

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 13th November, 2003

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of the Catering Training and Tourism Development Levy Trustees for the year ended 30th June, 2001, and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister for Tourism and Information (Mr. Gumo) on behalf of the Minister for Tourism and Information)

Annual Report and Accounts of the Kenya Ports Authority for the year ended 30th June, 2000, and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister for Tourism and Information (Mr. Gumo) on behalf of the Minister for Transport and Communications)

Annual Report and Accounts of the Kenya Airports Authority for the year ended 30th June, 2000, and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister for Tourism and Information (Mr. Gumo) on behalf of the Minister for Transport and Communications)

Mr. Deputy Speaker: Hon. Members, today, we will start with Questions by Private Notice.

QUESTIONS BY PRIVATE NOTICE

DEATH OF TERESIAH NJAMBI KAMAU

Mr. O.K. Mwangi: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

(a) Under what circumstances was Teresiah Njambi Kamau killed on 3rd May, 2003, at Gituru Market, Maragwa District?

(b) How many suspects have been arrested for the killing?

(c) How many of these have been charged with the offence?

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

(a) According to the postmortem report, Teresiah Njambi Kamau was strangled to death.

(b) One suspect was arrested for the offence.

(c) The same suspected in (b) above was charged in a Nyeri court with murder.

Mr. O.K. Mwangi: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for the answer he has given. On the fateful day, the deceased had boarded a *matatu* from Thika Town to Makomboki. But the *matatu* did not take her to her destination. According to eye witnesses, the deceased was left in the hands of the driver and the tout. Why were the driver and the tout not arrested?

Mr. Tarus: Mr. Deputy Speaker, Sir, the person who was arrested was the driver who was with the deceased the last time she was in the vehicle. He is Mr. Moses Mwangi Ng'ang'a. He has been charged in court vide Case No.CR273/45/2003.

Mr. Kimeto: Mr. Deputy Speaker, Sir, I heard the hon. Questioner make reference to eye witnesses. We are dealing with a criminal offence. Who are these eye witnesses? Why did they not give detailed information to enable the Assistant Minister take up the matter?

Mr. Deputy Speaker: Mr. Kimeto, is your question directed to Mr. O.K. Mwangi, or to the Assistant Minister? It seems to me that you have directed your question to Mr. O.K. Mwangi, who has asked this Question.

(Laughter)

Mr. Kimeto: Mr. Deputy Speaker, Sir, since there are eye witnesses to this murder, could the Assistant Minister tell us who they are?

Mr. Tarus: Mr. Deputy Speaker, Sir, the case is before court. I am sure that the existing machinery will avail the necessary witnesses with regard to this particular case.

Mr. Deputy Speaker: You are quite right, Mr. Assistant Minister. I do not expect that Mr. Kimeto wants the Assistant Minister to say who the witnesses in the criminal case are. Could you ask the last question, Mr. O.K. Mwangi?

Mr. O.K. Mwangi: Mr. Deputy Speaker, Sir, the information I have is that the driver of the *matatu* in which the deceased was before she was found murdered is still seen around. Could the Assistant Minister confirm that the person who has been arrested is the driver of the vehicle in which the deceased was seen before she was found murdered?

Mr. Tarus: Mr. Deputy Speaker, Sir, this is, indeed, the same person who has been charged.

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

Mr. Deputy Speaker: Next Question, Maj. Madoka!

OUTCOME OF PRESIDENT'S
VISIT TO USA AND BRITAIN

(Maj. Madoka) to ask the Minister for Foreign Affairs:-

Could the Minister inform the House on the outcome of the President's visit to the USA and Britain?

Mr. Deputy Speaker: Hon. Members, the Minister for Foreign Affairs had requested that Maj. Madoka's Question by Private Notice be deferred. So, the Question is deferred to Tuesday next week.

(Question deferred)

Next Question, Mr. Mganga!

REPAIR OF MWANYAMBO
PRIMARY SCHOOL ROOF

Mr. Mganga: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that three classrooms of Mwanyambo Primary School in Voi had their roofs blown off by the wind and that the pupils are learning in classes without roofs?

(b) Given that the long rains are just approaching and that both KCPE and end-of-year exams are on, could the Minister consider emergency financial assistance to enable the school repair the roofs?

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

(a) I am aware that three classrooms of Mwanyambo Primary School in Voi had their roofs blown off by the wind on 20th October, 2003. However, pupils are not learning in classrooms without roofs as they are accommodated in other classrooms. Unfortunately, these classrooms are crowded. That is only a temporary measure.

(b) The school has received a total of Kshs108,405 for repairs, maintenance and improvement under the Free Primary School Education Programme. The local community also raised Kshs160,000 at a Harambee presided over by the hon. Questioner before we were told not to preside over Harambees. The money, together with the amount sent by the Ministry, is being used to repair the classrooms. We hope they will be ready for use in the next two months.

Mr. Mganga: Mr. Deputy Speaker, Sir, quite often, it is forgotten that the lower zones of Taita-Taveta are arid and semi arid areas. There is a lot of poverty in those places. It would be quite a sacrifice to ask the local community to contribute anything. The Assistant Minister has said that some money was sent there for development projects. That may be so. But whatever money was spent was spent before that tragedy occurred at the school. Could he consider giving supplementary funds to the school to repair the roofs? The school is congested and not conducive for learning.

Dr. Mwiria: Mr. Deputy Speaker, Sir, if the work has not been completed with the money that was made available, we shall check with the Permanent Secretary and see whether there is some more money and give it to that school. So, we shall go back to the Ministry and find out whether we can give you something.

Mr. Deputy Speaker: Just to assist, I think we have had so many Questions about roofs being blown off and the Ministry has not come out with a clear policy. Parents in those areas wait

for the Ministry to repair classrooms and even build others. I think it is in the interest of the public, and this House, to know the policy. Should Members expect the Ministry to repair those roofs? That matter needs to be clarified. I say this as a Member of Parliament.

(Applause)

Dr. Mwiria: Mr. Deputy Speaker, Sir, I agree that we have had many cases of roofs being blown off and floods. In fact, the next Question is about floods messing up schools. The position of the Ministry is the same; that communities should build the schools, except in regions where money has been set aside for such emergencies. However, where there have been a few cases, we have tried to give some minimum amount of money. But I agree with you that we need to come up with a clear policy on that.

I would like to inform Members that those problems arise because we were so used to giving construction work to cowboy contractors in the past. The schools were poorly constructed and that is why the roofs were blown off by winds. We should ensure that schools are constructed by competent contractors who will use the money for the intended purpose. The policy of the Ministry would be that those who win contracts must be expected to do a good job, so that what is constructed can last for some time.

(Several hon. Members stood up in their places)

Mr. Angwenyi: Mr. Deputy Speaker, Sir, we cannot stop the forces of nature, even if we use the best engineers in the country. Two months ago, I was in United States of America (USA) and saw houses being blown off by hurricanes. Those houses were constructed by some of the best engineers in the world. Could the Assistant Minister tell the Member when he is going to send some money to re-roof the three classrooms? That is only about Kshs200,000 or Kshs300,000! Could he give that amount to the school immediately?

Dr. Mwiria: Mr. Deputy Speaker, Sir, when you say "immediately" it is an order! I am not so sure that we can go by that. I would also like to say that Mr. Angwenyi must have been in the USA when there was that famous hurricane. Hurricanes can mess up with any construction, however permanent it is. Honestly, I insist that if you went round to most of our schools, you will see that the quality of work done is very poor. I would like to call upon Members to ensure that the money that is available is used properly. I agree that, in some cases, we cannot fight the forces of nature. But, as I said before, we will be happy to consider the request by Mr. Mganga and see if we can assist him.

Mr. Mukiri: Mr. Deputy Speaker, Sir, as you rightly noted, many Questions have been asked about roofs being blown off. I asked a Question in this House sometime in April and the Ministry promised to assist in, at least, giving us money to roof the school. Up to now, nothing has been done! Could the Assistant Minister consider setting aside some funds for disaster preparedness? They cannot tell the local communities to organise themselves, when Harambees have been outlawed.

Dr. Mwiria: Mr. Deputy Speaker, Sir, we shall consider that. We realise it is a big problem and all of us must deal with it. It will be a joint initiative and, where necessary, communities will be called upon to assist. We will come up with a policy and set aside some money for such emergencies.

Mr. Serut: Mr. Deputy Speaker, Sir, given that the Members of Parliament, councillors,

teachers and civil servants cannot mobilise people for Harambees, and they were the only people with the capacity to mobilise others, what is the Ministry doing to build classrooms and buy desks for schools in marginalised areas?

Dr. Mwiria: Mr. Deputy Speaker, Sir, I know we cannot hold Harambees. But that took effect from last Friday. Those emergencies were there even before we were told we could not hold Harambees! That is not an excuse for not repairing those schools. However, we will send some money to the affected schools, so that whatever is needed will be bought.

Mr. Mganga: Mr. Deputy Speaker, Sir, since there appears to be a considerable level of confusion in the Ministry as to what is the policy with regard to the development of schools, the Assistant Minister has said that he is going to consult the Permanent Secretary to see whether he can give us some money. As you know, the Permanent Secretary operates under the Assistant Minister. Could he, as the person in charge of the Ministry, tell this House when he is going to release some money to that school? How much is it?

Dr. Mwiria: Mr. Deputy Speaker, Sir, first of all, I do not think there is considerable confusion about policies on such things. We said that we do not have a policy on how to deal with emergencies. We shall consider coming up with one.

Secondly, we do not carry our accounts records to Parliament. The Permanent Secretary is the Accounting Officer and he would know whether or not there are resources available for that kind of effort. We still have to consult and if we are giving you some money, we will do it immediately.

Mr. Deputy Speaker: Next Question, Prof. Olweny!

REPAIR OF SCHOOLS DAMAGED BY FLOODS

Prof. Olweny: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that Nyangoto, Mitando and Achuodho primary schools in Ombeyi Location were damaged by floods during the rains of April to July, 2003?

(b) What is the extent and value of the damage suffered by the schools?

(c) What effort is the Minister making to ensure that the schools get support needed for repairs?

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

(a) Yes, I am aware that Nyangoto, Mitando and Achuodho primary schools were damaged by floods during the rains of April to July, 2003.

(b) The following is the extent and the value of the damage to the schools: Achuodho Primary School - Kshs700,000; Mitando Primary School - Kshs680,000 and Nyangoto Primary School - Kshs687,000.

(c) The schools were repaired through community effort and the funds provided for repairs, maintenance and improvement under the Free Primary Education Programme.

Mr. Deputy Speaker, Sir, that is a similar problem. We have spoken about it and I hope most of the answers to the previous questions will apply to questions that are likely to come.

Prof. Olweny: Mr. Deputy Speaker, Sir, the work done so far as regards the repairs is minimal. The schools are in very pathetic condition. How much money did the Ministry contribute towards those repairs?

Dr. Mwiria: Mr. Deputy Speaker, Sir, the hon. Member had not asked questions about the money that was sent out there. However, I will be quite happy to check on the amount of money that

was sent for the repairs and I can always give him some notes.

Prof. Olweny: Mr. Speaker, Sir, the Assistant Minister has indicated that the Government assisted the community in carrying out the repairs. As far as I know, very little repairs were done. How much money did the Ministry contribute towards those repairs? You are not answering this question! I want an answer to this question! **Dr. Mwiria:** Mr. Deputy Speaker, Sir, I said that the Question was not about the amount of money and we have sent money through the Free Primary Education Programme. If the hon. Member would like to know how much money we have sent and since I did not bring the figure with me, I will be quite happy to give it to him even later today.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. We cannot be treated to this type of answers. I thought this honourable don will improve on the type of answers he is giving. How can he tell us that he cannot determine the amount of money required when he has told us the cost of the damage?

Mr. Deputy Speaker: Order, Mr. Angwenyi!

Mr. Angwenyi: Mr. Deputy Speaker, Sir, is it in order for the Assistant Minister---

Mr. Deputy Speaker: Order, Mr. Angwenyi! Will you sit down? I am even forgetting your name for the first time! Mr. Angwenyi, you may have a very good point but you are raising it in the wrong way. You stood on a point of order, I have not heard it and I am not prepared to hear it.

Mr. Y. Haji!

Mr. Y. Haji: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us how easy it is to contribute Kshs1 million to a Harambee and how difficult it is to repair a school where 200 children are not attending classes?

Dr. Mwiria: Mr. Deputy Speaker, Sir, could hon. Y. Haji please repeat his question? I did not get it.

Mr. Deputy Speaker: Mr. Y. Haji, could you, please, repeat your question?

Mr. Y. Haji: Mr. Deputy Speaker, Sir, I am asking: Could the Assistant Minister tell us how easy is it to contribute Kshs1 million towards a Minister's Harambee and how difficult it is to roof a school where 300 children are not able to attend classes?

Dr. Mwiria: Mr. Deputy Speaker, Sir, I did not take any Kshs1 million to any Harambee. So, I cannot say how easy it is. I have no experience with it and so I cannot determine how easy or difficult it is. I know it is not so easy to roof a class that quickly but that is no reason for us not to try to do it.

