the issue is that there is a university being built maybe at Athi River--- I suspect that is what you are talking about. The ADC Ngata Farm is in Rift Valley, LR No.16672/37. Thirty acres were also again given to the AIC, and nothing was paid and demanded. Again, it is public assets which are being given for free and to people now, according to the information that I have, who are not more deserving than many landless people in this country. I have got a whole list of prominent people, and because of what you have said, I might be tempted not to read it out. I might include Mr. Jonathan K. Moi and others.

**An hon. Member:** Read the whole list!

**Mr. Kihoro:** I thought, because one hon. Member is saying that I should be able to point out even though the list that is contained in Volume II of the Report of the Committee has got more than 41 pages--- On my count, I have found out that every page has got about 30 people. In case I start reading it out, my 30 minutes will not be enough; the list is one of "Who is Who" in the Government. I do not propose to do that. But I can, certainly, give a very quick list of the people who have been given public land and who do not deserve it. That includes Mr. Wilson Boinett, who is the Director of the National Security Intelligence Service, Mr. Benjamin Kipkulei; he appears everywhere in this book, Mr. Mulinge was mentioned yesterday; that is nothing new. There are others like Gen. Mohammed and Mr. Taita Towett. Dr. Chemengich Kosgey was given Plot No.13287/19 which is 50 acres. She is supposed to have paid Kshs60,000 for that. This is important because this land was the subject of an issue about a month ago, when, again, a police officer who was put there at public expense was arrested because of allegedly allowing the property to be invaded. That is a month ago, and you can see that one problem leads to another one. Then there is Mr. Jonathan K. Moi; his name has become very frequent in this House as one of those who benefited from public resources. There are very many other people. I do not want to go into that list. I would rather abandon that---

*(Laughter)*

**Mr. Speaker:** Read out the names, to the last page! I will give you the protection that you require. I can give you the whole day. There is nothing new about it. This was read out last year. You are repeating what was read from the Report last year. It was in last year's newspapers.

**Mr. Kihoro:** Mr. Speaker, Sir, let me say in summary that out of the eight former ADC farms, which are included here, with more than 1,000 people, either the land has been given to people on tribal basis--- You will find a list of people here; same names appearing maybe 15 or 20 times, from the same tribe. If not from the same tribe, I find that the same address has been given; as Kabartonjo. These people are many. You cannot ignore the fact that more than 40 people in the Report have given their addresses as "Care of State House".

What is also important about how this land has been given out is that the expectation was that it could realise some income for the Government. Only 10 per cent of the value of the land, which was conservatively valued, has been realised. If you go through the Report, you will find that all the balances are outstanding. So, what is important here is that the land has been given out for free to well-connected people who do not need or deserve it. These people having this land is not only a problem to them, but also to this country. Therefore, a better way should have been found to ensure that the ADC farms were given to landless individuals in this country so that we could avoid forcing the issue not too far in the future. We want to avoid that.

Mr. Speaker, Sir, on the one hand, some people have criticised President Mugabe for using force to take over the white-owned farms in Zimbabwe and giving them to the natives. That should not really happen, but we must not forget that, 100 years ago, Cecil Rhodes used force to disempower and take away land from the people, just as it has happened in the past in this country. In 1935, many people were evicted by force from Tigoni and Limuru areas. I am not advocating for a tit-for-tat or an eye-for-an eye, which is the Mosaic law, but I am advocating for a situation where we can use our intelligence and realise that this is a very explosive situation, and should not be allowed to prevail for long. If it does, very shortly a case will be made, that all these allocations should be revoked because after all, no consideration has been paid. I will subscribe to that view when that point will be forcefully made out of this House.

With those few remarks, I beg to support the Report.

**Mr. Kaindi:** Mr. Speaker, Sir, I wish to join my colleagues who have contributed to the debate on the Report of the Public Investments Committee (PIC).

I wish also to draw from my experience since I served on that Committee for two consecutive years. Of great concern to me is the fact that the very same issues keep on recurring year in, year out. For the two years that I served on the Committee and the last one year, the story has been the same. The same corporations have been mentioned for the same abuse of privileges, and there seems to have been no change.

