

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 29th November, 2006

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Finance, Planning and Trade on the Insurance (Amendment) Bill, 2006.

(By Dr. Oburu)

NOTICES OF MOTIONS

Prof. Mango: Mr. Deputy Speaker, Sir, I beg to give notices of the following two Motions:-

INTRODUCTION OF ORPHANS AND
VULNERABLE CHILDREN FUND BILL

THAT, in view of the steady rise in the number of children orphaned as a result of the HIV/AIDS scourge; aware that such children are subjected to untold suffering owing to lack of family support with most of them dropping out of school thus increasing---

(Mr. Wanjala consulted loudly)

Mr. Deputy Speaker: Order! Order!

Could I ask Mr. Wanjala to, please, respect the rules of the House. We have an hon. Member giving a notice of Motion and yet hon. Members are walking around chatting. May I ask that hon. Members respect the rules of the House.

Prof. Mango, could you start from the beginning?

Prof. Mango: Mr. Deputy Speaker, Sir, this Motion is to the Ministry of Home Affairs that in view of the steady rise in the number of children---

Mr. Deputy Speaker: Order! You are giving notice of Motion.

Prof. Mango: Mr. Deputy Speaker, Sir, I beg to give notices of the following Motions:-

INTRODUCTION OF ORPHANS AND

VULNERABLE CHILDREN FUND BILL

THAT, in view of the steady rise in the number of children orphaned as a result of the HIV/AIDS scourge; aware that such children are subjected to untold suffering owing to lack of family support with most of them dropping out of schools, thus increasing their vulnerability and exposure to early pregnancies, child labour and further HIV/AIDS infection, bearing in mind that the children lack shelter, food, clothing, medical facilities and the much needed psycho-social support; this House grants leave for the introduction of a Bill entitled "the Orphans and Vulnerable Children Fund Bill" to provide for the educational support, shelter, food, clothing and psycho-social support for the affected children so as to tap their enormous potential of becoming resourceful and responsible citizens, and for matters incidental thereto and connected therewith.

INTRODUCTION OF HIGHER EDUCATION
LOANS BOARD (AMENDMENT) BILL

THAT, in view of the inequitable and unstructured distribution of the loans managed by the Higher Education Loans Board (HELB) for students in institutions of higher learning; aware that the funds' distribution has tended to favour students from urban areas and highly populated regions of this country; cognisant of the need to provide all young persons with equal opportunities to acquire knowledge and specialised skills; this House grants leave for the introduction of a Bill for an Act of Parliament to amend the Higher Education Loans Board Act, CAP.213(A) of the Laws of Kenya, to provide for a decentralised constituency Higher Education Loans Scheme to ensure equitable distribution of loans funds at the constituency level to students in both regular and parallel programmes studying in public and private universities, and for matters incidental thereto and connected therewith.

INTRODUCTION OF KENYA FILM
DEVELOPMENT BILL

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

THAT, recognizing the importance of the film industry in the economy of the country; realizing that Kenya has been identified by international film makers as a leading location for films and documentaries; noting that the country is losing millions of shillings as a result of lack of a comprehensive legislation; this House grants leave for the introduction of a Bill for an Act of Parliament entitled the Kenya Film Development Bill in order to streamline the industry and provide guidelines for local and visiting film makers.

INTRODUCTION OF PSYCHOLOGICAL
PRACTITIONERS BILL

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

THAT, this House grants leave for the introduction of a Bill for an Act of

Parliament to make provision for the training, registration and licensing of psychological practitioners, to regulate their practice and standards and to ensure their participation in matters relating to guidance, counselling and therapeutic services in the community, and for matters incidental thereto and connected therewith.

QUESTIONS BY PRIVATE NOTICE

ALGAE INVASION IN LAKE VICTORIA

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

What urgent steps is the Minister taking to avert the destruction of flora and fauna in Lake Victoria by an algae invasion that threatens the livelihood of millions of Kenyans and other populations in the diaspora?

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

My Ministry has taken the issue of the destruction of the flora and fauna in Lake Victoria by an algae invasion with the seriousness that it deserves with a view to protecting the marine life in the lake. Currently, My Ministry is implementing various programmes within the Lake Basin which are aimed at reducing the flow of silt and pollutants resulting from agricultural and industrial activities in the upper catchment areas.

(Mr. Ogur walked around the Chamber and consulted loudly)

Mr. Deputy Speaker: Order, Mr. Ochola-Ogur! The Standing Orders of the House bar hon. Members from standing and moving around when the House is in business. The Assistant Minister is responding to a Question and hon. Members are walking around. Please, observe the rules.

Proceed, Madam Assistant Minister.

The Assistant Minister for Environment and Natural Resources (Mrs. Kihara): Mr. Deputy Speaker, Sir, the Ministry's lead agencies involved in these programmes include the Forest Department, the National Environment Management Authority (NEMA) and the Kenya Forestry Research Institute (KEFRI). Other interventions include the implementation of various projects such as the Lake Victoria Environment Management Project (LVEMP).

In addition, my Ministry has undertaken to ensure that all major development projects being implemented within the Lake Victoria Basin are preceded by an environment impact assessment study in order to eliminate the occurrence of potential negative impacts on the environment, including Lake Victoria. The already established development projects are required to carry out an annual environment audit in order to ensure that they are complying with environmental standards within the Lake Victoria Basin, thus creating conditions which are unsuitable for the thriving of algae

All these interventions are meant to stabilize and maintain a balanced ecosystem within Lake Victoria and its basin.

Mr. Deputy Speaker: Mr. Marende, that is a lengthy reply. Do you have something to

add?

Mr. Marende: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for that answer but it is far from satisfactory. As we speak now, the invasion by algae on Lake Victoria is so serious that Lake Victoria is actually turning green. We are, therefore, courting a disaster of immense proportions unless it is put on check immediately. What concrete measures is the Assistant Minister taking to ensure reversal of the lake turning green immediately?

Mrs. Kihara: Mr. Deputy Speaker, Sir, as I said, everything possible is being done. This will be a continuous process. A research is being carried out by KEFRI which will ensure that the lake is safe.

Mr. Deputy Speaker: Do you have any question, Mr. Marende?

Mr. Marende: No, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: It looks like you are satisfied. Congratulations to the Assistant Minister. You are doing very well.

Next Question by the hon. Member for Kitutu Masaba?

NON-COMPUTERIZATION OF PATIENTS'
RECORDS AT KNH

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

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

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

Mr. Deputy Speaker: This is another case, like the one we had this morning, where an hon. Member calls to say that he will not be in the House. As I said in the morning, this trend must stop because the House cannot be held at ransom by hon. Members when they are not in the House. Therefore, we will concede to the request. But hon. Members should take note that the Chair will in future refuse to accept last minute calls from hon. Members asking for their Questions to be deferred for obvious reasons. We have a lot of Questions queuing to be brought to the Order Paper. When a Question has been put on the Order Paper, unless there are circumstances beyond the Questioner's control, perhaps he is unwell or he is out of the country, such a request will be declined. If an hon. Member calls to say that he is in the constituency, that will not be accepted in future. Let hon. Members take note of that.