Mr. Gachagua: Mr. Deputy Speaker, Sir, as you rightly observed, the problem of the repair of school roofs and classrooms exists in many schools and, given that children will resume learning in January, would it be in order to ask the Assistant Minister to come to this House with a specific answer on how to address these problems because classes start next year in January? From the Assistant Minister's answer, you could hear that he was going round in circles. Could he bring a specific answer to this House about the problems that exist in these primary schools?

Dr. Mwiria: Mr. Deputy Speaker, Sir, I have not gone round in circles so many times because if I did so, I would be dizzy. However, I would like to say that if the House requires a Ministerial Statement on these kinds of problems, I think we would be quite happy to figure it out as a Ministry and come up with a Ministerial Statement whenever the hon. Member thinks would be a reasonable time for us to issue that kind of Statement.

Mr. Deputy Speaker: Yes, Mr. Assistant Minister. It would save a lot of the time of this House. Therefore, the Chair now directs that the Assistant Minister for Education, Science and Technology brings a Ministerial Statement next week to give us the policy on construction and repair of primary schools because there seems to be confusion over this issue.

Next Question by Private Notice, Maj. Madoka!

IMPOSITION OF BAN ON
MOVEMENT OF TIMBER

Maj. Madoka: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Environment, Natural Resources and Wildlife the following Question by Private Notice.

- (a) Is the Minister aware that there is a ban on the movement of all timber in the country?
- (b) Why was the ban imposed?
- (c) When will it be lifted?

The Assistant Minister for Environment, Natural Resources and Wildlife (Prof. Maathai): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that there is a ban on the movement of all timber in the country.

(b) The ban on the movement of timber was imposed to pave way for effective implementation of the necessary reforms in the Forest Inspection and Protection Unit. You will recall that the Government took various actions including the sending of 829 Forest Officers on compulsory leave on 24th October, 2003 to facilitate reforms in the Forest Department. The reforms include streamlining forest-related activities such as logging and movement of timber from within and across the borders.

Mr. Deputy Speaker, Sir, the Government was forced to take this drastic action following the extensive destruction of the country's forest cover which currently stands at a meagre 1.7 per cent. This situation led to inadequate supply of timber and other wood products, thereby undermining the country's efforts to industrialise and create employment opportunities. It has also led to deforestation and degradation of important water catchment areas which has adversely reduced water flow and at the same time increased soil erosion and siltation, thus negatively impacting on crucial economic sectors such as power generation, agriculture and fisheries development.

Mr. Deputy Speaker, Sir, I, therefore, wish to state that the imposition of the ban on movement of timber is just one among several other stop-gap measures which the Government has taken to facilitate the re-organisation of the Forest Department.

(c) I want to assure the House that the ban on the movement of timber is temporary and will be lifted as soon as the re-organisation of the Forest Department is complete, with all regulatory mechanisms firmly in place.

Maj. Madoka: Mr. Deputy Speaker, Sir, the Assistant Minister has addressed this Question to the gazetted forests. However, in this country, there are many people who grow trees on their private land and they sell timber to be able to earn their living. They plant trees for timber in order to construct their houses, pay school fees *et cetera*. What are you going to do about this category of Kenyans because, unless something is done, the Government will continue to impoverish Kenyans?

Prof. Maathai: Mr. Deputy Speaker, Sir, we are very much aware of this dilemma. Unfortunately, once trees are cut and you have timber, it is very difficult sometimes to tell whether the trees have come from the forest, whether they have been harvested legally or illegally or whether they have come from farms. Therefore, the Ministry, in co-operation with the Provincial Administration, is looking very seriously into this matter to see what we can do to facilitate the movement of timber if it is from farms. It is something that is not very easy but we are right now in consultation with the Provincial Administration.

Mr. Kombe: Mr. Deputy Speaker, Sir, last week, the Assistant Minister said that she had issued a circular to the Provincial Administration to consider those individuals who are harvesting timber from their *shambas*. However, it is unfortunate that the circular has not reached the Provincial Administration. I went and consulted with the Provincial Administration and they told me

that they are not aware of the circular. Could the Assistant Minister confirm to this House that she is going to make sure that the circular is implemented because my people in Magarini are suffering? They never harvested and right now, they are harvesting charcoal from their *shambas*.

Mr. Deputy Speaker: That is enough! Mr. Kombe, you have asked your question. Madam Assistant Minister, you may reply.

Prof. Maathai: Mr. Deputy Speaker, Sir, we shall make sure that the circular from our Ministry reaches all provincial administrators in order to effect it. But if it has not reached your area yet, then you have to be patient because it probably could be due to lack of transport facilities that the letters have not reached certain administrators.

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

Mr. Deputy Speaker: Mr. Angwenyi, is it a point of order or a question? Yesterday, I did ask hon. Members not to be standing and saying, "point of order", because it has become a habit. I realised that those points of order eventually turn out to be questions! Hon. Members have responded well to my plea with the exception of one hon. Member. Therefore, if I am going to allow you to raise the point of order, and, let it be a point of order. There you are!

Mr. Angwenyi: Mr. Deputy Speaker, Sir, is the Assistant Minister in order to tell untruths to hon. Kombe, that the circular is yet to reach his area when, in fact, she had told us earlier on in her reply that the Ministry is consulting before it could give out a policy guideline that will address the issue of harvesting timber in privately-owned forests?

Prof. Maathai: Mr. Deputy Speaker, Sir, the hon. Member said that he knows of a circular that has been issued, but has not reached certain areas. At least, that is my understanding. If the circular has not reached certain areas, I am sure it is probably because of distance. Otherwise, the circular ought to have reached most areas.

Mr. Khamasi: Mr. Deputy Speaker, Sir, the Assistant Minister's circular states that all the activities in the forests will cease on 31st December, 2003. Besides harvesting forests for timber in the Government gazetted forests, there are *shambas* whereby farmers have planted their own crops. As of now, the Provincial Administration is preventing farmers from harvesting their crops in the *shambas* yet they are ready for harvesting. Could the Assistant Minister tell us when the order is supposed to become effective? Is it supposed to be effective now to deny farmers harvesting their crops in their areas under the *shamba* system?

Prof. Maathai: Mr. Deputy Speaker, Sir, the announcement from our Ministry was such that people who cultivate food crops in the forests are given until 31st December, 2003 to move out. What that means is that they should be able to access their farms in the forests and should be able to harvest their crops until 31st December, 2003.

Mr. Chepkitony: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the circular that was issued is dictatorial because it amounts to interference in private businesses and property in this country?

Prof. Maathai: Mr. Deputy Speaker, Sir, no!

Maj. Madoka: Mr. Deputy Speaker, Sir, I think the Assistant Minister has not made it clear. Mr. Kombe had asked whether there are specific instructions that people can continue harvesting their trees in their private land. She should be able to tell us if, indeed, a circular was issued by her Ministry instructing people to continue harvesting their trees until 31st December, 2003.

Prof. Maathai: Mr. Deputy Speaker, Sir, the circular allowed the harvesting of food crops only. That seems not to be the case here. May I request that I be given time until tomorrow to have a look at the circular because there seems to be several circulars that we are addressing here. There was a circular with respect to the food crops in the forests. It was about the farmers being able to

access the food crops in the forests, but that has nothing to do with harvesting timber on people's personal farms. Those are two different issues.

Mr. Deputy Speaker: So, Prof. Maathai, you are asking the Chair to defer the Question until Tuesday because tomorrow there is no sitting so that you can bring a more satisfactory answer. Do you want the Question to be deferred?

Prof. Maathai: Mr. Deputy Speaker, Sir, all I would need is to have a look at the circular so that I can be sure whether I am dealing with one or two circulars, but not to answer the Question. I believe I have already answered the Question.

Hon. Members: Not satisfactorily!

(Loud consultations)

Prof. Maathai: Okay, I can answer it on Tuesday.

Mr. Deputy Speaker: No! Certainly there are some issues which appear not to be clear and even the Assistant Minister herself has said that there appears to be confusion about the circulars. Therefore, I defer the Question until Tuesday so that the Assistant Minister can come with proper information, and especially clarify the issue on circulars.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Mr. Deputy Speaker: The Minister for Water Resources Management and
[**Mr. Deputy Speaker**]

Development will be leading a delegation to Uganda today and she has asked the Chair that she be given an opportunity to answer the Question listed under her Ministry. I think that is reasonable, and I will, therefore, ask Mr. Omamba to ask his Question.

Question No.920

WATER SUPPLY TO RAPOGI DIVISIONAL HEADQUARTERS

Mr. Omamba asked the Minister for Water Resources Management Development:-

- (a) whether she is aware that the borehole at Nyamasi stream near Rapogi Divisional Headquarters is not operational; and,
- (b) what plans she has to supply the headquarters with water.

The Minister for Water Resources Management and Development (Ms. Karua): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that there is a water well fed by Nyamasi stream near Rapogi Divisional Headquarters which is the source of water for the water supply currently being managed by Rapogi Divisional Catholic Mission.

(b) My Ministry has initiated a design for a water project for Rapogi Divisional Headquarters by harvesting water from the various springs in the area. The design is expected to be ready by January, 2004 to enable the project to be budgeted for in July, 2004.

The implementation of the project will, therefore, commence in July, 2004 using the allocated funds.

Mr. Omamba: Mr. Deputy Speaker, Sir, I am thankful for the answer given by the Minister. However, this particular water supply will supply water to many main institutions around the area, that is, administration headquarters, the market, Rapogi High School, Rapogi Girls Secondary School, and Rapogi Mixed Secondary School among others. So, there are so many institutions the water supply project will serve. How much money does the Minister propose to spend on this project because the water supply ought to cover a very large area?

Ms. Karua: Mr. Deputy Speaker, Sir, I am aware that this water supply project will serve many institutions. I cannot talk of the cost now. Once the design is ready it will be prepared together with the cost estimates and then we will know what to request in the forthcoming Budget.

Mr. Deputy Speaker: It seems like that Question is satisfactorily answered. Do you still have any question to ask?

Mr. Omamba: Mr. Deputy Speaker, Sir, I am hopeful and I trust that the Minister will fulfil her promise by January, 2004. I will be around to see if work has already started.

Mr. Deputy Speaker: Mr. Omamba, that is not a question. You have just made a statement!

Mr. Omamba: Mr. Deputy Speaker, Sir, I am satisfied with the answer.

Mr. Deputy Speaker: Order, Mr. Omamba! We shall now revert to the normal order.

Question No.515

KANU YOUTH WINGERS'
PARTICIPATION IN MADARAKA
DAY CELEBRATIONS

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

(a) why KANU youth wingers were allowed to march in public at Afraha Stadium in the political party uniform, armed with mock wooden rifles during the Madaraka Day celebrations on 1st June, 2003; and,

(b) why the Provincial Commissioner did acknowledge their salute.

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

(a) KANU youth wingers have had the tradition of participating in national celebrations by joining the march-past parade alongside scouts, municipal council *askaris* and private security guards. The youth wingers were, however, not armed with mock wooden rifles as alleged.

(b) The Provincial Commissioner (PC) normally acknowledges the salute of the entire march-past parade.

(Applause)

Mr. M. Kariuki: Mr. Deputy Speaker, Sir, can you protect me from these loud consultations?

Mr. Deputy Speaker: Order! Order! Mr. M. Kariuki, you are very well protected.

Mr. M. Kariuki: I am really surprised by the Assistant Minister, who is a lawyer, when he says that political party youth wingers went to the celebrations in uniform, when the Public Order Act outlaws the use of party uniforms. I will read the Act for his benefit, just in case he has forgotten the law. This is Section 4 of the Public Order Act, which when read together with Legal Notice No.387 says:

"The wearing in public places or in a public meeting of uniforms of any distinct

dress, which signifies association with any political organization, or with promotion of any political objects is hereby prohibited".

(Applause)

Mr. Deputy Speaker, Sir, the Assistant Minister admits that the party youth wingers were in uniform. That is in contravention of the law. In fact, it is a criminal offence punishable under that particular provision of the law. Could the Assistant Minister---

Mr. Deputy Speaker: Order, Members! Order! Members of the Opposition Front Bench, you are supposed to be the Government in waiting! So, will you behave as such?

(Laughter)

Order, now! Mr. M. Kariuki, please, finish up.

Mr. M. Kariuki: Mr. Deputy Speaker, Sir, we have had nasty experiences with KANU youth wingers in Nakuru. They have gone as far as joining the Traffic Police in stopping people on the roadside.

(Applause)

Could the Assistant Minister make the position clear, that the law will be complied with, and that the wearing of party uniform is outlawed in accordance with the law so that we do not mislead people? It was actually a criminal offence for the PC to acknowledge their salute!

Mr. Deputy Speaker: Order, Mr. M. Kariuki! You are now giving us a lecture! This is Question Time!

Prof. Kibwana: Mr. Deputy Speaker, Sir, we answered this Question factually, because it is a fact that the KANU youth wingers did attend those celebrations. But the hon. Member of Parliament is quite in order to state that, under the law, this is not permitted. Indeed, in the subsequent celebrations, we did not allow the same to happen because we did point out that it was not in accordance with the law.

Secondly, one party cannot be allowed to attend celebrations in uniform while other parties are being denied to do the same because that would be discrimination.