I wish to comment briefly on what the Auditor-General (Corporations) does. To prepare these Reports, hon. Members of the Committee are taken through the relevant information by the Auditor-General (Corporations). Most of the time, it is the Auditor-General (Corporations) who has not satisfied himself that there was prudence in the management of funds. Most of the time, he is the one who raises issues so that hon. Members of the Committee can follow them up. Where his audit has not cleared a corporation, they research further and see whether it is possible to come up with plausible explanations as to what happened. They interview the corporation officers and come up with explanations.

Mr. Speaker, Sir, when I look at the Report in question, I find that it has started on a sad note. The issue of implementation of these House Reports, which the Committee discusses with the "Big Five", keeps on recurring. Reports of the PIC do not seem to be implemented. The question is: What can Parliament, through the respective Committees, do to ensure that there is proper implementation of its Reports? During the time when I was a Member of the PIC, we had the opportunity to interact with the "Big Five". We used to receive commendable efforts from the then "Big Five", particularly the then Head of the Public Service. When we raised certain concerns, immediate action was taken and we saw certain individuals, particularly from the National Housing Corporation (NHC), being relieved of their duties. As a Committee, we knew we were heading towards the right direction because we saw immediate action being taken. We also made proactive arrangements to ensure that where contracts, such as the ones that were awarded by the Kenya Airports Authority (KAA) were checked and we made appropriate recommendations at that particular stage.

If you look at a corporation, such as the National Social Security Fund, you will find that contractors have refused to move from the sites even after the contracts are over. If you drive near the NSSF Building, you will see huge cranes on a nearby site which were brought there about eight years ago. The contractors have refused to demobilise and they are, therefore, still charging more money to the NSSF. Then you will start wondering what is wrong with our system. Is it not possible for us, and those respective corporations, to take the appropriate legal action so that those contractors can be forced to demobilise?

I have a case in point, where a contractor had refused to move from a site at Kenyatta University. The then

Vice-Chancellor appealed to the Committee for assistance. After we talked to the contractor, he accepted that his lawyers could enter into negotiations with the University to enable him move from the site. Otherwise, it beats logic why private contractors hold the Government to ransom. Why should we spend so much money when individuals refuse to move from sites? What are the checks and the balances? What is the legal course that we can take to ensure that those individuals demobilise?

Mr. Speaker, Sir, if you look at the money the NSSF has used to buy various pieces of land, you will find that it is enormous. I have seen in this Report that the NSSF had the audacity to invest some of its money in pieces of land which, in my view, are not very good investments. These are the questions that the Auditor-General (Corporations) keeps on raising. These are the issues he has been consistently raising. Under whose authority do these corporations do these things? Who can check the malpractices within State corporations? Who can put a stop to these malpractices? Audit reports come to us three or four years later, after money has been expended and public coffers emptied. If you look at the investments the management of the NSSF went into, in terms of buildings, such as the Nyayo Highrise Estate near Embakasi and other buildings at Kangemi Estate, the valuations of land then and the cost of construction, you will find that the investment was not justified. These are the issues that the Auditor-General (Corporations) kept on raising. He kept on asking what criteria was used by the managements of these corporations to invest money.

Mr. Speaker, Sir, the Report has mentioned about professionalism. We must repeat here once and again that even those professionals who take oaths to protect public coffers, do not do so. If you look at this Report, you will find that the lawyers and the engineers who were involved in contracts did not do their jobs properly. If you look at the engineers who were involved in the Kenya Ports Authority contracts, you will find that the story is the same. Who allowed these individuals to go on speculative expeditions at the expense of the public? Designs were prepared and money paid in total before work started. Why are lead engineers paid upfront even before the first foundation stone is laid on the ground? Why do we allow these things to happen?