I am sorry, Mr. Assistant Minister for Health. I know you have an answer to this Question, but we will defer it to Tuesday next week. In any case, a Question by Private Notice cannot be asked by any other person. Is that okay, Mr. Assistant Minister?

The Assistant Minister for Health (Dr. Kibunguchy) Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Thank you.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.521

NON-PAYMENT OF THE LATE OSERE
OKWORE'S TERMINAL DUES

Mr. Ojamoong asked the Minister of State for Administration and National Security:-

(a) whether he is aware that Mr. Bonface Osere Okwore, Police Constable No.73584, was killed at Malava while on duty on 15.4.2004;

(b) whether he is further aware that despite all relevant documents having been submitted, the late Okwore's terminal dues have not been processed and paid; and,

(c) what urgent measures he is taking to ensure that the late Okwore's terminal dues are paid.

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

(a) I am aware that Police Constable Osere Okwore was stabbed to death by a suspect who was being interrogated by police officers at Chemuche Village, East Kabrass Location on 15th April, 2004.

(b) I am also aware that the family submitted part of the required documents for processing of death benefits. However, the father of the deceased and the chief of the area were asked to confirm the whereabouts of the deceased's widow who is identified in the records as Josephine Nyamanga Okwore, being the next of kin as stated by the deceased in his records.

(c) The Government is waiting for the widow to submit a certified copy of her national identity card and the original birth certificates of the children to enable her dues to be processed without further delay.

Mr. Ojamoong: Mr. Deputy Speaker Sir, as far as I am concerned, all the documents were submitted and the OCPD of the area verified that. We have documents to show that. In that case, what documents does the Assistant Minister need and if they are all presented, when can they be processed so that the family members can get their terminal dues? This process started in 2004. Today, we are in the year 2006!

Mr. Munya: Mr. Deputy Speaker, Sir, the main bone of contention is that the father of the deceased insists that he was not married. However, records show that the deceased was married with two children, namely: Dorcas Okwaya Atiang and Regina Okwore. We have instructed the father and the chief to locate the deceased's wife so that we can process their dues.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, the case of Mr. Okwore is just one among many. Members of our forces are killed in the line of duty and it takes unnecessarily too long for their suffering families to be paid their dues. I have an example of two cases that I presented to this Ministry, where two constables were killed and their families have not received their dues. Could the Assistant Minister tell this House how long it takes for families to be paid, even after they have presented all the required documents?

Mr. Munya: That is an extremely general question. Our officers---

(Loud consultations)

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. There are loud consultations coming from the corner at which hon. Wanjala is mourning. Could you ask him to mourn quietly?

Mr. Deputy Speaker: Mr. Wanjala, I remember ordering you to sit down earlier, and now you are on the spot again. I do not know who is mourning or not and for what reason people should be mourning. All the Chair is concerned about is that we must have order in the House. So, could

you consult in lower tones?

Mr. Sang: Mr. Deputy Speaker, Sir, mourning is a very serious issue. Could we know who has passed away?

(Laughter)

Mr. Deputy Speaker: Order! We are now interrupting business. Could we have the Assistant Minister respond to Mr. K. Kilonzo's question?

Mr. Munya: Mr. Deputy Speaker, Sir, if all the necessary documents are presented to the Police Department and there is no dispute between the beneficiaries, there should be no problem in accessing the dues. If the hon. Member has any specific issues to address, let him forward the cases to my office and we will deal with them accordingly.

Mr. Mirugi: Mr. Deputy Speaker, Sir, since we have many police officers who are killed in the line of duty and their families go through a hard time to have their terminal dues paid, could the Assistant Minister consider having a "one-stop-shop" where families of the deceased can visit and apply for their terminal dues, hence reduce the inefficiency and complacency in the documentation process?

Mr. Munya: Mr. Deputy Speaker, Sir, there is no inefficiency in this case. There is a dispute between the father and the widow of the deceased. As soon as the proper documents are presented, there will be no problem with the payment.

Mr. Ojaamong: Mr. Deputy Speaker, Sir, indeed, there is a dispute between the father and the wife of the deceased. However, the problem is not with the documents. The father of the deceased did a lot of work in educating his son. The son got a wife from elsewhere, but when the deceased died, she went away. In such circumstances is there a way that we can arbitrate between the two because they might not agree on the issue of the benefits?

Mr. Munya: Mr. Deputy Speaker, Sir, the best way to resolve such a matter is for the potential beneficiary to go to court. The court would arbitrate over the issue. That way, the beneficiary will be able to get her benefits.

Mr. Deputy Speaker: Such cases can even be resolved by the local community; *wazee wa nyumbani*. Surely, what can the Assistant Minister do? Under the given circumstances, the Assistant Minister cannot do more than he has already done.

Question No.539

DEATH OF MR. MUNYIKA NGUTA

Mr. Rai asked the Minister of State for Administration and National Security:-

(a) under what circumstances Mr. Munyika Nguta of Maphirphiriin Village, Mwatate Location of Kwale District, met his death on 27th November, 2003; and,

(b) what urgent measures he is taking to ensure that investigations on the death of Mr. Nguta are completed.

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

(a) Investigations carried out have revealed that Mr. Munyika Nguta died after falling from his bicycle at Maphirphiriin Village, Mwatate Location of Kwale District on 27th November, 2003.

(b) Investigations have been completed and an inquest file number 10/2004 has been forwarded to the Attorney-General's Chambers for perusal and advice, upon which the necessary

action will be taken.

Mr. Rai: Mr. Deputy Speaker, Sir, in his answer, the Assistant Minister said that Mr. Nguta died after he fell off his bicycle. Could he tell this House what time Mr. Nguta fell off his bicycle and if he has any postmortem documents to show that? According to what we know, Mr. Nguta was found dead after he had been thoroughly beaten in Maphirphiriin Village.

Mr. Munya: Mr. Nguta was riding his bicycle in the company of his two colleagues, Messrs. Kasungu Kayumba and Maasai Ruta. However, Mr. Nguta was ahead of them. When they arrived where Mr. Nguta was, they found him unconscious, having fallen off his bicycle. His body was carried to an elders home nearby. The elder went to report the matter to the chief. When they arrived at Mr. Nguta's home, he had already succumbed to his injuries. We have a postmortem report indicating that he died from intercranial haemorrhage due to scalp fracture after the fall.

Mr. Deputy Speaker, Sir, what we have not been able to establish is whether he fell off from the bicycle or somebody pushed him off his bicycle. However, the post mortem report clearly indicates that his skull broke after he fell off his bicycle. We have forwarded the report to the Attorney-General. We are waiting for him to decide whether to hold an inquest to establish whether there were other people involved in his death or it was a natural accident.

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, it is apparent that very little investigations have been done on this matter. It is not possible for somebody to hit his head before breaking his arms. Would I be in order to ask the Assistant Minister to order further investigations into this matter? What he is saying does not make factual sense. It is not possible for someone to fall off a bicycle and just hit one's head without injuring other parts of the body.