Ms. Abdalla: On a point of order, Mr. Deputy Speaker, Sir. I was very happy with the original answer by the Assistant Minister. I would like him to confirm that members of this society who are not NARC-compliant are not allowed to attend public meetings.

(Applause)

Prof. Kibwana: Mr. Deputy Speaker, Sir, all Kenyans are allowed to attend all celebrations. But the question here is about being involved in a march-past parade, like the police, General Service Unit (GSU) and all the other uniformed people. That is the question. Uniformed youth wingers from any party are not allowed to join the march-past parade.

Mr. Deputy Speaker: Let us have the last question from Mr. M. Kariuki.

Hon. Members: PC!

Mr. Deputy Speaker: Order! Order! Order, Members! You know what happened last week!

Proceed, Mr. M.Y. Haji! He was my PC after all!

Mr. M.Y. Haji: Thank you, Mr. Deputy Speaker, Sir. Will the hon. Assistant Minister assure the House that since they are going to ban uniformed youth wingers from being paraded in public functions, particularly in national days, that the Girl Guides, Boy Scouts and others are also not allowed to use their uniforms?

Prof. Kibwana: I think, Mr. Deputy Speaker, Sir, we are talking about youth wingers of political parties.

Mr. Deputy Speaker: Last question! Do you have a question, Mr. M. Kariuki? Order!

Dr. Khalwale: Mr. Deputy Speaker, Sir, I have been given the last chance by Mr. M. Kariuki!

Mr. Cheboi: On a point of order, Mr. Deputy Speaker, Sir. I think the Assistant Minister and the Questioner have totally misled this House. The youth wingers do not fall under the Public Order Ethics Act, because they are not public officers. So, they are exempted because they are not covered by that Act.

(Applause)

Mr. Deputy Speaker: Order! Order!

Prof. Kibwana: Mr. Deputy Speaker, Sir, the hon. Member is confusing between two laws. There is no Public Order Ethics Act!

(Laughter)

Mr. Deputy Speaker: Yes, and in any case, Mr. Cheboi, that was not a point of order. Last question, Dr. Khalwale!

Dr. Khalwale: Mr. Deputy Speaker, Sir, one of the problems that the NARC Government has incurred since it took over is that, we have civil servants who are reluctant to implement the programmes of the new Government. In view of the fact that the PC went out of his way to salute the KANU youth wingers, what action is the Assistant Minister going to take against this particular PC who is fighting the Government?

Prof. Kibwana: Mr. Deputy Speaker, Sir, actually these celebrations are organized by the District Commissioners (DCs), who even have their District Officers (DOs) being in charge of the celebration committees and the PC merely comes to officiate at the celebrations. But we are also carrying out investigations to be sure that this was not done deliberately, but it was just because of the habit born out of tradition.

Mr. Deputy Speaker: Next Question! Order, Members! We cannot continue like this at the whim of hon. Members! The Chair is in charge, and must appear to be in charge!

Next Question by Dr. Kuti!

Question No.560

COMMISSION TO INVESTIGATE INSECURITY
AMONG ASAL COMMUNITIES

Dr. Kuti asked the Minister of State, Office of the President whether he could consider constituting a commission of inquiry to investigate the causes and ways of eradicating insecurity among ASAL communities.

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Deputy Speaker,

Sir, we do request that we answer this Question on Tuesday, 18th November, 2003, because we have not as yet got a complete reply.

Mr. Deputy Speaker: Is that all right with you, Dr. Kuti?

Dr. Kuti: I have a written three-page answer to the Question. Can I give the answer to the Assistant Minister?

Mr. Deputy Speaker: Order! I think this is not the first time. Order, Assistant Minister!

*(Dr. Kuti hands over the answer
to the Clerks-at-the-Table)*

Order! You are out of order, Dr. Kuti! I did not say that it should be given!

Order, hon, Members! The hon. Questioner has the written answer and you do not have it!

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Deputy Speaker, Sir, could that answer be given to you, so that you can see that it is not complete?

Dr. Ali: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, Dr. Ali! Will you sit down! Mr. Assistant Minister, we expect more seriousness from you than that. You have said that I be given the answer to see that it is not complete. If it was not complete, why did it leave the office and find its way to the hon. Member's possession? Perhaps the Assistant Minister could just say that there is something wrong with the answer and we defer the Question. It is not fair to ask the Chair to look at the answer and confirm that it is not complete. The Chair will not know whether it is complete or not.

Mr. Assistant Minister, could you finish, please?

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Deputy Speaker, Sir, as I requested before, we require more time to compile a complete and satisfactory answer, so that the hon. Member is eventually satisfied.

Mr. Deputy Speaker: It appears to the Chair that there is an answer that the Assistant Minister is not satisfied with. He, therefore, wishes to get a more satisfactory answer. For that reason, I will defer the Question to next Tuesday.

(Question deferred)

Question No.551

COMPENSATION FOR TRAFFIC
ACCIDENT VICTIM

Dr. Ali: Mr. Deputy Speaker, Sir, I complained about this Question. I had directed it to the Attorney-General and it was redirected to the Office of the President. The answer I got states that the matter has been forwarded to the Attorney-General.

Mr. Deputy Speaker: Hon. Members, again, we have a problem with Question No.551. What Dr. Ali says is correct. The Question was originally referred to the Attorney-General and now the answer comes from the Office of the President. When I look at the reply, part "b" says that the matter has been forwarded to the Attorney-General. Again there is a problem there. Therefore, I order that this Question be deferred to next week and referred to the Attorney-General. It was originally sent to the Office of the Attorney-General and, therefore, we expect him to come and answer it. Is that okay, Dr. Ali?

Dr. Ali: Yes, Mr. Deputy Speaker, Sir.

(Question deferred)

Question No.342

GRAVELLING OF ROADS IN KITUTU CHACHE

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

(a) whether he is aware that the following roads in Kitutu Chache are easily rendered impassable most of the year as a result of heavy rains that are prevalent in the hilly constituency:

E208 Marani-Kegogi-Muruka;

E218 Kisii-Eronge-Bonyunyu;

D220 Oyugis-Rioma-Manga;

D221 Ngenyi-Isecha-Bonyunyu; and,

E1070 Matembe-Rioma-Ruga; and,

(b) whether he could make a budgetary allocation from the 24 per cent component of Fuel Levy under the Kenya Roads Board Act for the fiscal year 2003/2004 to gravel these essential roads.

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

(a) I am aware that the roads in question are impassable during the wet season, especially on the hilly earth sections.

(b) My Ministry will not fully gravel the roads since the 24 per cent component of the Fuel Levy is being spent on the on-going road projects all over the country. However, each district will be allocated part of the 24 per cent to help in spot improvements of roads in each of them.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, we are the people who enacted the law regarding the 24 per cent Fuel Levy Fund. It was meant to be spent on areas which were forgotten previously. This is one of the areas. An appropriate and adequate amount should have been voted to gravel these roads. If the Ministry does not have funds, could the Assistant Minister undertake to gravel, at least, two of these four roads?

Eng. Toro: Mr. Deputy Speaker, Sir, in the current financial year, Road E208 Marani-Kegogi-Muruka, which is 22 kilometres long, is listed for improvement and gravelling the bad sections at a cost of Kshs8.8 million.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I am thankful that the Ministry has decided to gravel that road. This is an area that earns a lot of revenue for this Government. That revenue is spent elsewhere in the country. We demand that we be allocated adequate funds. We were told the day before yesterday by the Minister for Roads, Public Works and Housing that the cost of gravelling one kilometre road is Kshs1 million. If this road is 22 kilometres long, how can Kshs8.8 million gravel it?

Eng. Toro: Mr. Deputy Speaker, Sir, I said that Kshs8.8 million will be used to improve and gravel the bad sections of that road, which are easily rendered impassable when it is wet. However, I would like to correct the hon. Member. The cost of gravelling a kilometre of a road has now come down to approximately Kshs1 million from Kshs5 million. Also, I would like to inform him that in the current financial year, part of the 24 per cent Fuel Levy Fund which has been allocated to his district for improvement of roads is about Kshs10 million.

Mr. Kaindi: Mr. Deputy Speaker, Sir, early this year, the Minister brought to this House a

comprehensive list indicating how the 24 per cent had been used in the past. Could the Assistant Minister bring to this House a comprehensive list showing how the Ministry intends to use the 24 per cent throughout the country?

Eng. Toro: Mr. Deputy Speaker, Sir, that is a very good request. We will compile a list to indicate the portion of the 24 per cent that is going to the districts directly and the portion that will be retained for the on-going road projects in the country.

Mr. Wanjala: On a point of order Mr. Deputy Speaker, Sir. The Assistant Minister has promised to bring a comprehensive list to the House. Would I be in order to ask you to defer the Question, so that he can bring the list? That list is very useful. Last year, we suffered because our district did not get any money and the money had already been used. The list will indicate which districts will receive money and which ones will not. Could you defer the Question until next week, so that the Assistant Minister can bring the list?

Mr. Deputy Speaker: Mr. Wanjala, we cannot defer all the Questions. Certainly, the Assistant Minister has promised that he will provide the list to all hon. Members. I have seen Ministries circulating lists to hon. Members. So, we have to take the Assistant Minister's word that he will provide the list to hon. Members.

Mr. Obwocha: Mr. Deputy Speaker, Sir, first of all, one of these centres is in my constituency. It is not "Muruka", but "Miruka" and "Matembe" should be "Metembe". Since the Assistant Minister has said that he cannot do all these roads, could he tell this House how much will be required to do all the five roads?

Eng. Toro: Mr. Deputy Speaker, Sir, as the hon. Member will notice, all these roads are Classes "D" and "E", which specifically fall under the District Roads Committee (DRC). The Ministry is looking into the roads that require some attention from the Ministry's Roads Department. For example, I said we will allocate Kshs8.8 million to this Class "E" road, which is under the DRC. So, it is not possible for the Ministry's Roads Department to cope with all these classes of roads.

However, as I said, the Kshs10 million that has been allocated to the district can be prioritised and allocated to the deserving roads that serve tea factories in the district.

(Mr. Angwenyi stood up in his place)

Mr. Deputy Speaker: Mr. Angwenyi, I assumed that Mr. Obwocha asked the last a question. Anyway, you may ask your question.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the question by Mr. Obwocha was: How much will it cost to repair those five roads? This is a matter of equity. Some regions in this country have their roads done to bitumen standards. I know in the Chair's region, for example, people are suffering because of the poor state of roads. For how long shall we continue to suffer and yet, we generate so much money for this nation? As a matter of urgency, could the Assistant Minister allocate money from the Emergency Fund (EF) and repair those five roads? The Government should take care of all Kenyans, especially those who are generating more revenue.

Eng. Toro: Mr. Deputy Speaker, Sir, the hon. Member's sentiments are noted. However, there are so many roads countrywide that deserve equal allocation of funds as the roads listed here. It is not possible to deal only with the roads in one constituency when allocating the EF. These funds are distributed countrywide to the deserving cases. This will be done as and when funds are available.

Mr. Deputy Speaker: Next Question, Mr. Rotino!

GRAVELLING OF CHEPKORNISWA-
SINA-TAPACH ROAD

Mr. Deputy Speaker: Mr. Rotino is not here. Therefore, the Question is dropped.

(Question dropped)

Next Question, Mr. Ndambuki!

Mr. Ndambuki: Mr. Deputy Speaker, Sir, although I have not received a written reply, I will go ahead and ask my Question.

Question No.548

AMBULANCE FOR NUNGUNI
SUB-DISTRICT HOSPITAL

Mr. Ndambuki asked the Minister for Health when the Ministry will provide an ambulance to Nunguni Sub-District Hospital.

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

Nunguni Sub-District Hospital will be provided with a new ambulance during this financial year.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, when the Assistant Minister says Nunguni Sub-District Hospital will be provided with an ambulance this financial year, could he be a bit more specific? When will this be done?

Mr. Konchella: Mr. Deputy Speaker, Sir, the vehicle is being registered now by the Ministry. It could be collected any time from next week.

Mr. Deputy Speaker: As far as that Question is concerned, the answer has been given. You do not have to belabour it. Mr. Ndambuki, perhaps, you could thank the Assistant Minister!

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for that answer. I will be there next week.

Mr. Deputy Speaker: Very well!
Next Question, Mr. Manoti!

Question No.931

RENOVATION OF NYAMACHE SUB-DISTRICT
HOSPITAL BUILDINGS

Mr. Manoti asked the Minister for Health when the Ministry will renovate the old buildings at the Nyamache Sub-District Hospital to be in line with the newly constructed building funded by the Japanese Government.

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

Renovation of the old original building at Nyamache Health Centre will be programmed during the next three year Medium-Term Expenditure Framework (MTEF) budget allocation from

2004 to 2007. However, the complex structure that came up through the community initiative will be assessed by the Ministry of Roads, Public Works and Housing to determine its suitability for renovation for public use.

Mr. Manoti: Mr. Deputy Speaker, Sir, arising from the answer given by the Assistant Minister---

(Loud consultations)

Mr. Deputy Speaker: Order, Members! Could you, please, consult quietly! Proceed, Mr. Manoti!