Mr. Speaker, Sir, I thought by reading these Reports, we could come up with remedies where the Committee could say: "After interacting with those State corporations, these things have now slowed down and checks and balances have been put in place." How then can we continue talking about Public Investments Committee Reports without putting mechanisms in place to ensure that whatever they report to the House is clearly followed and checks and balances are put in place?

I do not want to talk about land because, in the first place, under the laws of conveyance, land allocation is a constitutional issue. There is an Act of Parliament under the Constitution of the Republic of Kenya which stipulates that all land is owned by the State and, therefore, the State has what we call police powers over land in this country. But in the same vein, there must be proportionate distribution of land. We are not questioning the authorities who allocate land because they do it legally. The question is: Why should I be given 1,000 acres and why should another person be given 10,000 acres? Why should we not set a criteria for land allocation and distribution in this country? Land is being allocated and it is not being sold at market value! There are also queries which have been raised about land belonging to Kenya Airports Authority, Kenyatta National Hospital, Agricultural Development Corporations *et cetera*. Why should an individual benefit from 4,000 acres of land while, around the same individual, there are so many deserving landless people? So, the issue of land must be addressed in a constitutional manner. It is not an issue that can be addressed as if it was purely conveyance; by coming to the Floor of this House and saying: "So-and-so should not be allocated that land." I have no quarrel about how land is allocated, because the Commissioner of Lands acts under delegated authority from the Chief Executive of the Ministry of Lands and Settlement. Therefore, the same rule and legal framework that he has been given to operate under is, therefore, legal. When we question the role of the Government in allocating land, in my view, that is not the issue now. The issue is, why do you need to be given large tracts of land here and there, when there are so many other Kenyans who are deserving? These are the issues that we should address as a nation, whether it is during the constitutional review debate or not, but we must discuss them.

Mr. Speaker, Sir, I have had the opportunity to work with Ministry of Lands and Settlement. Therefore, as we talk about matters of land, I seem to have better information of what happens in the Ministry of Lands and Settlement. Land is being given to people most of the time; it is simply like the coffee of Chepkube in those days. It is speculative most of the time, not because you really deserve that land, but it is like a fat cow these days; you get a piece of land and you find fellows walking in the streets having become millionaires overnight! There is nothing wrong with that in my own view, what is wrong is the modality of doing it. Unless we want to challenge the Constitution, we can only challenge it during the review so that we can then put mechanisms in place that would guarantee proper distribution of land to the people of the Republic of Kenya. But, I think, it is unfair to label those who have been given land as corrupt people because that land is given to them using the existing legal framework. The question is: How much land should one be given?

Mr. Speaker, Sir, the Government advances money to the National Cereals and Produce Board (NCPB) to

buy or to procure cereals on behalf of Kenyans. The question being raised here is: After allocating money to the NCPB, does the Government get it back so that it can be utilised for other things? Why can the NCPB not be given an open cheque? We should vote the money to them so that they can procure cereals directly.

Mr. Speaker, Sir, lately, we have had God-given rains in Ukambani and we have got plenty of maize apart from that weevil; the great grain-borer, which most Kenyans are calling "Osama" and, I do not know why. But lately, we have had plenty of maize and nobody can buy it. In the Rift Valley and Eastern Province, there is plenty of maize and we have no mechanism of selling it. The Auditor-General (Corporations) is questioning the prudence and the manner in which some of the monies should go to the State corporations and how it will revert back to the Government!

Mr. Speaker, Sir, again there is this issue which has been raised in this Report concerning State corporations and, lately, the Kenya Wildlife Service (KWS). The KWS is a noble organisation and I believe, up to date, it has really been able to discharge some of its responsibilities. If you look at the issues being raised in the Report, it is not on how the KWS is managed. I think there is duality in the manner in which the budget for the KWS is being managed. If I can draw an example from my experience, which is being repeated in the Report, they have got a one-line budget from the Ministry and there is another budget from the donors. The budget from the Government is properly utilised, but one wonders who is supposed to audit the money from the donors. In terms of good management, it should be the mandate of the Government to audit even those funds from donor organisations. It defeats logic for other organisations, and donors outside this country, to continue giving money to the KWS, when the Auditor-General (Corporations) has no access to the accounts related to those funds. It is high time all monies, be they from the Government or donor organisations, were brought under the scrutiny of the Auditor-General (Corporations).