Mr. Munya: Mr. Deputy Speaker, Sir, the police investigations and the post mortem report show that the deceased had no other injuries other than his head having hit against some stone or hard place and, therefore, fracturing his skull. Our conclusion is that he could have fallen off his bicycle. However, the file is with the Attorney-General to do an inquest which will establish whether there was any other cause of death other than a normal fall from the bicycle.

Mr. Rotino: Mr. Deputy Speaker, Sir, the Assistant Minister has said that they have given out the file to the office of the Attorney-General for him to make a decision. How long does it take for him to make a decision? This is now three years down the line!

Mr. Deputy Speaker: Mr. Munya, it is exactly three years and two days. Today is 29th November, 2006. The incident happened on 27th November, 2003. That is a valid question.

Mr. Munya: Mr. Deputy Speaker, Sir, we will contact the office of the Attorney-General with a view to making him make haste in resolving this matter. If Mr. Rai has any information indicating to the contrary, he should present it to us. The information we have is that it was an accident. The inquest would only be intended to establish, by questioning those who may have accompanied him or those who were around, whether there was any other cause of death. If there is any information or witnesses that he may have, he should come forward to help in bringing this matter to an end.

Mr. Deputy Speaker: Last question, Mr. Rai!

Mr. Rai: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House which police station is investigating this case? When this accident happened, the police were contacted and to the best of my knowledge---

(Several hon. Members stood up in their places and consulted loudly)

Mr. Deputy Speaker: Order, hon. Members! Order! Hon. Members, one of the most flouted Standing Orders is Standing Order No.85---

*(Mr. Kenyatta was applauded
as he entered the Chamber)*

Order, hon. Members! Order! Before Mr. Kenyatta came in, I was saying that one of the most flouted Standing Orders of this House is Standing Order No.85. I want to read it out to you. It says:-

"Except when passing to and from his seat or when speaking, every Member when in the Chamber shall be seated, and shall not at any time stand in any of the passages and gangways."

This is a Standing Order that is flouted too often by hon. Members. May I ask you, please, to remain in your seats except when you are standing to speak or moving away from the Chamber. We are unable to conduct business when so many hon. Members are up standing when the business of the House is going on. Please, let us observe our Standing Orders!

Proceed, Mr. Rai!

Mr. Rai: Mr. Deputy Speaker, Sir, I was asking the Assistant Minister to tell this House which police station investigated this matter. When this matter was reported to the village elders, they reported to a certain police station, which did not have a vehicle. For the last four months, Kinango Police Station has had not vehicle. Where is this vehicle?

Mr. Deputy Speaker: Order, Mr. Rai! This is a very important matter. You are really confusing us by bringing in other issues. The most important thing is to ensure that the matter which is on inquest is concluded as soon as possible. However, you are now introducing issues of vehicles and so on.

Mr. Munya, would you like to respond to that question?

Mr. Munya: Mr. Deputy Speaker, Sir, the vehicle that carried the body of the late Nguta to the general hospital for post mortem was from Mariakani Police Station. There is a post mortem report which I wish to table for the hon. Member to peruse.

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

Mr. Deputy Speaker: Thank you, Mr. Munya.
Next Question, Mr. Ochilo-Ayacko!

Question No.469

GRABBING OF AWENDO SUB-DISTRICT
HOSPITAL LAND

Mr. Ochilo-Ayacko asked the Minister for Lands:-

- (a) if he is aware that land belonging to Awendo Sub-District Hospital has been alienated by a private developer who is running a school on it; and,
- (b) what measures he is taking to recover this public land.

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

- (a) I am not aware that land belonging to Awendo Sub-District Hospital has been alienated by a private developer.
- (b) My Ministry does not intend to take any action as no public land has been alienated.

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, I have not received a written answer to the Question. Nevertheless, I wonder where the Assistant Minister received this information from because for the last three years there is a private school that has been constructed on the land belonging to Awendo Sub-District Hospital. All he needs to do is to go and look at that school and also receive correspondence from the DC. Could he tell me where he got this response from? I can take him to that school where classes are already going on.

Mr. Kamama: Mr. Deputy Speaker, Sir, first I want to apologise that the hon. Member did not receive a written answer in good time. I am sure the officers who were supposed to do that have done their duties. Nevertheless, I will talk to the hon. Member in person.

I want to confirm to the House that the land reserved for a public dispensary at Awendo Town Council is intact. It has not been grabbed. There is a company called Riwa Hospital Limited that was allocated this land in 1999. This land is under registration No.20592. This was approved by Awendo Town Council and recommended for approval by the Commissioner of Lands. The proposed subplots were subdivided to give room for a hospital, school, business/residential user, petrol station, church and open space. Therefore, the land that was reserved for the dispensary is intact. The proprietor of Riwa Hospital Limited got this land legally. This was approved by Awendo Town Council.

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, it is very sad that the Assistant Minister has not done his homework well. The school stands on hospital land, and the proprietor of the school has been pleading with the District Physical Planner to try and exchange the land where the school is with the land that rightly belongs to the proprietor. The proprietor has even admitted in writing that he had wrongly built on hospital land. Could I ask the Assistant Minister to cause his officers or himself to visit that land and get to know that public land is being negotiated for private land?

Mr. Kamama: Mr. Deputy Speaker, Sir, the information I have is true to the best of my knowledge and belief. But if the hon. Member needs further assistance, and since he claims that the proprietor is willing to negotiate, then they are welcome to my office and I will assist them appropriately.

Mr. Deputy Speaker: Fair enough. I think, Mr. Ochilo-Ayacko, you can follow up with the Assistant Minister; he seems to be very accommodating. Next Question by Mr. Oparanya.

Question No.476

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

Mr. Oparanya asked the Minister for Lands:-

- (a) whether he is aware that there is no Land Officer, Land Registrar, Land Surveyor and Valuer at the Butere/Mumias District Headquarters; and,
- (b) when he will post these officers to the district.

The Assistant Minister for Lands (Mr. Kamama): Mr. Deputy Speaker, Sir, I want to beg the indulgence of the House that the reply I have is not appropriate and I wish to bring a proper answer tomorrow. We will work round the clock to make sure that it is done tomorrow.

Mr. Oparanya: Mr. Deputy Speaker, Sir, unfortunately, I am not in tomorrow, so may be, you can defer it to Tuesday next week.

Mr. Deputy Speaker: Very well.

(Question deferred)

*Question No.647*GRABBING OF KITALE
AERODROME LAND

Mr. Deputy Speaker: Hon. Members, Capt. Nakitare has requested that due to his inability to ask this Question; he is out of the country, the Question be deferred until later. Therefore, the Question is deferred.

(Question deferred)

*Question No.668*ELECTRICITY SUPPLY TO CENTRES/
SCHOOLS IN BOMET CONSTITUENCY

Mr. Salat asked the Minister for Energy:-

- (a) how many town centres and schools have been earmarked for supply of electricity in Bomet Constituency in the financial year 2006/2007;
- (b) the specific programme under which they are funded; and,
- (c) how many of the projects have been awarded, and to which contractors.

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

(a) Three town centres and nine schools have been earmarked for supply of electricity in Bomet Constituency in the financial year 2006/2007.

(b) All are funded by the Government of Kenya.