Mr. Manoti: Mr. Deputy Speaker, Sir, the Assistant Minister says that they could consider renovating and repairing the old buildings. These buildings were constructed 30 years ago. If you look at that health centre, you will wonder whether patients go there, or not. Could he undertake to complete the complex and the mortuary which was started by the community?

Mr. Konchella: Mr. Deputy Speaker, Sir, it is difficult for the Ministry to undertake the request of the hon. Member for several reasons. First of all, when the community constructed this complex, they did not consult the Ministry of Roads, Public Works and Housing. Therefore, there was no proper design. The complex was poorly put up. It will have to be re-examined by the Ministry of Roads, Public Works and Housing for them to advise us whether we take it on board or not.

Mr. Manoti: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Manoti, you are completely out of order! The Assistant Minister has not completed answering and you are already up on a point of order! I will still give you an opportunity to ask another question. Therefore, could you let other hon. Members ask questions?

Mr. Sasura: Mr. Deputy Speaker, Sir, the Assistant Minister says that this community cannot be assisted on a project which they had initiated because a mistake was made by the contractor. There is nothing like the financial year 2004-2007. Could he tell us which financial year the Ministry will undertake the works? Is it either in the next financial year or the other financial year?

Mr. Konchella: Mr. Deputy Speaker, Sir, if the hon. Member was attentive, I talked about MTEF, which is a three-year Government budgeting system. I was about to explain why the Ministry is not able to undertake any maintenance or repair of this structure because of the shoddy work that was done by the contractor. They did not consult the Ministry of Roads, Public Works and Housing. They went ahead and built on a ground that is not suitable for construction. When it rains, the whole place floods; you cannot use it. Worst of all, they built a mortuary next to the staff living quarters. I have the plan here. It is something that needs to be done and planned properly by the Ministry of Roads, Public Works and Housing before the Ministry of Health could take over this project.

Mr. Manoti: Mr. Deputy Speaker, Sir, the Ministry of Roads, Public Works and Housing has already assessed the remaining works. It is valued at Kshs4 million. Since the Ministry has already done their assessment, could he assist the community to have those facilities work?

Mr. Konchella: Mr. Deputy Speaker, Sir, the Ministry is not aware of the assessment. We will ask the hon. Member to forward the assessment to us, through the Provincial Medical Officer (PMO), so that we can look at it.

PAYMENT OF SUBSISTENCE ALLOWANCE
TO MALAVA TOWN COUNCIL WORKERS

Mr. Deputy Speaker: I will defer Mr. Shitanda's Question to next week because the Assistant Minister for Local Government is indisposed. Therefore, she has requested that we defer this Question. Mr. Shitanda is also not here.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I rise to ask this Question on behalf of Mr. Shitanda.

Mr. Deputy Speaker: I have just said that the Assistant Minister is indisposed. She has, therefore, requested that the Question be deferred. Therefore, the Question is deferred.

(Question deferred)

Next Question, Mr. Ngozi!

Mr. Mganga: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: You are not Mr. Ngozi!

Mr. Mganga: Mr. Deputy Speaker, Sir, I rise to ask the Question on behalf of Mr. Ngozi.

Mr. Deputy Speaker: Very well, proceed!

Question No.594

AMOUNT OF REVENUE GENERATED
FROM SPECIAL RATES TOURISTS

Mr. Mganga, on behalf of **Mr. Ngozi,** asked the Minister for Tourism and Information:-

(a) how much revenue is generated from the tourists who visit the country through the special rates organized by the tour operators abroad; and,

(b) who oversees the negotiations abroad to ensure that the rates agreed upon do apply locally.

Mr. Deputy Speaker: Is anyone here from the Ministry of Tourism and Information? Since there is no one, I will, therefore, defer this Question to Tuesday next week and ask the Leader of Government business to inform the Minister.

(Question deferred)

Very well, last Question on the Order Paper by Mr. Obwocha!

Question No.318

ESTABLISHMENT OF SPORTSMEN
RETIREMENT FUND

Mr. Obwocha asked the Minister for Gender, Sports Culture and Social Services if he can consider establishing a "Sportsmen Retirement Fund" to benefit all sportsmen who have brought glory to this country.

The Assistant Minister for Gender, Sports, Culture and Social Services (Mrs. Chelaite):

Mr. Deputy Speaker, Sir, I beg to reply.

My Ministry is aware that the welfare of both retired and active Kenyan sportsmen and sportswomen has not received adequate attention from stakeholders. In the Draft Sessional Paper No.1/2003 on Sports Development which is to be tabled soon in this House, the Ministry has proposed the establishment of a national trust fund which will initially be funded by the Treasury. Subsequently, the sources of funding will be the National Sports Lottery. The objective of the national trust fund will be to take care of the welfare of both retired and active sportsmen and sportswomen who have brought glory to Kenya.

Mr. Deputy Speaker, Sir, in view of the fact that it will not be practicably possible to singly address the concerns of every retired athlete, veteran athletes are being encouraged to establish their respective national associations with branches at the district level. The National Olympic Committee of Kenya (NOCK) on its part has formed the Olympic Veterans Association, which aims at addressing the welfare of its members. It is, therefore, envisaged that the National Trust Fund will support the registered branches of such national associations of the sports veterans.

Mr. Obwocha: Mr. Deputy Speaker, Sir, this country must be serious about our sportsmen who have brought glory to our country. You know that prominent athletes have died without a single cent. Others are now taking up citizenship in other countries because we do not have a policy in place to take care of them. I am happy that the Assistant Minister is going to start this fund. Could I ask that for veteran athletes who have retired and are known, for instance, senior ones like Kipchoge Keino, and Charles Asati who died recently, that the Government sets a fund aside, some little money for them, before this fund is established? It can be Kshs1 million for the prominent ones.

Mrs. Chelaite: Mr. Deputy Speaker, Sir, as I said before, the Ministry is working on Sessional Paper No.1, which is going to be tabled soon, to give the guidelines of the sportsmen and sportswomen fund of this country. I would like to assure the Members that we have the list of the veteran athletes in our Ministry and if he wants me to name them, I know all of them. We are going to take care of them; we have even started asking urban centres to reserve some roads that can be named after the veterans. We are also going to establish a Presidential award so that our athletes are recognised in the future.

Mr. Salat: Thank you, Mr. Deputy Speaker, Sir. Mine is to ask the Assistant Minister, just like we are about to send our athletes to represent us in the Olympics, could she give an incentive so that any athlete who brings gold to this country will be exempted from paying taxes?

Mrs. Chelaite: Mr. Deputy Speaker, Sir, I would like to tell this House that we have already done that. I remember recently we gave an exemption to some of our athletes to bring cars to this country without paying any duty.

Mr. Ndolo: Mr. Deputy Speaker, Sir, I want to thank the Minister for that answer. As far as we know, right now, in this country, if you watch the television everyday, you come across some of our veteran athletes who are suffering, are sick, and cannot even afford medicine. These sportsmen and sportswomen have made us proud in this country for a long time. Now, the Assistant Minister is saying that the Ministry is going to do something for our sportsmen and sportswomen, while they are about to die. Our Assistant Minister is saying that she is going to do something. They even go to China to earn their own money, while the Ministry is doing nothing. What is the Ministry doing right now? Tell us.

Mrs. Chelaite: Mr. Deputy Speaker, Sir, when we get information about this, we normally liaise with the associations and the federations of which the sportsmen and sportswomen come under. I want to assure this House that if we come across such information, we always call upon the private sector to come to our aid because we did not budget for that. It is not our fault. The previous

Government did not take care of our sportsmen. The NARC Government is now committed to see that we take care of them, award them and go as far as getting hospital insurance cover for them.

Mr. Deputy Speaker: Hon. Members, we have overstretched Question Time by 15 minutes. Therefore, we will have the last Question from Mr. Obwocha. I am sorry.

Mr. Obwocha: Mr. Deputy Speaker, Sir, my last question is this, and it is a very important one. Could the Assistant Minister tell the people of this country what the Ministry is going to do about the Kenyan athletes who are taking up foreign citizenship for example; the one who took up citizenship in Qatar and robbed us the gold medal in the 3,000 metres steeplechase?

Mrs. Chelaite: We were not able to bar those sportsmen from taking citizenship in other countries because we have not been able to award them. We know that this is a person's initiative. As I said before, we have taken measures to establish an award for them so that when they win, they are given money the way other countries do. Therefore, so far, we are addressing the issue and can come up with a fund in future.

Mr. Deputy Speaker: Very well. That is the end of Question Time.

POINT OF ORDER

STATE OF THE TEA INDUSTRY IN THE COUNTRY

Mr. Munya: Mr. Deputy Speaker, Sir, I rise to demand a Ministerial Statement from the Minister for Agriculture on the state of the tea industry in the country. Since the privatisation of KTDA, farmers' net earnings have been declining. I would like to get---

Mr. Deputy Speaker: Just a minute, Mr. Munya. Do we have the Minister for Agriculture or an Assistant Minister here?

(Mr. Khaniri stood up in his place)

Mr. Deputy Speaker: Continue, Mr. Munya.

Mr. Munya: Mr. Deputy Speaker, Sir, I would like to address the issue of declining tea earnings for farmers, transparency in auction prices and the assets that were owned by the KTDA before its privatisation, and finally, the eight years' deductions from farmers that were supposed to be converted into shares for farmers.

The Assistant Minister for Agriculture (Mr. Khaniri): Mr. Deputy Speaker, Sir, I request that we be given up to Thursday next week to come up with this statement.

Mr. Deputy Speaker: Very well.

Mr. Mbau: Mr. Deputy Speaker, Sir, I rise---

Mr. Deputy Speaker: Did you request for anything?

Mr. Mbau: A Ministerial Statement.

Mr. Deputy Speaker: Are you asking for one?

Mr. Mbau: I am seeking a Ministerial Statement.

Mr. Deputy Speaker: But you did not see the Chair before. When you want to demand a Ministerial Statement, the procedure is that you see Mr. Speaker or the Deputy Speaker so that you are facilitated.

Very well. The Minister for Finance.

MINISTERIAL STATEMENT

THE CONSTITUENCY DEVELOPMENT
FUND BILL

The Minister for Finance (Mr. Mwiraria): Mr. Deputy Speaker, Sir, I beg your indulgence to inform the House on the discussions we have concluded and the agreement we have reached on the Constituency Development Fund Bill.

Mr. Deputy Speaker, Sir, I want to inform the House that I am happy to report an agreement between me and the author of the Bill, Eng. Karue, that in order to comply with Section 48 of the Constitution, he has agreed that I take over his Bill. We have gone and seen His Excellency the President who has confirmed that he had given consent to the Bill before. The only problem which really arose was that we did not follow the Motion properly because the Attorney-General had written on the 4th of April, pointing out the requirement for this item. Eng. Karue had come to me and told me so. When I was preparing the Budget before, I even brought it to this House. I had to get consent of the Cabinet, including His Excellency the President. I told them that I had included some money for the Constituency Development Fund even though, at that stage, we did not have the mechanism for disbursing the funds. That is why I put the money in the Office of the Vice-President.

Mr. Deputy Speaker, Sir, we have agreed that I take over. I will get it quickly published by next week. This House will be requested to give its blessings so that we can shorten the period when the Bill is supposed to be laid on the Table because it is new Bill. Once that is done, we can go through all the Stages---

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

Mr. Deputy Speaker: Order, Mr. Wanjala!

The Minister for Finance (Mr. Mwiraria): Then we can go through all the stages in a day. The alternative is that we get a ruling that the way the Bill was presented was unconstitutional and this Bill will "die" for six months. We do not want to do that. That is why we have gone to lengths to reach agreements to constitutionalise the procedure, so that we can pass the Bill and within the next two weeks, it will be a law. My plea to the hon. Members is that you have to chose between having this Bill and---

(Loud consultations)

No, please, listen to me!

Mr. Deputy Speaker: Order, Mr. Minister! I think you should address the Chair.

The Minister for Finance (Mr. Mwiraria): I am sorry, Mr. Deputy Speaker, Sir. I should not agree to be distracted by some hon. Members who appear to be enjoying themselves at my expense. For the sake of the Constituency Development Fund, we should accept the agreement which has been reached so that this Bill can come here republished next week. We can then seek leave of the House to shorten the period and go through the Motions in one day. We can go through First Reading, Second Reading and Committee of the Whole House in a day and it becomes law.

To me, I could not have done better than that. I was not here when it was read the First Time or the Second Time. When I came and noticed the anomaly, I drew it to the attention of the House. I did it in good faith. I want to let the hon. Members know that there is nothing hidden. His Excellency the Vice-President who was with me, and Eng. Karue at State House is seated here. He can confirm every word of what I am saying. I really wanted to state the position as it is and appeal

to the hon. Members to support this position.

(Applause)

Mr. Deputy Speaker: Order, hon. Members! I also want to say the following: I have the authority of Mr. Speaker to inform the House that, in fact, Mr. Speaker has been involved even in the Bill negotiations that the Minister has mentioned. I want to confirm that it has been agreed that the Minister for Finance will take over. All that it means is that it will now be a Government Bill.

We further agreed that all the stages of Reading, with the indulgence of the House, will be shortened and done immediately, since the Bill has been debated. So, this is really a matter of procedure. I would like to seek the indulgence of the House that we agree and trust that Mr. Speaker, the Minister and Eng. Karue have reached an agreement on this matter.