Mr. Speaker, Sir, I have also had an opportunity to look at the accounts of the universities. In my own experience, and I have seen it being repeated here, I do not know whether it is because the universities get a very small allocation in the budget, but if you look at the way the universities utilise their monies and their budgets, you will find very few objections from the Auditor-General (Corporations). The Auditor-General (Corporations) seems to give an okay to most of the university accounts. In my own view, monies from Maseno University and other universities is properly utilised I do not know whether it is because of the amount of money in question. I think they should be given credit for doing a commendable job. The role of Public Investments Committee is not just to criticize, but to advise so that we can come up with a way forward. That is why I am saying that these issues are mandatory.

If you look at the Coffee Board of Kenya and, particularly the coffee farmers out there, the prudence in which they utilise their money and the manner in which they pay the farmers, as it is raised in this Report, there are many questions coming up about the role and the prudence in which the Coffee Board of Kenya utilises its funds. The Coffee Board of Kenya must owe its responsibility to the coffee farmers of this country! If you go to Eastern Province, you will find coffee sales and everything having drastically gone down. The issue being raised here touches on the money that is supposed to revitalise and revamp that particular agricultural sector. But if you look at what is happening, the money is not there!

Mr. Speaker, Sir, last year, I did talk about a corporation which is not operational and, therefore, I do not want to talk about it here again. But the KMC is of great concern and we are saying as a Parliament that, all State corporations--- I know the reason why the accounts from the KMC are not being brought to Parliament is because the KMC is now dormant and nobody seems to know what is happening to it. Therefore, the Committee was not able to revisit that corporation. Even today, the Receiver Manager of Kenya Meat Commission (KMC) does not account for the money he collects from the rental houses. Also, he did not account for the money he raised after the sale of KMC houses in River Side. Many things have gone wrong in KMC. We do not know why Mr. Gregory has continued to mess up that corporation.

Mr. Speaker, Sir, issues have been raised about Kenyatta National Hospital (KNH), particularly in respect to land. In my own view, KNH goes hand in hand with the City Mortuary, and the mortuary within KNH. Its land is being grabbed. I strongly feel that KNH should be considered for a bigger land. Why is KNH land being grabbed? Maybe, it is because it is located in a prime area of this City. We need to look into the issue of distribution of land and make sure a corporation like KNH is given the first priority before we consider allocating land to other people.

I do not want to go into all the issues raised in this Report. However, the issue of procurement of goods and services has been raised. The same issues were raised about Kenya National Trading Corporation (KNTC) three years ago. They have been repeated in this Report. We heard evidence against Mr. Kanyingi and other people. Why has action not been taken against those individuals? The issue here is what has been done on matters of procurement.

The issue raised on facilities accorded to the directors is not important to me. The most important issue is the competence of those individuals running State Corporations. There must be a bench-mark. They must be competent enough to understand what goes on in those corporations. If you look at the management of Kenya Airports Authority (KAA), with due respect to those who manage it, the onus of responding to queries raised in the Committee is left to

either the Deputy Managing Director or the Company Secretary. If you are going to run a State corporation, for heaven's sake, why can you not be conversant with the rules governing that particular corporation? We noticed very interesting things. For example, we noted that the Managing Director of the National Water and Pipeline Corporation was a medical doctor. I am happy today because the current Managing Director is a mechanical engineer. So, all what we are saying is that Parliament has the mandate and duty, under the Constitution of Kenya, to protect public funds. We will continue to condemn those individuals who are mentioned in the PIC and the PAC Reports. Those who have been mentioned in this Report will be harshly judged by posterity and history.

Mr. Temporary Deputy Speaker, Sir, with those few words, I beg to support.