(c) Three of the projects have been awarded as follows. One, Kapkoros Secondary School awarded to MS Electron Oil Africa; Kshs463,952. Two, Kapkoros Market awarded to South West Associates at Kshs259,521. Three, Kongoitich Girls Secondary School awarded to Depken Stationers Ltd. for Kshs394,980.

Mr. Salat: Mr. Deputy Speaker, Sir, my Question to the Minister concerns Kapkoros Market. This particular company that was awarded the contract, called South West Associates, has taken its time in completing the project. Is the Assistant Minister satisfied that some of these contractors are able to do the job? This particular one has been telling stories that it is missing spares and some of the equipment needed to be brought on site. When is this contractor going to complete the project?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we are going through this list of contractors. For sure, some of them have let us down and the issue of materials supply is no longer a question. They cannot hide behind supplies. So, we are going through the list and those we think cannot perform are definitely going to be blacklisted. It will not take long before we do exactly that. It might not go beyond mid next month.

Mr. Ahenda: Mr. Deputy Speaker, Sir, I do not know whether I got the Assistant Minister right. I heard one of the contractors is a stationery firm and it was awarded electrical contract. Is that possible? Did I get him right?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, it depends on how they are associated with the registrar. Any company can be recruited to carry out such business.

Mr. Arungah: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us what he is doing to avoid contractors taking more jobs than they can handle, thereby causing unnecessary

delays?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, that question was addressed last month, and we are making sure that no contractor will be given more than two jobs before they complete the first one.

Mr. Salat: Mr. Deputy Speaker, Sir, the Assistant Minister has said most of the contracts awarded are funded by the Government. Could he tell the House if there are other projects that are being funded by other bodies, other than the Government, in Bomet?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, these three projects are not the only ones being funded in Bomet District. These are only for the year 2006/2007. We also have the French Programme going on in the Rift Valley Province and I would urge the Member to come to my office and I will give him a list of all the projects that are on-going.

Question No.404

DECLINE IN SECONDARY EDUCATION
STANDARDS IN MACHAKOS DISTRICT

Mr. M. Maitha asked the Minister for Education:-

(a) whether he is aware that the standards of secondary education in Machakos District continue to decline compared to other districts in the country;

(b) how many plain A's the district recorded in 2004 and 2005 KCSE examinations, and how this performance compares to that of Makueni, Bondo and Nyeri districts; and,

(c) how many students qualified to join public universities from each constituency in the district in 2005.

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

(a) I am aware that the performance of Machakos District has been fluctuating nationally and comparatively in terms of the mean scores in KCSE since 2003 at the mean grade of C- on average, as follows: In 2003, the mean grade was 4.08; in 2004, it was 4.57 and in 2005, it was 4.60; some improvement but still a very poor average. In a comparative performance by province in selected districts, Machakos ranked No.54 nationally last year compared to Tharaka which was No.1, Bondo No.5 and so on. Essentially, Machakos was one of the lowest in the country. That comparison shows that Tharaka District with a mean score of 6.1 and position one nationally was better than Machakos District by a mean score margin of 1.50. That does not say a great deal because it depends on the number of schools and candidates registered.

(b) The district scored only three straight A's in 2004 and five in 2005. However, compared to Makueni, Bondo and Nyeri, for example, the results were as follows. Machakos in 2004 had only three A's, Nyeri had 30, Makueni 16, Bondo 6. Again, much depends on the type of school and the registration. But again, the numbers who got straight A's and A- were very few.

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

(c) In 2005, a total of 2,286 out of 11,194 or 19 per cent of the candidates scored a mean grade of C+ and above, which qualifies one to university. But unfortunately, even though that was the number, only 284 students from the schools registered in that district actually qualified for university.

Mr. M. Maitha: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for admitting that education standards in Machakos are declining. When the Assistant Minister said that 2,000 students out of a total of 11,000 have succeeded in joining our public universities, he forgot that 80,908 students did not qualify to be admitted in our universities. What programme has the Assistant Minister put in place to ensure that more students qualify to join public universities?

Dr. Mwiria: Mr. Deputy Speaker, Sir, going by the minimum qualification, which is C+ (Plus), it means that only slightly more than 2,000 students qualified to join our universities. Unfortunately, only 284 students made it. As we all know, admission to our public universities is tied to available spaces, especially accommodation. What we are hoping to do is to expand opportunities by opening more campuses and expanding opportunities within the existing universities to ensure that more of the students who qualify make it. That is going to be a long-term measure. It is still a problem because many of those who are left out, only a few are able to join university through the parallel degree programme. I admit that this is a national problem.

Mr. Mwanzia: Mr. Deputy Speaker, Sir, I would also like to thank the Assistant Minister for accepting that education standards in Machakos are very low. However, could he carry out a research in order to find out the causes of decline in education standards in Machakos? What is he going to do to improve the situation?

Dr. Mwiria: Mr. Deputy Speaker, Sir, in all districts in the country we are working with the District Education Boards (DEBs) to initiate some measures especially related to inspection. We need to do our best to support all schools.

Secondly, we are also looking at the problem of management of our learning institutions and, where necessary, identifying the right managers to manage the institutions. More importantly, it is really the issue of inspection. We are, therefore, working closely with the DEBs to ensure that we do our very best.

Mr. Deputy Speaker, Sir, we are also providing resources for schools that fall within the pockets of poverty in this country. Machakos has a number of schools that fall within this category. We are also providing laboratory equipment for some of the schools. You will recall that, previously, we have been speaking about support for infrastructural development for two schools in every district as well as two schools under the New Partnership for African Development (NEPAD) initiative for ICT support. That does not cover nearly all the schools in the country. However, it is just the beginning and we hope to cover as many schools as possible.

Mr. Mirugi: Mr. Deputy Speaker, Sir, could the Assistant Minister specifically state the measures that the Ministry has taken to uplift the standards of schools which do not perform well in national examinations?

Some of the hardship areas in this country do not get the best quality of teachers that others get. Could the Assistant Minister tell us the measures that the Ministry has taken to attract top quality teachers in these hardship areas so that they can help in uplifting the standards of education in those areas?

Dr. Mwiria: Mr. Deputy Speaker, Sir, we have a programme for support of teachers, both in secondary and primary schools, in hardship areas. They receive 35 per cent of the total package. I have said before that with regard to hardship areas, we are doing a harmonisation together with the civil service in general to ensure that other areas that had been left out, but deserve to be part of the hardship programme are included. This is the only way to attract the best teachers because they will feel that there is an incentive.

Maj. Madoka: Mr. Deputy Speaker, Sir, I believe that the District Education Officers (DEOs) contribute a lot to the development of education standards in their districts. What does the Ministry do to ensure that these DEOs do their work properly?

Dr. Mwiria: Mr. Deputy Speaker, Sir, DEOs are trained from time to time. We call them

for seminars that we organise. Again, they are inspected by senior officers from the provinces and quality assurance people from the headquarters. I can see the hon. Member denying that fact. However, I wonder why he was asking me the question if he already knew the answer.