Mr. Wanjala: On a point of order, Mr. Speaker, Sir. We have the Attorney-General of this country. The Government doubted him. They again added the docket of the Minister for Justice and Constitutional Affairs. This Bill has not been introduced today. We were with the Minister in Safari Park. We have come a long way from the time when we were seated with the Attorney-General and the Minister for Justice and Constitutional Affairs who are supposed to advise the Government.

In every Ministry, there is a legal officer. How do we trust them if they have all let us down from the day we started to today? If they were mature, the Attorney-General and the Minister for Justice and Constitutional Affairs would even have resigned for failing to advise the Government!

We should defer debate on the Appropriation Bill and concentrate on the Constituency Development Fund. When we finish with this next week, then we will pass the Appropriation Bill because that is where the money is supposed to be.

(Applause)

Mr. Obwocha: Mr. Deputy Speaker, Sir, I share the sentiments of Mr. Wanjala, but I would like to add that it is very disappointing that at this very late stage, we are doing what we are doing as a House.

Mr. Deputy Speaker, Sir, now that what the Minister has said is water under the bridge, I would like to agree that the Minister, in taking over this Bill, takes over all the amendments Ms. Karua has proposed and all the amendments proposed by the Finance, Planning and Trade Committee, and comes up with a refined Bill, so that we do not have all those miscellaneous and very many amendments. For now, I will agree with Mr. Wanjala that the Appropriation Bill and the Finance Bill be put at bay until this is done.

Dr. Galgalo: Mr. Deputy Speaker, Sir, the sentiments expressed by the Minister are also very valid. Sentiments expressed by hon. Members are also valid. I am sure there is no hon. Member of this House who would want to shoot down the Appropriation Bill, but the mood of the House is such that there is a bit of mistrust between the hon. Members, or rather, suspicion between hon. Members and the Minister.

Mr. Deputy Speaker, Sir, through you, I would like to appeal to the Minister to avoid confrontation and in good spirit, withdraw this Bill until we finish with the Constituencies Development Fund Bill.

The Minister for Transport and Communications (Mr. Michuki): Mr. Deputy Speaker, Sir, I would like to dust off my financial experience since I am now in the Ministry of Transport and Communications. I hardly talk about money. But I think I ought to contribute to this proposal.

Mr. Deputy Speaker, Sir, in the first place, I propose that the House ought to take into

account that the money is already provided for in the Vote of the Office of the Vice-President.

Hon. Members: No!

The Minister for Transport and Communications (Mr. Michuki): Let me just explain, because this is not a strange field for me. I am not speaking on a subject I do not know.

Mr. Deputy Speaker, Sir, I understand the Minister for Finance has already provided for the money. So, the general principle of payment of the money has already been considered by the Government.

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! Could we listen to Mr. Michuki? Mr. Michuki, could you finish, please?

The Minister for Transport and Communications (Mr. Michuki): Mr. Deputy Speaker, Sir, I was making the point---

(Loud consultations)

Mr. Deputy Speaker: Order! Order! This is deliberate interruption. I can identify Mr. Salat and Mr. Weya doing that. You are disorderly. Would you stand up and proceed outside?

(Mr. Weya and Mr. Salat left the Chamber)

The Minister for Transport and Communications (Mr. Michuki): Mr. Deputy Speaker, Sir, I think I have a right, as an hon. Member of this Parliament, to be able to address this House, and that my views, even though you may not like them, at least, ought to be on record. I am saying that as I understand it, the technicality of releasing the money is what is being sought within the Act, given that the general principle of the provision has already been conceded by the Government, because the money is provided for in the Vote of the Vice-President's Office.

Mr. Deputy Speaker, Sir, I think the issue of believing or not believing is a matter of opinion, just as I am expressing my opinion. I think other hon. Members' views will also be heard. I am not the Speaker, but I am sure the Speaker will make his ruling. I want to plead with this House that they should not prevent other development projects to proceed because money is not there, just because of monies which are very little. We are here to make sure that the services---

Mr. Deputy Speaker: Mr. Michuki, will you finish, please?

The Minister for Transport and Communications (Mr. Michuki): Mr. Deputy Speaker, Sir, I will finish by saying that in my opinion, I think we are cutting our nose to spite our own face.

Mr. Deputy Speaker: Mr. Mwiraria, do you want to say the final thing?

The Minister for Finance (Mr. Mwiraria): Mr. Deputy Speaker, Sir, I really want to appeal to the hon. House that the Appropriation Bill is only doing one thing; passing the amount of money that this House has approved through the debates of individual Ministries and during the *guillotine*. We are formalising that passing of the monies. To me, quite honestly, this will not do any harm to the Constituencies Development Fund. I have said that we will publish the Bill as quickly as possible. By the end of next week, you will have the Constituencies Development Fund Bill passed.

Mr. Deputy Speaker, Sir, there is one thing I want to tell hon. Members, and I had better be honest and frank as I have always been. If we want the amount of money which is proposed to be voted included in this Bill, it will not be possible until we go to the Supplementary Estimates. I am lucky to have a former Minister for Finance, Mr. Okemo, in the House. He knows the truth. He

knows the way funds are budgeted for in this Government, and I know there are many other hon. Members who also know. The question I would like to ask hon. Members is: What are we going to get if we reject this Bill today? What benefit do we get? Really, nothing! I am appealing particularly to the Government side to give support to this Bill. I do not really know what you people would want someone to do. I told you that I gave---

Mr. Deputy Speaker: Mr. Minister, address the Chair!

The Minister for Finance (Mr. Mwiraria): Mr. Deputy Speaker, Sir, I am afraid here, I have to appeal to the hon. Members through you, Sir.

The issue really is whether or not hon. Members will accept to give this Appropriation Bill support, because we really do not gain anything by turning it down. I have already given my word on what we have agreed to do. It will be done, and quite honestly, I really appeal to them for the last time.

Thank you.

CONSIDERED RULING

DEFERMENT: FIRST/SECOND READINGS AND COMMITTEE STAGE OF APPROPRIATION BILL

Mr. Deputy Speaker: Hon. Members, we cannot go on like this. Under Standing Order No.31(b), Mr. Speaker has discretion to direct, for the convenience of the House, the sequence under which the Order Paper is to be followed. In view of the mood prevailing in the House now, the Chair orders that the items No.7, 8 and 9 appearing on the Order Paper will be skipped for this afternoon, and that we now move on to Order No.10.

(Applause)

MOTIONS

ADOPTION OF REPORT ON NOMINATION OF KACAB MEMBERS

Mr. Were: Mr. Deputy Speaker, Sir, on behalf of the Chairman of the Departmental Committee on Administration of Justice and Legal Affairs, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Administration of Justice and Legal Affairs on the nomination of a representative of the Joint Forum of Religious Organizations to the Kenya Anti-Corruption Advisory Board, laid on the Table of the House on Wednesday, 12th November, 2003.

Mr. Deputy Speaker: Order, hon. Members! The hon. Member is moving a very important Motion. You are asked to listen carefully.

Mr. Were: Mr. Deputy Speaker, Sir, I am standing here because sometime earlier, we had come to this House to discuss the appointment of board members to the Kenya Anti-Corruption Advisory Board. That was done without any appointment or nomination from the Joint Forum of Religious Organizations, which is provided for in Part III(B) Section 16 Sub-Section 3 of the Act. The Act proposes 12 bodies which are supposed to nominate members to the Board. At the time of bringing the names to this House, the Joint Forum of Religious Organizations had not done the

appointment. Sometime ago, the Minister for Justice and Constitutional Affairs brought a list of the two names of the appointees to this House. The Departmental Committee on Administration of Justice and Legal Affairs went through the names which were submitted to the Committee, and laid the Report in the House yesterday.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, I request this House to adopt the report that we submitted yesterday. The report is important because the success of any organization always hinges on the blessings from God. We need to adopt the name that we submitted in the report yesterday, so that he also becomes a member of the Committee. I do not have much to say. I would like to request Mr. M. Kariuki to support the Motion.

The Temporary Deputy Speaker (Mr. Khamasi): To second or to support?

Mr. Were: To second, Mr. Temporary Deputy Speaker, Sir.

Mr. M. Kariuki: Mr. Temporary Deputy Speaker, Sir, I beg to second this Motion. I would like to add that the Committee considered the two candidates from the Joint Forum of Religious Organizations and was guided strictly by merit. We took the best out of the two. We looked at their academic qualifications and age. One of them was too old and the other one middle-aged. We were unanimous that the right person for the job is the person whose name was submitted. I urge this House to adopt the name that was taken by the Committee.

With those few remarks, I beg to second.

(Question proposed)

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion before this House. But before I do that, I would like to commend the Departmental Committee on Administration of Justice and Legal Affairs for first, giving this matter the priority that it deserves. The Minister laid the Paper before this House on 12th November, 2003. It is pleasing to note that they had the time, even before a week was over, to meet and deliberate on the two nominees. This House needs to commend them.

Secondly, the Committee seems to have done a very thorough job when looking at the curriculum vitae of the two nominees, age, qualifications and experience, before making a decision to recommend to this House one of the nominees, Mr. Charles Kariuki Wambugu.

Mr. Temporary Deputy Speaker, Sir, I would like to add that we will, as specified in the Act, submit the names to the President for appointment, after the House approves this Motion. This is a simple Motion.

With those few words, I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): Apparently, there appears to be no interest in this Motion. I call upon the Mover to reply.

Mr. Were: Mr. Temporary Deputy Speaker, Sir, I thank the Secunder for seconding this Motion. I only want to tell him: "Thank you for that!"

With those few remarks, I beg to move.

Mr. ole Ntimama: On a point of order, Mr. Temporary Deputy Speaker, Sir. It has been said that this Report was laid on the Table yesterday. One would have expected it in the pigeon

holes, but it was not there. I did not see anything in my pigeon hole. I would really object to a situation like this; when we do not get an opportunity to debate on such an important Departmental Committee Report.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. ole Ntimama, I agree with you. The Report should have been availed to hon. Members. I have been told from the Clerk's Chambers that they were available from Room No.8. I am saying that it is the responsibility of the Clerk's Chambers to make sure that when documents are tabled before this House, they are availed to hon. Members with ease, either in the pigeon hole or in some other ways. But hon. Members should know that the reports are available. Thank you for that.

(Question put and agreed to)

ADOPTION OF ELEVENTH PIC REPORT

(Mr. Muturi on 12.11.2003)

*(Resumption of Debate interrupted
on 12.11.2003)*

Mr. Muturi: Thank you, Mr. Temporary Deputy Speaker, Sir. Yesterday, I was at the point where I was discussing the question of the necessity of having a State Corporations Advisory Committee. The State Corporations Act was enacted in 1986, and in that Act, there is a provision that there shall be a State Corporations Advisory Committee. Since then, notwithstanding recommendations every year by various Public Investments Committees to the Government to constitute that Committee, it had not been constituted. It was just yesterday that I was congratulating the Government for constituting that Committee last week. It was part of the recommendations of the Committee that the Government should constitute that Committee.

The Committee noted with great concern that several State corporations had been reviewing their terms and conditions of service without recourse to such Committee, because it never existed. The practice, it was noted, had always been that successive Heads of Civil Service and Secretaries to the Cabinet have been assuming the role of the State Corporations Advisory Committee. It was in that connection that the Committee, in its Eleventh Report, has recommended the establishment of the Committee. That recommendation now, in light of what happened last week, may appear to be overtaken by events, but nevertheless, it was and still remains an important observation.

Another area in which the Committee expressed itself was with regard to privatisation. The Committee noted that recommendations contained in the past reports of that Committee had never been acted on. The Committee further noted that the provisions regarding pre-emptive rights continue to be abused by the Executive Secretariat and Technical Unit (ESTU) and the Parastatal Reform Programme Committee (PRPC), in spite of the various recommendations of past Committees that have been adopted by this House. The Committee's view was that since there is so much that goes on without being known to the rest of the country, there is greater need for transparency and accountability to avoid the heavy losses that have been noted in the process of privatisation. The Committee, therefore, reiterated the recommendations of the 6th Report on page 33---

(A mobile phone rang)

The Temporary Deputy Speaker (Mr. Khamasi): Order! Mr. Muturi. Is there any Member in this House who has a mobile phone or is that person in the Galleries? The orderlies should make sure if there is somebody in the galleries whose mobile phone is on he is out of these premises.

Mr. Muturi: Thank you, Mr. Temporary Deputy Speaker, Sir. I was saying that the Committee reiterated the recommendations contained in the 6th Report on page 33, and also in the 8th Report on page 19, that Treasury should ensure that there is transparency in the privatisation process. The Committee also reiterated its earlier recommendation in the said Report that a Bill on privatisation should be tabled in Parliament, so that the House can debate on all relevant issues and come up with a policy that will have a national consensus and proper basis in law.