**Mr. Muite:** On a point of order, Mr. Speaker, Sir. You will notice that the Mover, the Seconder and all those hon. Members who have contributed to this Motion are from this side of the House. I am seeking your guidance; given the importance of the PIC, is there any rule under the Commonwealth practice of Parliaments that you can utilize to at least get one or two hon. Members of the Government to contribute to this debate?

**Mr. Speaker:** Order! You actually realise that this is a repetition. This Motion was moved last year and many Members talked about it. We are debating it today because, by the time Parliament was prorogued last year, we had not put the Question. However, it cannot die because this Parliament must decide on matters raised in the PIC Report. So, there is really nothing new here. We are repeating what was said last year and, therefore, you can understand why Members seem to be bored. Consequently, I will not run the risk of allowing Members to be further bored particularly when we have, in our own books, a rule against tedious repetition, which is what we have had to endure this afternoon. I will, therefore, not exercise any of my functions to ask hon. Members from the Government side to contribute. Instead, I will call upon Mr. Parpai to reply.

**Mr. Parpai:** Mr. Speaker, Sir, thank you very much for giving me this opportunity to reply to this Motion that I moved yesterday. First and foremost, I would like to thank all hon. Members who have contributed to this Motion. As you have clearly stated, this Motion is being discussed for the second time. Many hon. Members have contributed. But nevertheless, we expected somebody from the Government side, like my friend, the Assistant Minister for Finance and Planning, to state the Government position on this Report. However, I am very grateful that the House is unanimous in the adoption of the PIC Report.

A lot has been said by those hon. Members who have contributed; about land allocation. All of us, from the President to those who have not yet been born, so long as some fertilisation is going on in the stomach, are entitled to land in this country.

**The Minister for Public Health (Prof. Onger):** On a point of order, Mr. Speaker, Sir. Is Mr. Parpai in order to say that fertilisation is going on in the stomach? Did I hear him right because my knowledge is completely otherwise?

**Mr. Parpai:** Thank you for that correction. What I meant was that once fertilisation starts something will be happening in the stomach.

*(Laughter)*

Mr. Speaker, Sir, all Kenyans are entitled to that allocation of land. However, the terminology used in allocating land in this country is very confusing to Kenyans. Now and again, land is set aside to settle the landless. The Government normally requests the ADC to surrender some pieces of land so that the so-called landless can be allocated land. This is what is bringing problems in the allocation of land in this country. By the end of the day, those who end up benefiting from these allocations are not landless. I would request the Government to change the terminology they use and, instead say they want to excise some pieces of land and give them to certain favoured people. I think that will be a good terminology to use. If you talk of landlessness and, by the end of the day, you give landlords more land, it does not make much sense to me. We are now saying we want to excise 17,000 hectares of our forest land to give to the landless. Who will benefit from this excision of our forest land? It is the same people who own ADC land in Kitale, Mombasa, Tana River and Loitokitok. We, as Kenyans, and as Parliamentarians, are telling the Government that we, are tired of the way they allocate land in this country. Change the terminology you use! If you want to enlarge your family then get two or three other people and give them land if you really think it is only your family who must get land in this country. But, as leaders, let us give land to the landless.

Mr. Speaker, Sir, one of the hon. Members talked of amending the Standing Orders. Indeed, we need to strengthen the PIC. In PIC we have, on many occasions, summoned the Commissioner of Police and the Director of CID when we think we need their assistance. But with my three years experience in the PIC, I think our Standing Orders should be amended to allow a representative of that office to become a friend of that Committee, and attend the meetings like other departmental heads, the way the Treasury and the Investments Department do. This is because, some of the issues that are raised by the Auditor-General (Corporations) are of such a serious nature that they require

some immediate action. He or she needs to sit there, so that in his or her own judgement, if he or she thinks there is a criminal offence that has been committed, he or she does not need to consult the Committee, but should take action immediately.

We have a problem because evidence is given in the Committee, somebody even admits that this and that happened, but it takes about two to three for the Report to come to this House, while implementation - as you well know - takes longer than that. I think we need to amend our Standing Orders to allow that department to become a permanent friend of the Committee.