Mr. Sambu: Mr. Deputy Speaker, Sir, one of the reasons for their being a lot of problems in our schools, for example, strikes and other complications, is that Board of Governors (BOGs) and Head teachers force schools to be boarding schools. Even children who come from nearby are forced to be boarders and thereby required to pay Kshs20,000 instead Kshs9,000. What is the Government's policy on the issue of schools being transformed from day schools to boarding schools? What benefits do they get from the Government when they are transformed into boarding schools?

Dr. Mwiria: Mr. Deputy Speaker, Sir, the decision on whether a day school should be transformed into a boarding school or not is made by individual school managers, parents and the BOGs. This is also communicated to the DEBs. So, really, it is not the Ministry's decision. What we are doing as a Ministry is to encourage the establishment of more day schools because we realised that they are cheaper for parents. If a school becomes a boarding institution, no levy can be charged until the DEB approves the levy.

Mrs. Mwendwa: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that in the hardship areas, students waste a lot of time because they are sent home to collect school fees? We know that we have got some bursaries which we distribute to secondary schools. However, this is not adequate at all. Therefore, so many students waste a lot of time staying at home waiting for fees. Is it possible for the Ministry to make a special consideration for students in these areas? This is one reason for the low standards of education in these areas.

Dr. Mwiria: Mr. Deputy Speaker, Sir, we would very much like to consider that because we realise that it is a big problem. For primary schools, you are aware that we have the school feeding programme. So, we would like to do what the hon. Member has said. We would also like to do that for a lot of our children who are orphaned and cannot make it through secondary school. We need to come up with resources from somewhere to do that. I can, however, assure this august House that, that is one matter that disturbs us a great deal and we hope to come up with a solution in terms of addressing the needs of poor kids in arid and semi-arid areas as well as those in slum communities and other areas that are considered pockets of poverty in this country.

Mr. M. Maitha: Mr. Deputy Speaker, Sir, in many of our DEB meetings, we have been informed that many secondary schools go uninspected because of lack of quality assurance officers. In my district, there is only one quality assurance officer for all the secondary schools. How do you expect one officer to inspect all the secondary schools in the district and then expect the schools to perform better?

Dr. Mwiria: Mr. Deputy Speaker, Sir, we have, recently, given a great deal of support to quality assurance officers, especially in the form of transport. However, we are trying to recruit more quality assurance officers and other staff members at the District Education Offices. We have, as a matter of fact, advertised for the recruitment of more quality assurance officers. The terms of service of these officers have been improved so that we can attract good teachers from secondary schools who will feel motivated to join.

It is, therefore, true that we need to recruit more personnel and support them in terms of the facilities that they need so that they can visit as many schools as possible.

Mr. Deputy Speaker: That marks the end of Question Time. Next Order!

POINT OF ORDER

BONA FIDE LEADERS OF THE OFFICIAL

OPPOSITION PARTY (KANU)

Mr. Samoei: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek the Chair's ruling on an issue that is very central to the operations of this House. In the past, as the Official Opposition, we asked for the Speaker's ruling on the appointment of Members of the Official Opposition into Government. The Government did not stop there. Today in this country, the Government, through the Office of the Registrar of Societies, is purporting to appoint the Leader of the Official Opposition. I rise to seek your ruling because in 2003 we met as Members of Parliament of the Official Opposition party and elected hon. Uhuru Kenyatta as the Leader of the Official Opposition.

(Applause)

We also elected hon. Justin Muturi as the Whip of the Official Opposition. Today, in this country, there are people masquerading in the public domain as having taken over those offices. I think it is in good order if you can inform the public for the avoidance of doubt that the position as obtaining in this House and as per the elections in 2003 cannot be changed by a Government that purports to appoint the leadership of the Official Opposition that is deemed to be user-friendly.

(Applause)

The Assistant Minister for Energy (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir. The hon. Member, William Samoei has made a very serious allegation and according to the Standing Orders and the rules of this House, he is supposed to substantiate the issues that he has raised before this House. He has claimed that the Government, through the Registrar of Societies, is trying to impose a new Leader of the Official Opposition. Those allegations have been made right here by hon. Samoei. Could the hon. Member substantiate his claim since this is a very serious allegation against the Government?

Mr. Deputy Speaker: Order, hon. Members! There is no doubt that Mr. Samoei has made certain allegations. He has stood on a point of order and I do not think at this juncture I need to ask him to substantiate anything because the matter is addressed to the Chair. There is no doubt that it is a very weighty matter that requires careful consideration by the Chair and for a ruling to be given. In view of that, I think that it would be appropriate for the Chair to make a Communication from the Chair in response to Mr. Samoei's point of order tomorrow.

(Applause)

Let the matter end there until the Chair considers the matter and communicates to the House tomorrow. I want now to draw the attention of the hon. Members to the Supplementary Order Paper.

(Mr. Salat stoop up in his place)

Order, Mr. Salat! What is the problem? Could you relax!

Hon. Members: Throw him out!

Mr. Deputy Speaker: Order, hon. Members! We are not going to allow party matters to interrupt the business of the House. If you want to engage in matters of the party, then walk out. If

you want to wrestle out there, you can do so but when you come in here we will continue with our business. Now, for the moment, I want to draw the attention of the House---

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

COMMUNICATION FROM THE CHAIR

DEFERMENT OF COMMITTEE STAGE OF THE WITNESS PROTECTION BILL

Mr. Deputy Speaker: Order, hon. Members! Could we have some order! I think this week has been historical, but be that as it may, I want to draw the attention of the hon. Members to the Supplementary Order Paper that was circulated earlier and also say that we are going to the next Order, which is Order No.7. One is the Witness Protection Bill in the Committee of the whole House. It is not possible for us to proceed with that Bill because the Attorney-General is out of the country. We will then move to the next Order, which is the Refugees Bill.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Maore) took the Chair]*

THE REFUGEES BILL

The Temporary Deputy Chairman (Mr. Maore): Order, hon. Members! We have received notice of hon. Kajembe's intention to move some amendments to this Bill. Where is Mr. Kajembe?

Clause 2

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 be amended by-

(e) in the definition of "asylum" by deleting the expression "15" and substituting therefor the expression "16";

(f) by deleting the definition of "appointed officer" and substituting therefor the following new definition-

"appointed officer" means an officer in the public service and gazetted by the Minister for purposes of this Act."

(g) in the definition of "Committee" by deleting the words "Refugee status Determination Committee" and substituting therefor the words "Refugee Affairs

Committee";

(h) by inserting the following new definitions in the proper alphabetical order-

"entry point" means the nearest government administrative centre;

"refugee camp" means any such place as shall be prescribed by the Minister to be a refugee camp.

Mr. Temporary Deputy Chairman, Sir, my Departmental Committee convened a workshop, and all the stakeholders were there. So, this amendment covers the interests of all the stakeholders, and it is agreeable by the Ministry. That is why we have proposed the amendment, as it appears on the Order Paper.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairman (Mr. Maore): Hon. Members, Ms. Ndung'u also has an amendment to Clause 2; on page 547 of the Supplementary Order Paper.

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

THAT, Clause 2 of the Bill be amended-

(a) in paragraph (b) by inserting the words "brother and sister" immediately after the word "child".

(b) in paragraph (c) to read as follows-

"any dependant grandparent, parent, grandchild, or ward living in the same household as the refugee."