There was another area of great concern to the Committee. Fortunately, in the course of last year, that area was addressed. It is the area regarding exemption of certain parastatals from the provisions of the State Corporations Act, Cap. 446. If you read the list of the State Corporations that were exempted from this Act in pages 283 to 285, it was like a list of the 'fat cows' in the parastatal sector. If I could just read the names of a few of those corporations, they are: The Kenya Commercial Bank Ltd., the Kenya Commercial Finance Corporation Ltd., Savings and Loan Kenya Ltd., National Bank of Kenya Ltd., the Kenya National Capital Corporation Ltd., The Kenya National Assurance Company Ltd., Town Properties, Kenya Reinsurance Corporation, Kenya Shipping Lines Ltd., Kenya Post Office Savings Bank Ltd., Kenya Airways Ltd, National Social Security Fund (NSSF), through Legal Notice No.288 of 28th September, 1994; The National Cereals and Produce Board, Kenya Posts and Telecommunications Corporation, and Kenya Power and Lighting Company, among others. If you look through this list, you will agree with me that it reads like what I had earlier on said; a list of the 'fat cows', which it is suspected that certain persons may have used to fleece the public through their exemption from the provisions of State Corporations Act.

As I wind up, in general terms, another area in which members of the Committee were concerned is in the appointment of State corporations board of directors, as well as their chief executives. If I may just read in part, "The Committee noted that most appointments to the boards of directors have not measured up to their requirements of the performance of their respective state corporations, while in certain cases, chief executives appointed to manage respective State Corporations have been so appointed without due regard to their technical qualifications, past performance, age and relevant experience." These observations by the Committee may appear to be historical. Unfortunately, I think these observations remain valid as of yesterday, as well as today. I am saying this because we are talking of appointing parastatal heads and members of boards of directors of State Corporations whose appointment must be done in due regard to their technical qualifications. If somebody has been a priest and if the Government has a corporation that has a religious orientation, then of course, in terms of technical qualification and capacity, the person with that kind of background would fit. But when you take a priest and make him head a technical area that requires engineers and he has to deal with engineers on a daily basis, you are not doing service to this country.

The Committee also recommended that past performance of persons to be appointed must be appraised. Their age must also be right. I am sorry to say that it looks like this year has seen a lot of resuscitation or recycling of retirees into the Civil Service, from politics or persons that have not been able to make it in politics. We are saying that if we are serious about efficiency in Government parastatals, the question of the age of those to be appointed to serve as chief executives, particularly, must be taken into account. We have very many highly qualified young Kenyans who have no jobs. We need them to be tested in these areas. We have in excess of 200 Government parastatals in this country. If all of them were to be run efficiently, this country would see a rebirth of sorts. Therefore,

the Committee did recommend that the persons to be appointed to those boards should possess the relevant qualifications, experience and integrity in the society. They should also be within the age limits as per the Government regulations.

Mr. Temporary Deputy Speaker, Sir, the Committee did observe and recommend that the Inspector-General of State Corporations, who operates from the Office of the President, must satisfy himself that all major decisions taken to be implemented by the Chief Executives of various State corporations must have been approved by their respective boards, the parent Ministries and the Treasury, in keeping with various Treasury circulars.

Even as we talk about Treasury circulars, the Committee did observe; and, indeed, this is still being practised, that they are issued or addressed to Accounting Officers and Chief Executives of Government parastatals. The latest one is Treasury Circular No.3 dated 30th January, 2003. Literally, all State corporations do not seem to be aware of it. They do not know that they are required to submit quarterly performance reports. So, we wonder how the Treasury could then claim to be exercising sufficient supervisory functions over those State corporations. It is for this reason; lack of seriousness in the implementation of various Treasury circulars, that we have seen billions of public funds being lost through unviable investments, and surplus funds being invested in collapsing and collapsed banks and financial institutions. The Committee, therefore, recommends that the Treasury must empower the Inspector-General of State Corporations to perform his functions properly.

Further, the parent Ministries and the Treasury are requested by the Committee not to authorise any expenditure unless there is evidence that the boards of those corporations have approved them. That is, of course, in keeping with the provisions of Section 12 of the State Corporations Act with regard to how boards of directors of various State corporations should function. The Committee further recommends that the parent Ministries, the Treasury and the Inspector-General of State Corporations must ensure at all times that State corporations are run by legally constituted boards in keeping with the provisions of Section 6(2) of the State Corporations Act, CAP. 446. A good board should not exceed the number stipulated in the enabling Act. The reason for this recommendation is because in a number of cases, the Committee did observe that certain corporations were run by boards which exceeded the number stipulated to form the board of directors. In other cases, the Committee found that the terms of other boards had expired, and yet the Chief Executives did not notify the parent Ministries. This is evidence that the right hand really does not know what the left hand does. Therefore, those Chief Executives continue to make decisions purportedly acting as boards of directors and only seek "*post facto*" authorization by boards, if and when they are formed.

Mr. Temporary Deputy Speaker, Sir, it is also recommended by the Committee that all stakeholders must be involved in the appointment of board members. Where enabling Acts do not provide for the above provision, the Attorney-General should ensure that they are amended to enable stakeholders in various fields to take part by way of representation in those boards.

The Committee also recommends that the appointing authorities must ensure that there is transparency and accountability when it comes to appointment of Chief Executives. When the appointments of Chief Executives are due, the boards should ensure that the posts are actually advertised. As much as I say that this may refer to the past, we are talking about creating greater efficiency. We want this recommendation to be implemented. Where posts fall vacant, the Committee recommends that they must be advertised in order to attract the best personnel available on the land.

Further, the Committee recommends that the Attorney-General should urgently introduce appropriate legislation to provide for the vetting of any appointments of Chief Executives by

Parliament at the earliest opportunity. This is an important recommendation coming from the Committee. If you look at this recommendation, you will find that this Report is merely reiterating what had been passed in the Ninth Report. This recommendation should have been implemented by latest 31st December, 2001, but it still remains valid. The Attorney-General should actually bring appropriate legislation, because we cannot say that we will wait for the Draft Constitution to be enacted. It may not be enacted. Even if it is enacted, we know that it will take time in the transitional period. There is no harm in this recommendation being taken up by the Attorney-General. If the Constitution makes provision for it, so much the better. The Constitution will take precedence over a miniature legislation.

Mr. Temporary Deputy Speaker, Sir, the Committee further recommended that the Government should desist from re-appointing Chief Executives or board members who have been named by various House Committees in connection with financial and other scams. I believe that part of the reason why the Committee made this recommendation is because we have seen people who have been named in various financial scandals being appointed Chief Executives or board members. If you read through the Treasury Memorandum on the implementation status, you would find blanket answers like "action has been taken as recommended and the matter reported to the Advocates Complaints Commission for unprofessional misconduct."

As I said when I introduced this Report yesterday, it is published and should be read alongside the Treasury Memorandum on Implementation Status of the Tenth Report. The Tenth Report recommended, for instance, with regard to the then Kenya Posts and Telecommunications Corporation (KPLC), that appropriate action should be taken against Mr. Kipng'eno arap Ngeny, Mr. Chege Kirundi and Ms. Lucy Wamaita Chege. All that you get from the Treasury Memorandum is that action has been taken as recommended and the matter reported to the Advocates Complaints Commission for unprofessional conduct. It is just taking the House for a ride when we get this kind of status on the implementation of a recommendation by this House. We should be told by the Attorney-General what they have done. Now we are being told from the Treasury that the matter has been reported. The chief executive confirms that the corporation now ensures that there is adequate funding before any project is commenced. That is another status. This morning, I chaired a PIC meeting and still found the same story. The corporations are still saying that they have made appropriate provisions and engaged consultants but the next thing you hear is that they have abandoned the projects because of lack of budgetary provisions. In the meantime, sums in excess of Kshs400 million have been expended on consultants.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order! We are listening to a very serious Report here and I think you should participate.

Proceed, Mr. Muturi!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I am just winding up by noting a further recommendation by the Committee regarding the issue of land ownership by State Corporations. I will read a small paragraph.

"The Committee noted with concern that various State Corporations did not possess title documents for pieces of land belonging to them. Some of them are experiencing difficulty in acquiring the title deeds from the Office of the Commissioner of Lands"

Examples of these are given as the Kenya Broadcasting Corporation (KBC) and the National Water Conservation and Pipeline Corporation (NWPC). In some cases, some of the corporations like the Kenya Ports Authority (KPA), the Kenya Agricultural Research Institute

(KARI) and the Kenya Railways Corporation (KR) have had what legitimately belonged to them being hived off and dished out to other parties without recourse to those corporations or even the parent Ministries.

Mr. Temporary Deputy Speaker, Sir, a very glaring example is to be found at the Coast. You will find that the balance sheet figure of the KPA as at 30th June, 1999, which stood at Kshs18,115,528,341 included some 26 plots of land which had been irregularly allocated to individual developers without either the knowledge of the Authority, the approval of its Board, its parent Ministry or any known authority. One of those 26 plots was transferred to a third party by an employee of the Authority while another one was left out when six of the plots were surveyed and allocated to a third party evidently with the knowledge of the then Managing Director.

Further, the Authority also entered into a lease agreement with a private company in 1994 in respect of plot No.Mombasa/1/400 measuring 1.434 hectares for a duration of 82 years at an annual rent of Kshs241,560. In March 1998, the lease agreement was varied to allow the leasee to charge the property in favour of their financiers for a loan of a whopping US\$24,500,000. The consent was accordingly approved by the parent Ministry and assented by the Authority. The leasee has since constructed permanent buildings on this property. The project includes a wayleave and a conveyor belt system linking the terminal to immovable ship loading and unloading equipment located on Berth 3 thus using extra space originally not covered in the leased land. It is not understood why the Authority accepted to have the property charged for a loan to the leasee thereby exposing it and the Kenyan public to the possible risk of losing the subject land in the event of default by that leasee.

In this connection, it is important to note that the Committee was concerned that the Authority accepted the very low annual rent of Kshs241,560 while the current market rate for a property in the same locality is around Kshs21 million per acre. The Committee, therefore, recommended that the chief executive in the KPA should ensure that the agreement between themselves and M/S Grain Bulk Handlers Limited was reviewed and regularised in order to safeguard the interests of the Authority and the Kenyan taxpayer.

I have just read this to highlight what the Committee comes across in its process of taking evidence from State Corporations. The Committee, on account of last year having been an election year, only managed to take evidence from 21 corporations. However, it makes very fundamental recommendations. In order to give every hon. Member of the Committee who is available, some of who are eminent personalities and some of them are now in the Cabinet while others are Assistant Ministers--- I believe the Report should find acceptance from both sides of the House and hopefully the Executive Government will implement these recommendations.

Mr. Temporary Deputy Speaker, Sir, in conclusion, therefore, I wish to record the Committee's appreciation for the services rendered by the staff of the National Assembly, the Auditor-General (Corporations), Inspectorate of State Corporations and the Department of Government Investments and Public Enterprises of the Treasury.

With those few remarks, I beg to move and call upon Mr. Wamunyinyi who was Chairman of that Committee to second.

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to second this very important Motion. Mr. Muturi mentioned that I chaired the Committee which produced this 11th Report that was brought before the House for debate.

I would like to also reiterate and appreciate the role played by the Clerk's Office which provided an enabling environment to facilitate this Committee's work. As a friend of the Committee, the Office of the Auditor-General (Corporations) which has since merged with the Controller and Auditor-General's Office also gave a lot of support to the Committee. I also wish to thank the Department of Government Investments and Public Enterprises at the Treasury.

Having said that, I would like, at the outset, to put strong emphasis on the functions of the PIC. The Mover yesterday dwelt mostly on the mandate and composition of the Committee as provided for under Standing Order No.148, Sections 1-4. However, I would like to emphasise further the functions of this Committee. If you look at Standing Order No.148, Sub-section 5(C), if I may draw the hon. Members' attention, it says that one of the functions of the Public Investments Committee is;

"to examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments are being managed in accordance with sound business principles and prudent commercial practices."

This Standing Order gives hon. Members of PIC power to summon any person whether he is a chief executive, or officer of Government, to appear before them and give evidence from any reports and information related to misuse of resources, abuse of office, or mismanagement of affairs of any corporation. The essence of this provision is that it is not necessarily as a result of an audit query that any person is summoned to appear before this Committee. I would like to appeal to hon. Members of the watchdog committees, both the Public Accounts Committee (PAC) and the Public Investments Committee (PIC), to sharpen their teeth and bite anybody who abuses his office, misuses public resources and anybody who is involved in outright theft of public funds. On this note, I honestly, take great exception to members of Cabinet who are reported to have sought an apology from the Members of the PIC. This Committee has got powers to summon any Minister. What I would rather differ with was about the manner in which they were summoned. It should have been done through the Clerk's Office, but not through the Press. However, they could not decline to appear before the PIC. In any case, they complained about the manner in which they were summoned after they had appeared before PIC. So, they knew what they were doing. When some Members of the Cabinet were on the Opposition as Members of the PIC, they summoned Ministers. I do not understand why they are now finding it difficult to appear before PIC when summoned. So, I think it is important to bring this out clearly to the hon. Members, particularly now that we are jointly fighting corruption and matters related to it.