Mr. Speaker, Sir, we also need to form an Implementation Committee. We should amend our Standing Orders so that we have a Committee that goes through the Reports that have been adopted by the House and see to it that the Government has implemented them as per the recommendation of the House. It is only then that these issues will cease to be routine, because this time round, people really do not care whether you appear in the newspapers repeatedly. In any case, they are aware that no action will be taken against them. I keep on saying that their days are numbered. When the general elections take place, whether it will be in December, it does not matter whether it is the New KANU which will come back to Government, the DP or whatever government. But I am sure it is not going to be this stubborn Government which does not care about the assets and properties of *wananchi*. Democracy is also with us and the Constitution is also being amended. I am sure some people would wish action would have been taken when they had a godfather. I want to repeat this several times because this is what is going to happen. I am not worried as to whether action is taken today or not. My only worry is if this Report will be destroyed. But so long as documents are in our archives here, one day we shall dust them and go through them in a serious manner to ensure that people account for what they have misappropriated.

Mr. Speaker, Sir, when I moved this Motion yesterday, I thanked the Treasury, the Auditor-General (Corporations) and the staff that assisted us, but I forgot to thank the former Head of the Civil Service who really assisted us during the time we were writing this Report. He always availed himself when we required him and he took up issues with the Chief Executives of given parastatals. He even forced the managements of parastatals to update their accounts. I would have failed in my duty if I did not commend him for what he did. I also want to commend the former Permanent Secretary, Ministry of Transport and Communications, Mr. Naikuni, who was a permanent figure in our Committee. During that short period, when he was in charge of that Ministry, parastatals like KPA, KBC and Kenya Railways really improved and recorded profits. Corporations that were hardly surviving---

**Mr. Speaker:** Go back to the Report!

**Mr. Parpai:** Mr. Speaker, Sir, the corporations are in the Report.

**Mr. Speaker:** But Mr. Naikuni is not!

**Mr. Parpai:** Mr. Speaker, Sir, he is in the report as one of the attendants. If you look at the Report, he is reported as having attended.

**Mr. Speaker:** We will make appreciation for what he has done, but he is not going to be the subject of your debate!

**Mr. Parpai:** Mr. Speaker, Sir, I have talked of strengthening PIC. We have very many corporations whose accounts the PIC scrutinises; over 100 State corporations. It is very difficult for the 11 hon. Members of the Committee to look at the accounts of all the corporations within the given time. I am proposing that we increase the number of hon. Members of that Committee so that they can divide themselves and have two separate sittings scrutinising accounts of two different parastatals. By so doing, they would be able to scrutinise accounts of more corporations than they are doing now. I think that can only happen if the Standing Orders are amended.

Mr. Speaker, Sir, lastly, I would like to talk about donor funds. It is very interesting that when the Auditor-General (Corporations) looks at the accounts of these parastatals his officers are never provided with documents to enable them audit donor funds. This is what we noticed as a Committee. It is important that the Treasury, which is the custodian of funds in this Republic, gives direction on that issue. Most of the donor funds, mainly for research are---

**Mr. Speaker:** Mr. Parpai, you are supposed to reply and not to re-open debate afresh!

**Mr. Parpai:** Mr. Speaker, Sir, with those few remarks, I beg to move.

*(Question put and agreed to)*

**Mr. Speaker:** Next Order!

ADOPTION OF REPORT ON LIVE COVERAGE  
OF PARLIAMENTARY PROCEEDINGS

THAT, this House adopts the Report of the Select Committee on Broadcasting and televising of Parliamentary proceedings laid on the Table of the House on Thursday, 3rd May, 2001.

**Mr. Speaker:** Is Mr. Kirwa in? Well even if he is not there, I cannot drop this Motion. I will have to defer it. The Motion is consequently deferred.

*(Motion deferred)*

#### **ADJOURNMENT**

**Mr. Speaker:** There being no other business, hon. Members, the House is adjourned until tomorrow, Thursday, 28th March, at 2.30 p.m.

The House rose at 5.10 p.m.