The reason for the first part of the amendment to this clause is that there are many refugees who have immediate brothers and sisters who are under the age of 18, and the manner in which this paragraph was phrased in the Bill leaves them out of the family. The reason for the second amendment to this clause is that, in terms of determination of refugees, it is important for us to be able to determine refugee status, giving that status to persons living within one's household. When refugees cross into the country in the numbers that they do, it is difficult to determine who belongs to which household. So, the proposed amendment will help in the administration of the law we are making.

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

Clause 3

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 3 of the Bill be amended in subclause 1(a) by inserting the word "sex" between the words "religion" and "nationality".

Mr. Temporary Deputy Chairman, Sir, the word "sex" in this amendment is more important than what appears in the Draft Bill.

(Question of the amendment proposed)

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

The Temporary Deputy Chairman (Mr. Maore): Hon. Members, there is a further amendment to Clause 3 by Ms. Ndung'u.

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

THAT, Clause 3 of the Bill be amended-

(a) in subclause 1 by inserting the word "statutory" after the article "a".

(b) by deleting paragraph (c).

(c) by deleting subclause (2).

(d) by inserting the following new subclause 4-

"(4)(a) A person shall be a *prima facie* refugee for purposes of this Act if such person owing to external aggression, occupation, foreign domination or events seriously disturbing public order in any part or whole of his country of origin or nationality is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality; or

(b) If the Minister considers that any class of persons are *prima facie* refugees as defined in paragraph (a), the Minister may declare such class of persons to be *prima facie* refugees and may at any time amend or revoke such declaration.

(c) If the Minister under paragraph (b) expressly excludes or exempts any person from a declaration that a class of persons to which that person is a member are refugees, such exclusion or exemption shall not preclude the person concerned from applying under paragraph (a) for recognition of their status as a refugee."

Mr. Temporary Deputy Chairman, Sir, by this amendment, I seek to introduce two categories of refugees. Statutory refugees will be those people who come and apply on individual capacity, and who the Government can be able to assess in terms of their plights. The second group will be *prima facie* refugees. This relates to large groups of people that cross the border, fleeing from persecution but who cannot be interviewed as individuals. This proposal is intended to, again, help the Government to administer the status of determination of the two categories of refugees and to facilitate the same.

Thank you.

(Question of the amendment proposed)

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

(Question, that the words to be

*inserted in place thereof be
inserted, put and agreed to)*

(Clause 3 as amended agreed to)

Clause 4

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 of the Bill be amended by deleting the words "an act of terrorism" appearing immediately after the word "peace".

Mr. Temporary Deputy Chairman, Sir, my Departmental Committee came up with this amendment, taking into account the fact that we are dealing with refugees, and not terrorists. We, therefore, thought that encouraging the inclusion of terrorism matters in the Bill would not be fair. So, this is an amendment that was duly considered by my Committee.

(Question of the amendment proposed)

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

The Temporary Deputy Chairman (Mr. Maore): Hon. Members, there is another amendment to this clause by Ms. Ndung'u.

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

THAT, Clause 4 be amended-

(a) by inserting the following new paragraph (c)-

"(c) has committed a serious non-political crime inside Kenya after the person's arrival and admission into Kenya as a refugee."

(b) by renumbering paragraph (c) as (d).

(c) by renumbering paragraph (d) as (e).

Mr. Temporary Deputy Chairman, Sir, the reason for this amendment is because this particular clause is about disqualification of refugee status. It provides for those people who have committed crimes outside Kenya but it does not provide for people who have committed crimes inside Kenya. This is the reason why I wish to propose this amendment.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, I wish to make an additional amendment to Ms. Ndung'u's amendment because the way it is, it is likely to have a negative effect on Government operations as far as the management of refugees is concerned. It will exclude the responsibility of the Government to perform individual refugee status determination, which is a requirement for most governments who wish to resettle refugees in a third country. While I do agree with the spirit of that amendment, I wish to add that---

Ms. Ndung'u: On a point of order, Mr. Temporary Deputy Chairman, Sir. We cannot hear what the Minister is saying. So, we cannot follow his argument.

The Temporary Deputy Chairman (Mr. Maore): Is there a problem with the audio system or there is loud consultation?

Ms. Ndung'u: We just cannot hear him! He should speak louder!

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, should I shout louder than this?

The Temporary Deputy Chairman (Mr. Maore): You are now audible.

Proceed!

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, I was saying that the definition here of *prima facie* is that a refugee tends to create difficulties in terms of Government management of the refugee status determination in the country. So, while I agree with the spirit of this amendment by Ms. Ndung'u, I would like to add that this should only be applicable as an administrative mechanism where large numbers of refugees come to the country as opposed to giving, under general feeling, that refugees can just be determined in terms of large numbers.

The Temporary Deputy Chairman (Mr. Maore): Mr. Minister, I think the House needs to hear you forcefully, whether you are objecting to this amendment or whether you are suggesting amendments to this amendment.

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, I am suggesting an amendment to the amendment through an addition.

The Temporary Deputy Chairman (Mr. Maore): Then you have to follow some procedure, and you have not!

Mr. Bifwoli: Mr. Temporary Deputy Chairman, Sir, has the Minister registered the amendment to the amendment? If so, what is the amendment, because we have not heard him?

The Temporary Deputy Chairman (Mr. Maore): No, he has not registered his amendment.

Mr. Bifwoli: Then his amendment is invalid!

The Temporary Deputy Chairman (Mr. Maore): Mr. Minister, the only option you have is to either fight this clause as it is or we support it. You have not proposed an amendment to this amendment.

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, I will oppose it the way it is.

The Temporary Deputy Chairman (Mr. Maore): You oppose it?

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Yes.

The Assistant Minister for Planning and National Development (Mr. Ethuro): On a point of order, Mr. Temporary Deputy Chairman, Sir. I do not seem to understand the Minister as you have actually expressed yourself. The Minister is talking of a *prima facie* case while we are still on Clause 4. I thought that issue came in Clause 2.

The Temporary Deputy Chairman (Mr. Maore): No, we are in Clause 4. The amendment proposed by Ms. Ndung'u is that we should insert this new paragraph and the Minister is uncomfortable with it. He wanted to amend it but he has not followed the procedure. So, we are either fighting the amendment as it is or supporting it.

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, if we are to go along with Ms. Ndung'u's amendment, it will change the whole meaning of the amendment which has been proposed by my Committee, and that will not be in good taste. Ms. Ndung'u is a colleague, but let us not appear as if there is a fight between the Departmental Committee on Administration, National Security and Local Authorities and the Departmental Committee on Administration of Justice and Legal Affairs. We have accepted some of the amendments from Ms. Ndung'u, but with this one here,

I know that it is an additional amendment to our amendment, but it will change the whole meaning

of the amendment made by the Committee.

Ms. Ndung'u: On a point of order, Mr. Temporary Deputy Chairman, Sir. I think there is some confusion here.

The Temporary Deputy Chairman (Mr. Maore): Yes, clarify it!