Mr. Temporary Deputy Speaker, Sir, the State Corporations Act Cap.446 and the Exchequer and Audit Act Cap.412 also give the Committee powers to summon witnesses or persons to give evidence regarding any public investments in this country. So, I would like to appeal to all hon. Members of this House to support the PIC Report. As it has always been the tradition, it has scrutinised all the accounts of State corporations. They have followed up evidence on continued looting in State Corporations. As a result of the work of the Committee which revealed all what was taking place, no action has ever been taken against the perpetrators. I am even happy that, at the moment, the Government seems to be taking action on matters which have been brought about by the PIC and PAC.

Mr. Temporary Deputy Speaker, Sir, I would like to turn to the delay in the submission of accounts by State corporations. In the past, these watchdog committees have been dealing with matters of many years ago. For example, most of what is covered in this 11th Report are cases of 1993, 1994 and 1995. We even have some of them still pending up to now. I think for us to be able to work effectively, we need to be current in all accounts of State corporations. So, I think stern action should be taken against chief executives or management of State corporations who delay the submission of accounts to the relevant Government department.

Mr. Temporary Deputy Speaker, Sir, on implementation, the Committee has many times given recommendations which, of course, arise from the evidence collected from witnesses. Some of the recommendations have called upon the Government to surcharge those responsible for the loss. The Committee has also recommended the dismissal of some officers in those parastatals. The

Committee has also contested and recommended that those officers, or chief executives who have defrauded State corporations should not be re-employed elsewhere. For instance, if a chief executive who has defrauded one corporation is re-appointed in another one, this is like transferring a problem from one department of Government to another. The Committee has recommended that such officers should not be re-employed.

Mr. Temporary Deputy Speaker, Sir, other recommendations are related to recovery of funds. This is also on implementation. I am particularly concerned with some two senior counsels in this country. One of them is an hon. Member of this House. When you look at the report, it has been reported that one of them received Kshs200 million from National Social Security Fund (NSSF); a State Corporation. It is a pity that he sits comfortably on the Opposition side of this House. The hon. Member also wants to be the Chairman of KANU. He was supposed to pay Kshs30 million only as Value Added Tax (VAT) to the Commissioner of Customs and Excise. From 1995, he has never paid a single cent and no action has been taken against him.

Mr. Y. Haji: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the hon. Member also mention the second senior Counsel he is talking about?

The Temporary Deputy Speaker (Mr. Khamasi): What is your point of order?

Mr. Y. Haji: Mr. Temporary Deputy Speaker, Sir, my point of order is this: Is the hon. Member in order to mention one senior State counsel and refuse to mention the other one?

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, the hon. Haji, who is a former Provincial Commissioner (PC) is only impatient. I have not finished with my contribution.

Mr. Temporary Deputy Speaker, Sir, the other lawyer who is involved is Mr. Chege Kirundi. This lawyer represented a State corporation in a transaction with another firm for which he was the director. He did not even disclose the information that he had an interest in the firm. The State corporation has since lost millions of shillings. In spite of the fact that the advocate was reported to the Advocates Complaints Commission of Kenya, no action has ever been taken against him. This is a case of about five years ago. We are talking of fighting corruption and cleaning the Judiciary and, yet, some lawyers are involved in theft. When they are reported to the Advocates Complaints Commission of Kenya, no action is taken against them.

Mr. Temporary Deputy Speaker, Sir, I hope that Mr. M. Kariuki is listening. I hope he is discussing the point.

*(Mr. M. Kariuki consulted with
another hon. Member)*

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Wamunyinyi, address the Chair.

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, it is surprising that the Law Society of Kenya (LSK) and the Judicial Complaints Commission has not taken action against such a man, who breached trust and stole public funds. He has been arguing in a civil case in court with those corrupt judges who were sacked. This is criminal and action should be taken against the people who have committed these offenses. If that is not done, we will not be able to curb the rampant corruption that we are determined to fight.

Mr. Temporary Deputy Speaker, Sir, the Mover of this Motion talked about the State Corporations Advisory Committee (SCAC). For many years, we have not had this Committee. The Committee was appointed this year following the recommendations of the Public Investments Committee. I want to thank the Government for implementing that recommendation.

However, I would like to disagree with the manner in which members of the Committee were appointed. Looking at the people who were appointed to that Committee, and other hon.

Members have complained, I do not understand what criteria was used. I do not know whether it was professional qualifications, or tribe, or age or one's area of origin. I merely want to add my voice that people who have retired from the Public Service should be left to join politics and struggle to come to Parliament. They should not be re-cycled. We are not comfortable with that. Even youthful Kenyans are not comfortable to see people who have attained 60 years being re-employed by the Civil Service. We are helping the Government to deal with these matters.

Mr. Temporary Deputy Speaker, Sir, there has been grabbing of public land, and the most hit areas are the Kenya Agricultural Research Institute (KARI), Kenya Railways Corporation (KR) and Kenya Ports Authority (KPA). If hon. Members would look at the Eleventh PIC Report, pages 27 and 28, they will note that there are very senior members of society---

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

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker Sir, I do not need that information. I already have it.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Koech, I am afraid, your information has been declined. Mr. Wamunyinyi, what pages did you refer to?

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, I referred to pages 27 and 28. If you read those pages together with the Tenth PIC Report, you would realise that land belonging to KARI both in Mombasa, Kisumu, Kiambu and in other parts of the country was dished out to individuals. If you look at the HANSARD, you will realise that most of those allocations were done illegally. There was no authority from the various State corporations. It was only the Commissioner of Lands who allocated that land to other parties. It is unfortunate that even after the new Government took over, the former Commissioner of Lands, who committed these offences, is still serving in the Government. But I am aware that he was transferred to another Ministry.

The Minister for Lands and Settlement (Mr. Kimunya): On a point of information, Mr. Temporary Deputy Speaker, Sir. I wish to confirm that the former Commissioner of Lands is no longer in Government service.

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, I thank the Minister for that information. The last time I heard of him was when he was transferred to another Ministry as Deputy Secretary. If he has been removed from Government service, then that is commendable. I think we are now moving in the right direction. We should continue cracking down on such people and take action against them.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I would now like to turn to the regulatory bodies. They include, the Communication Commission of Kenya (CCK) and the Electricity Regulatory Board (ERB), among others. It is believed that they operate independently to regulate telecommunications service providers and producers of electricity, respectively.

Before I move to the point I want to make, I would like to point out some conflict, which I think needs to be resolved. At the moment, the CCK is torn between two Ministries, namely; the Ministry of Tourism and Information, and the Ministry of Transport and Communications. It is not very clear which of the two Ministries has authority over the CCK. It is also not clear who has the power to allocate broadcasting frequencies. Is it the Minister for Information and Tourism, or the Minister for Transport and Communications? I am saying this because, in the past, this function was under the docket of the Ministry of Information and Tourism. It has been the duty of the Ministry of Information and Tourism to allocate broadcasting frequencies to the parties which require them. The point that brought about this conflict is the broadcasting frequency that was allocated to Mr.

Macharia early this year. That was done following an order from the Minister for Transport and Communications. He telephoned the Chief Executive of the CCK and ordered him to allocated another frequency to Mr. Macharia.

How could a Minister of this new Government, which wants to clean up the mess created by the previous regime, act in this manner? He has also been quoted in the Press as saying that our struggle for change in this country was only intended at removing former President Moi from office, and that we can forget now about other things. But why should such a senior Government Minister order a Chief Executive of a State corporation to allocate another frequency to Mr. Macharia?

Also, the Minister for Transport and Communications has been interfering with the management of the CCK. We do not expect to witnesses such incidents in this new regime. They are tarnishing the image of the Government. These Ministers talk very loosely and in many occasions, they embarrass the President. They should be controlled, so that they do not talk too much and make telephone calls ordering public servants to do things illegally.

Mr. Temporary Deputy Speaker, Sir, I would now like to move on to the issue of the officers whom I mentioned earlier. Recently, I brought a Question to this House regarding a chairman of a state corporation who had embezzled funds. You remember the Minister admitted that, that chairman, made himself the executive chairman and drew Kshs1.2 million illegally. The Minister promised that the Government was going to take steps to ensure that he was surcharged and removed from office. I think it is now more than three months and nothing has taken place. I do not know whether that chief executive is being used by the Minister for Agriculture to do what he was doing when he was working for the previous Government.

I have said it in the past and you remember when the hon. Speaker mistook me when I said that I had received a stupid answer from the Minister. It was not the Minister who was stupid but the answer. About four months have passed and no action has been taken against that chairman. He is still in office and disciplining people whom he thinks disclosed the information about his embezzlement.

Mr. Temporary Deputy Speaker, why does the Government want to let down the people of Kenya? This is a Government that received total support. Majority of Kenyans supported it! The people of Kenya voted for change. They wanted the Government to change completely. If I was in charge of the Government, I would have sacked everybody who served in the previous Government. Why do we still have to keep those people in place? We still talk about the people who worked in the previous Government. For example, there is a very interesting case. I do not know what is wrong with the Ministry of Agriculture. One of the Permanent Secretaries (PSs), Mr. Mule, when he was the Chief Executive of the Kenya Sugar Board (KSB), the funds in Euro Bank had matured. Instead of acting responsibly in accordance with the new regulations, he rolled-over the funds. Then you get surprised because that is the man who was moved from KSB and made the PS, Ministry of Agriculture. What criteria was used? Do we not have qualified people for those posts? Mr. Temporary Deputy Speaker, Sir, I am asking you: Do we not have qualified people in this country for those posts?

(Laughter)

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Wamunyinyi, the Chair has no ears!

Mr. Wamunyinyi: The other one is a PS in a big Ministry in this country. He was a District Commissioner (DC) somewhere in Kakamega. He "ate" all the forests and from there, he was made a Permanent Secretary in one of the top Ministries in this country. I am talking about Mr. Dave Mwangi. He "ate" all the forests. He destroyed the environment in Western Province and the whole

of Kakamega District. Did we not have people to be appointed to do that job?

We also have a Mr. Nathaniel Tum! He has lied to this Parliament that there has not been a disposal of shares. That officer is still in the Ministry of Agriculture. Mr. Tum is on record in the HANSARD saying that no shares had been sold. Later on, it was established that, through dubious and unorthodox means, the Government shares had been devalued in that State Corporation. Then, a new Government that was voted in to change this country retains that person with all the evidence. Is this person related to the Minister for Agriculture or there is no other person who can do this job? What should have been done and what is expected is that the sale of shares should have been nullified. Obviously, if the Government wants to do it, it should do it because we have had even executive power being exercised. We have had action being taken in Kenya Co-operative Creameries (KCC). What is wrong with agriculture? Could you tell the Minister to wake up? He is a big let-down to the Government.

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Wamunyinyi! That is not parliamentary language!

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, he is letting down the people of Kenya. When you talk about agriculture in this country, it is the backbone of Kenya's economy. That is where you talk of food security and foreign earnings we get from coffee, tea and so on. However, when we have someone heading the Ministry who does not take matters seriously, then he is a big let down to the people of Kenya.

Mr. Temporary Deputy Speaker, Sir, I wish to conclude by saying that I hope many of the Ministers present here will represent those who are not here. When these members of the Committees of the House summon you on whatever has been reported to have taken place, you will not have a choice but to do so because it is under the provisions of the Standing Orders of the House. You will not go and talk about it to the Press out there. You will have to come and talk to the members of the Committee. You are not immune to these committees as members of the Cabinet. We will be talking to the President so that some of you who are not doing their work can be fired.

With those few remarks, I wish to second.

(Question proposed)

Mr. Kajwang: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I want to say that I was not a member of this Committee last year but I am privileged to be a member of the Committee this year. Consequently, some of the matters which are dealt with in this Report which we are supporting, are also carried forward to this year and, consequently, I am intimately interested in the outcome of the debate of this Report.

Mr. Temporary Deputy Speaker, Sir, I want to say that the main job of the Public Investments Committee (PIC) or the Public Accounts Committee (PAC) is that they are oversight committees of the House. As oversight committees, their job is to inquire into whether the Government departments and investments are run according to the rules as laid down for purposes of good governance. We have such voluminous reports because the people charged with the responsibility of running the affairs or departments of Government and Government investments, in this case, the parastatals, have flouted the Act that creates them and basically, the rules of procurement.

Mr. Temporary Deputy Speaker, so, you will bear with me when I say that we would not have needed to call all these departments if the Controller and Auditor General had not found out that some of these individuals, instead of following the procurement rules or the provisions of the Act that created them, proceeded and acted contrary to these rules in complete disregard of

whatever the public, who are the investors in these organisations may think.

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

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

Mr. Temporary Deputy Speaker, Sir, in fact, to some extent, we think that the proportion to which these things have been done is so alarming that there must be some impunity on the officers who run these organisations, both the chief executives of these organisations and of the boards that are supposed to run these organisations on behalf of the people of Kenya.

Mr. Temporary Deputy Speaker, Sir, sometimes because of the manner in which the chief executives and board members are appointed, the appointing authority which happens to be the Government, exercises certain powers over them that make them act even contrary to their will. They do certain things which are contrary to the rules. We have learnt that when you ask some of these public officers, particularly the chief executives and their board members, what made them carry out certain transactions when they knew that they were unlawful, the answer usually from the chief executives is: "It is either the board or if it is not the board, then it was the Permanent Secretary who either called, wrote, threatened, cajoled or it was the Minister who called, wrote, or did something."

Mr. Temporary Deputy Speaker, Sir, depending on the manner in which you are appointed and if you were appointed because it was a favour to you, then they tell you: "You know, we favoured you so that you may favour us and if you are not going to do what we have asked you to do, then you must be ready to leave that job so that we give it to somebody who knows what to do with that job." So, the consequence is that some of these officers are put between a rock and a hard place. They do not want to break the rules because they know them, which is good if they are strong, but they also face another consequence that if they do not obey the unlawful orders given to them by their superiors, then consequently they will lose their jobs and so, there will be hunger in the family and all that which goes with it.

Mr. Temporary Deputy Speaker, Sir, so, we are putting our officers, first of all, in this kind of embarrassing situation first of all because of the manner in which we appoint them. So, I want the law to be followed in the appointment of chief executives. The law is very clear that in all these parastatals, there is an Act of Parliament which creates them and the Act of Parliament which creates these parastatals provides on how the officers will be appointed. They will be appointed by the board and, of course, the chairman of the board will be appointed by the Minister. However, nobody follows these rules because we hear that somebody has been appointed over the radio at 1.00 p.m. and sacked over the radio again at 1.00 p.m. When you are appointed over the radio and you can also be sacked over the radio or you owe your appointment to the person who announces over the radio, then you must do as they please.

Mr. Temporary Deputy Speaker, Sir, in my maiden speech in this House I said that corruption begins at the top. If we have an upright top--- Because I come from a fishing area, I know that fish rots from the top or head, if you like. In fact, if you want to know whether you have good or bad fish, you merely open the gills and if you find that the colour has changed, then you know that it is rotten. Just like fish rots from the head, so does a country rot from the top. If we continue to appoint people because they are our brothers and sisters, golf mates, or they helped us

during the campaign with a plane or a car or they are likely to do this or that, then the consequence is that when I get there, I know you have given it to me to help myself and also to help you so that we do not serve the nation any more.

Unless we deal with the issue of appointments, security of tenure for those who hold these offices and the independence of parastatals, we shall be wasting our time to come here, to talk about the Controller and Auditor-General's Reports. The Controller and Auditor-General only manages to do his work because he enjoys security of tenure. So, nobody can sack him unless it is proven that he is corrupt. I must say he has been lucky for all this forty years or so because nobody has ever suggested that he is corrupt. That is basically why he has survived all these years; because of the security of tenure he enjoys and his own integrity.

If we leave the heads of parastatals in the hands of Ministers--- Only yesterday I saw, with a lot of disgust, in one of the television programmes, a Minister threatening a head of a parastatal. The only reason for advancing his threats was that the parastatal chief had bought space in a newspaper to say: "This is Numerical Machining Company Limited and we have no capacity, whatsoever, whether financial or technical, to supply cranes and we do not know who Mr. Sagoo is." That is exactly what the parastatal chief intended to put across. He also said that the parastatal has no memorandum of understanding with Mr. Sagoo and if at all he submitted his tender, then he did not tender with our authority. That statement, according to the parastatal chief, was given on the strength of the decision made by his board.

The Minister breathed brimstone and fire wondering how the parastatal chief had the audacity to say that he does not know who Mr. Sagoo is and yet Mr. Sagoo had met him in the Minister's office and even the minutes of the meeting exist! If you are in such a situation; you have been employed to do a job, you have a board to which you report and actually there is no memorandum between you and Mr. Sagoo, but your Minister insists that you must own up and admit that you are a friend to Mr. Sagoo, what do you do?

Our Ministers must know their jobs. Their job is not to run parastatals on a day to day basis. Our parastatals have their own chief executives, officers and boards. Ministers must accept that their duties end at the policy formulation level. We hope that the Cabinet Ministers will understand that their jobs are given to them by the Constitution. The heads of parastatals under them have been given their jobs by the statutes that created those parastatals. There exists mutual protection from each other and that is the only way this country will be run without corruption. But if you are a young fellow so full of yourself that the other day you were given a *bendera* and you go threatening everybody left, right and centre, making phone-calls to everybody and pushing everybody around, that is the beginning of corruption. It is the corner at which corruption breeds!

Mr. Temporary Deputy Speaker, Sir, we must learn our jobs. This is the tenth or eleventh month of the NARC Government in power and our Ministers must now know that this country is different from the country we had last year. We are going to ask questions and be even more exacting with this Government than we were with the previous one. At least, the previous Government did not tell us that they were assuming power on the basis of a clean Government. They did not promise us that, but the NARC Government promised us a lot and I propagated the promises everywhere I went that: "We are taking over on the basis of a clean Government." We must stand by the promises we gave the people of Kenya and if the Government is not going to stand by its word, then, the Back Bench is going to stand by it.

(Applause)

Mr. Temporary Deputy Speaker, Sir, it is very unfortunate that these days a Minister--- I do

not know who gave them more powers than they thought they have, but the powers of a Minister are provided for under the Constitution - the general supervision of Government Departments at the level of policy formulation. Nobody made the Ministers chief executives. Then, why should somebody have the audacity to say, "I have summoned him to my office and I have warned him." Surely, how do you operate if you are a chief executive of a parastatal? I do not envy the chief executives of parastatals because their job is very difficult, both in the Moi and Kibaki regimes.

What are we going to do to fight corruption? If it was not for corruption, we would not be reading these big books here! Last year, I commented about these big books and I said that we have given these reports, debated and adopted them year after year, and the Government does not do anything about them. In fact, the Government ignores them completely. So, last year, I suggested that instead of wasting time writing very big volumes for us to talk about in this House, why do we not donate some of the paper to primary schools in my constituency, because we lack paper? My students are poor and could not afford exercise books, until this year when the Government gave some little money. Last year, I was conducting Harambees; which are now also illegal, to raise money to buy exercise books for the students. So, I said: "Why do you not donate this paper to primary schools in my constituency so that they can learn?"

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member on the Floor to mislead this House by saying that Harambees have been banned by this Government, yet they have not been banned by the Government? They have only been regulated.

Mr. Kajwang: Thank you, Mr. Temporary Deputy Speaker, Sir. This language of "banning" is a language of Provincial and District Commissioners (PCs and DCs). I did not know that my brother has joined that class.

What I said is that the participation of some of us in Harambees is now illegal. So, I am happy about it. Last year, it was my duty to buy exercise books, and that is why I pleaded with the House to donate some of this paper to my constituency, in order to help my boys. But it is not enough to come here and purport that we are going to run a "clean" Government, and that we are going to give the Controller and Auditor-General (CAG) all this much work. Unless we find a way of securing appointments, doing it properly and giving somebody a term of office as well as the security of that office, it does not help. In fact, it is good that my brother, the Assistant Minister for Justice and Constitutional Affairs, who was also my classmate, is here. I want to remind him that what I am talking about will not end with the Public Investment Committee (PIC); it proceeds to the Government departments and to the Judiciary.

The manner in which you appoint Judges and the manner in which the Executive can fire them makes the job of a Judge that of a servant of the Executive. Look at what happened the other day; first of all, one Judge goes around the country and collects some evidence - which we have not seen - and then he says: "All of you, go home" except himself. We are not so sure that somebody else has checked him and found him clean. Then, of course he tells the others: "Go home and surrender your cars, houses, salaries and allowances", even before the tribunal start its work! This is another mistake, according to the Constitution. This is because these people are Judges until the tribunal finds them guilty and also until the President sacks them. But we are treating them as if they are already guilty.

Now, look at that situation! Then, you appoint other Judges without us hearing that the Judicial Service Commission (JSC) has sent certain names to the President for approval, and yet the appointing authority should be the JSC. Of course, it is the President who should appoint the Judges; but the JSC should recommend them! We have not heard that the JSC ever recommended anyone! Then the Judges go to State House, are sworn in, and are told: "You see, I am not going to

renew your contract or even confirm your appointment, unless I hear a good report". What do you expect such a Judge to do? He will automatically resolve that "I will serve you loyally, my master, because you may not even give me my appointment after all after one year". So, what does that mean? It means that the Executive is muscling so much power, that unless we find a way of dealing with that power, this corruption will always continue.

So, Mr. Temporary Deputy Speaker, Sir, that is why some of us think that we should go and finish our job at Bomas and then come back here and then have a good Constitution. But I have realized that this Constitution is not even bad after all. This Constitution provides for how Judges and chief executives of Parastatals should be appointed, and how promotions should be done. It also provides for the Public Service Commission (PSC) to operate as an independent and constitutional office; laws which are all flouted and ignored! The body which operates now as the PSC is a body in the Office of the President calling itself the Directorate of Personnel Management (DPM), and they are in charge of manpower development; and they have more power than the constitutional office of the PSC! What do you do in such a situation? It seems like we are wasting our energy, sweat and money at Bomas! We might as well get a very beautiful Constitution, but it will be ignored!

Mr. Temporary Deputy Speaker, Sir, this country will come to something only if it is good at the top. That is where corruption can start and end. It is the responsibility of the people at the top to eradicate corruption. The buck stops there.

With those few remarks, I beg to support.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to comment on the Report of the PIC.

As I was reading this Report, I was moved to tears. I could not believe what I was reading. This is a very sorry state of affairs in the sense that in all those parastatals and corporations, the story is the same. All those parastatals have lost some of their land, which has been illegally allocated; most of them are insolvent. They are not collecting debts and are writing off debts in an unauthorised manner. For example, the Agricultural Finance Corporation (AFC) wrote-off debts owned by people who did not qualify. Their names are in this Report. All the Agricultural Development Corporation (ADC) farms have been illegally allocated to politically correct people. Even worse, research institutions' land has been illegally allocated. Most of the land belonging to the Kenya Agricultural Research Institute (KARI) has been illegally allocated. This is happening in almost all corporations. Land belonging to the Kenya Ports Authority (KPA) has been illegally allocated.

Mr. Temporary Deputy Speaker, Sir, when you look at procurement procedures, you will find that most of these corporations single sourced tenders. At the Kenya Medical Research Institute (KEMRI) a six year old Subaru Legacy was purchased for Kshs1,150,000. It had an accident immediately it was purchased and the insurance company could only pay Kshs591,000. This is not an isolated case. Almost all the parastatals seem to be suffering from this disease. They are all insolvent and are depending on the Treasury for support. Again, all the parastatals have abandoned projects after spending a substantial amount of money on them. Their chief executives are making unilateral decisions which are not supported by the Board. They are all single sourcing tenders with the resultant high costs. I am questioning the wisdom of keeping these parastatals in our books. They do not seem to be adding any value to the economy of this country. They only seem to be used as "cash-cows" for the chief executives.

The only consolation I have is that this happened during the former KANU's regime. I hope that in future, I will not read this kind of sorry state of affairs when we read the PIC's Report

prepared under the NARC Government. One hon. Member said that the appointments of the chief executives explain to a large extent why they behave the way they do. I defer. Time has come when all appointments must be made purely on merit. If all parastatals chiefs came from the same village like Mbita, we should have no problem with them if they are the most competent. You cannot explain some of the things we are reading here. This is more fiction than reality. Let us look at them individually, but the story is the same in every corporation.

Mr. Temporary Deputy Speaker, Sir, if the Kenya Railways Corporation has no use for its land, which was taken from the communities where the railway line passed through, it should return it to the communities. Apparently, this land is being acquired by other people. If you look at the National Water Conservation and Pipeline Corporation (NWCPC), you will find that instead of collecting debts year in, year out, it takes the easier option of increasing tariffs. Institutions like schools and hospitals are complaining because they are being charged a standing amount. In every school, the NWCPC charges water according to the number of streams. If a school has three streams, the charge triples irrespective of the number of the students in the school. This is wrong. Quite a number of schools have now stopped using water from the NWCPC.

Mr. Temporary Deputy Speaker, Sir, my advice to the NWCPC is to instal water reading metres. When the Ndia Water Project was installed, it was working very well. Water reading metres were installed. Then one day, a delegation went to see the former President, Mr. Moi, and told him that they were paying a lot of money for the water. He directed that all the metres be removed and all the consumers be charged a standing fee. So, what happens is that whether you consumed the water or not, you would still pay the same amount of money. We do not turn off those taps any more in Ndia. We let them run on because, at the end of the day, we will only pay Kshs300 per month. As a result, our people do not get adequate water, particularly in the lower zones. However, the solution is very simple. It is just to instal meters so that consumers are charged as per consumption, but not on fixed amounts of Kshs300 per household.

Mr. Temporary Deputy Speaker, Sir, Nyayo Tea Zones are only benefitting a few officers who work there. Nobody is picking the tea. My advice is that the Government should make sure that land reverts back to the community surrounding those tea zones because those are the rightful owners of those tea zones. This story is the same everywhere. It is like fiction. You cannot believe that some of the things we are talking about here actually happened. Therefore, I do not think I will say more.

QUORUM

Mr. J.K. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum.

The Temporary Deputy Speaker (Mr. Kagwe): Order Members! It has been brought to my attention that there is no quorum. Ring the Division Bell.

(The Division Bell was rung)

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

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

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, because of lack of quorum, we will adjourn the House. This House is, therefore, adjourned until Tuesday, 18th November, 2003, at 2.30 p.m.

The House rose at 6.00 p.m.