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, what I have proposed and the reasons I gave is that we should be able to disqualify refugees if they commit criminal acts inside Kenya. Is the Minister saying that he objects to the fact that we should not allow criminals? Is that what he is objecting to? I have a feeling that we are not talking about the same clause with the Minister. Is the Minister objecting to the fact that we are saying that we should be able to disqualify persons who have committed serious non-political crimes in Kenya? Is that the Minister's position?

The Temporary Deputy Chairman (Mr. Maore): Mr. Minister, you need to do some little counter-argument, then we can see which direction to take.

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, I think we are not reading from the same script. What I am objecting to is what she had added in terms of definition of refugees, but not in terms of what is coming out. I agree with the amendment which she has brought. So, I think that we are just talking the same language, but in a different--

The Temporary Deputy Chairman (Mr. Maore): Mr. Minister, to be very right from what hon. Ethuro was saying, you are on Clause 3, which we actually passed a long time ago. But you have not addressed Clause 4.

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

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

(Clause 4 as amended agreed to)

Clause 5

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 5 of the Bill be amended-

- (a) in paragraph (c) by deleting the words "becomes a citizen of Kenya or" appearing immediately before the word "acquires";
- (b) in the proviso to paragraph (g) by inserting the words "or herself the protection of the country of nationality" immediately after the word "himself".

Mr. Temporary Deputy Chairman, Sir, this was agreed upon by all the stakeholders and my Committee. The Ministry is also supporting the amendment.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, I want to correct an error which appears in the amendment on the Order Paper in Clause 5(b), which says:-

- (b) in the proviso to paragraph (g) by inserting the words "or herself the protection of the country of nationality" immediately after the word "himself".

I want to remove the word "self" so that it says "or her the protection of the country of nationality" immediately after the word "his" instead of "himself".

The Temporary Deputy Chairman (Mr. Maore): Okay. But next time, Mr. Minister, I hope that you will come with your staff when you have Bills in the House.

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

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

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I wish to withdraw my proposed amendment to Clause 5.

(Ms. Ndung'u's proposed amendment withdrawn)

(Clause 5 as amended agreed to)

(Clause 6 agreed to)

Clause 7

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 7 of the Bill be amended-

(a) in subclause (2) by-

(i) deleting the words "United Nations High Commission for Refugees" appearing in paragraph (d) and substituting therefor the words "United Nations Agencies and any";

(ii) inserting the word "refugee" immediately after the word "issue" appearing in paragraph (j);

(b) by inserting the following new paragraphs immediately after paragraph (1)-

(m) initiate, in collaboration with the development partners, projects that promote peaceful and harmonious co- existence between the host communities and refugees;

(n) advise the Minister on the soliciting funds for refugee assistance programmes which have a positive impact on host communities;

(o) ensure that refugee economic and productive activities do not have a negative impact on host communities, natural resources or the local environment;

(p) ensure sustainable use of resources in designated refugee hosting areas;

(q) arrest any person suspected of committing an offence under this Act.

(c) by renumbering paragraph (m) as paragraph (r).

Mr. Temporary Deputy Chairman, Sir, my Committee did consultations with all the stakeholders. The Ministry also was represented at the workshop by the Minister himself. Therefore, the amendment is agreeable to all the parties concerned.

(Question of the amendment proposed)

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

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

(Clause 7 as amended agreed to)

Clause 8

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 8 of the Bill be amended-

(a) in subclause (1) by

deleting the words "Refugee Status Determination Committee" and substituting therefor the words "Refugee Affairs Committee";

(b) by inserting a new proviso to subclause (1) as follows-

Provided at least one-third of the members of the Committee shall be women.

(c) in subclause (2) by inserting the following new paragraph immediately after paragraph (g)-

(i) one representative from the Ministry responsible for finance or planning;

(d) in subclause (3) by deleting paragraph (f) and substituting therefor the following new paragraph-

(f) a representative of the Attorney-General;

(e) by renumbering the second subclause (3) as subclause (4);

(f) by deleting the renumbered subclause (4) and substituting therefor the following new subclause (4)-

(4) The Committee may co-opt a member from the civil society and a member from the host community for the purpose of assisting and advising the Committee.

Mr. Temporary Deputy Chairman, Sir, this clause was amended by my Committee. We held a workshop where we invited all the stakeholders. They are agreeable. The Minister himself attended that workshop and he is in favour of this amendment.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, there is a small error in the amendment in "c". It should read: "In substituting (3)" and not (2).

The Temporary Deputy Chairman (Mr. Maore): Mr. Kajembe, do you agree with that?

Mr. Kajembe: Yes, Mr. Temporary Deputy Chairman, Sir.

The Assistant Minister for Planning and National Development (Mr. Ethuro): Mr. Temporary Deputy Chairman, Sir, I was one of the stakeholders in this particular Bill. I do not think the Committee really reflects what we agreed on, especially on Clause 8(4). I, therefore, wish to propose an amendment.

The Temporary Deputy Chairman (Mr. Maore): Mr. Kajembe, can you address yourself to the argument by Mr. Ethuro?

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, it is true that the hon. Member attended the workshop. He was party to whatever we resolved in that workshop. Before you put the Question, could we know what the hon. Member is objecting to? It is very important that we hear

from him.

The Assistant Minister for Planning and National Development (Mr. Ethuro): Mr. Temporary Deputy Chairman, Sir, we actually discussed this at length. I was extremely excited that the Committee invited us to the discussion. This amendment really underpins the host community versus the refugees relationship. We felt that we needed a structured position in which, not just the committee may co-opt, but actually become part of the membership of that committee, in the sense that, that was to be reworded to reflect as follows: A representative from the host community and another one from the civil society. That was the proper wording.

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I entirely agree with the views expressed by Mr. Ethuro. A representative of the host community was to appear in that paragraph. Maybe, there was typographical error.

The Temporary Deputy Chairman (Mr. Maore): The amendment cannot be done from the microphone. It has to be done in writing and handed over.

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, this is a typographical error. It was amended according to what Mr. Ethuro has said.

The Temporary Deputy Chairman (Mr. Maore): I think you should put what you want in writing very quickly.

The Assistant Minister for Planning and National Development (Mr. Ethuro): Mr. Temporary Deputy Chairman, Sir, even during the Committee Stage of the Western University Bill, the written amendment was actually about "Kakamega University". But we made an amendment on that basis to rename it "Muliro University." Why can we not do the same?

The Temporary Deputy Chairman (Mr. Maore): The procedure requires that you submit the amendment in writing. Since you are not keen on it, I think we need to put the Question.

Mr. Kajembe, I think you should read what the Committee proposed on Clause 8(4).

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

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, since Mr. Ethuro has put it in writing, I think that should be accommodated in Clause 8(4).

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, I beg to move an amendment to the amendment in Clause 8(4). It should read:

"(4) The Committee shall include a representative from the host community and one member from the civil society for the purpose of assisting and advising the Committee."

*(Question of the amendment to
the amendment proposed)*

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

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

The Temporary Deputy Chairman (Mr. Maore): Ms. Ndung'u had another amendment to Clause 8.

Proceed!

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

THAT, Clause 8 of the Bill be amended in paragraph 3(b) by deleting the words "the Office of the President" and substituting therefor the words "the Ministry responsible for Provincial Administration and Internal Security."

Mr. Temporary Deputy Chairman, Sir, the reason for this amendment is because the Office of the President has a wider mandate. In terms of what relates to this particular Act and for the purpose of the management of refugees, I think it was important to narrow it down.

(Question of the further amendment proposed)

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

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

(Clause 8 as amended agreed to)

Clause 9

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 9 of the Bill be amended-

(a) in subclause (3)-

- (i) by deleting paragraph (b) and substituting therefor the following new paragraph-
 - (b) members appointed by the Minister from among persons having knowledge of, or experience in-
 - (v) refugee law;
 - (v) matters relating to immigration;
 - (iii) matters relating to foreign affairs;
 - (iv) matters relating to national security,
 - (iii) matters relating to local administration;
 - (iv) matters relating to refugee affairs.

(ii) by deleting paragraphs (c) (d) (e) (f) (g);

(b) by inserting a new subclause immediately after Clause (2) as follows-

(2A) The appointment under subsection (2) shall have at least one representative from the civil society.

We scrutinised this paragraph and we had to come up with these amendments. I think this is acceptable to the Committee, stakeholders and the Minister of State for Immigration and Registration of Persons.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, I agree with all the amendments but wish to object to part

(b) of the amendments because what it wants is already taken care of by the new Clause 4. This refers to advocacy societies, which should not be in the Committee.

The Temporary Deputy Chairman (Mr. Maore): Mr. Kajembe, I think you will agree that it is a duplication of just what we have been handling.

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, this is another typing error. The Minister is very much in order.

The Temporary Deputy Chairman (Mr. Maore): Now, we propose the deletion of---

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I propose the deletion of paragraph (b).

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

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

(Clause 9 as amended agreed to)

(Clause 10 agreed to)

Clause 11

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Clause 11 of the Bill be amended-

(a) in subclause (1) by deleting the words "authorized officer" and substituting therefor the words "the Commissioner".

(b) in subclause (4) by deleting the words "any authorized officer" and substituting therefor the words "any appointed officer", and renumbering Clause 9 as Clause 11 and vice versa.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, we had agreed with the Committee that this Clause 11 be Clause 9. This is because we are addressing the issue of these Committees in an ascending order.

The Temporary Deputy Chairman (Mr. Maore): I think if you read the whole clause, you will find that what you are discussing is actually there. The renumbering is there.

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

THAT, Clause 11 of the Bill be further amended in subclause (5) by deleting the word "shall" and substituting thereof the word "may".

Given the duties of the Minister under this particular section, I think it is important for us to give him some discretion, including the ability to extend the period of time in which he should fill these positions.

(Question, of the amendment proposed)

(Question, that the words to be left out

be left out, put and agreed to)

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

(Clause 11 as amended agreed to)

(Clause 12 agreed to)

Clause 13

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

THAT, Clause 13 of the Bill be amended in paragraph (a) by deleting the word "applied" and substituting therefor the words "made a *bona fide* application".

Once again this is to allow the Commissioner some discretion. In particular, when drafting the regulations we need to consider how we are going to determine some of these cases.

(Question of the amendment proposed)

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

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

(Clause 13 as amended agreed to)

Clause 14

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 14 of the Bill be amended in paragraph (a) by deleting the words "an identity card" and substituting therefor the words "refugee identity card".

(Question of the amendment proposed)

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

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

(Clause 14 as amended agreed to)

Clause 15

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 15 of the Bill be amended in subclause (1)(a) by deleting the words

"an identity card" and substituting therefor the words "refugee identity card".

(Question of the amendment proposed)

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

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

(Clause 15 as amended agreed to)

Clause 16

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 16 of the Bill be amended in subclause (2) by inserting the words "in consultation with the host community" immediately after the word "Gazette".

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 16 of the Bill be amended-

(a) by deleting paragraph (1)(a) and substituting therefor the following new paragraph-

"(a) shall be subject to rights and obligations contained in international conventions to which Kenya is a party";

(b) in subclause (4) by deleting the words "be entitled to the same rights", "if any" and "imposed generally".

I propose these amendments because Kenya is a signatory to many international conventions. Although there are two specific ones that relate to refugees other human rights conventions on the rights of women, the rights of the child and war crimes will apply to refugees generally, and the determination of refugee status. I am suggesting that we have an omnibus clause that involves all international conventions, and not to limit ourselves specifically to refugee conventions. I beg to propose the amendments.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, I agree with the amendment to Clause 16(4) but not (a). This is because through an amendment, we are going to delete all the Schedules on the national obligations. At the same time, this could be addressed under regulations, which will be promulgated once the Bill becomes a law.

The Temporary Deputy Chairman (Mr. Maore): Ms. Ndung'u, would you agree to that?

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I am sorry I did not understand the Minister's point.

The Temporary Deputy Chairman (Mr. Maore): Ask him to repeat it.

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, I am saying that under Clause 16(a), we are going to delete all the Schedules. Therefore, we do not need to refine our law on the issue of international obligations. They can be referred to through regulations, as opposed to being part of the law.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, I would want to respectfully disagree with the Minister, in that it is very important that we make a provision, specifically, in the parent Act, as opposed to leaving it to the discretion of whoever it is who is going to promulgate the

regulations under the Act. Therefore, I beg to support the amendment Ms. Ndung'u has proposed.

The Assistant Minister for Planning and National Development (Mr. Ethuro): Mr. Temporary Deputy Chairman, Sir, I also wish to support the amendment by Ms. Ndung'u. There is a procedure by which, as a country, we ratify international obligations. So, we cannot just be specific to a few laws only.

Mr. Kajembe: Mr. Temporary Deputy Chairman Sir, I have no objection to both the amendments by Ms. Ndung'u.

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

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

(Clause 16 as amended agreed to)

Clause 17

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

THAT, Clause 17 of the Bill be amended by inserting the following new paragraph:-

"(h) ensure treatment of all asylum seekers and refugees in compliance with national law."

Mr. Temporary Deputy Chairman, Sir, in my experience while working in refugee camps, sometimes it is a fact that communities who come as refugees want to impose their cultures on the host country, some of which are against human rights conventions. I think what happens in the camps must comply with the Kenyan national law. That is why I am proposing this amendment.

(Question of the amendment proposed)

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

(Clause 17 as amended agreed to)

Clause 18

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

THAT, Clause 18 of the Bill be amended:-

(a) in subclause (1) by deleting the words "Notwithstanding the provisions of any other law";

(b) by deleting subclause (2).

(Question of amendment proposed)

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

(Clause 18 as amended agreed to)

(Clauses 19 and 20 agreed to)

Clause 21

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

"THAT, Clause 21 of the Bill be amended:-

(a) by deleting the words "appointed officers" and substituting therefor the words "authorised officers",

(b) by deleting subclause (4) and substituting therefor the following new subclause:-

(4) Whenever it is necessary to cause a refugee to be searched, the search shall be made by an authorised officer of the same sex who, in conducting the search shall have strict regard to decency:

Provided that where an authorised officer of the same sex as the refugee to be searched cannot be found, the search may be conducted by another person of the same sex notwithstanding that that other person is not an authorised officer.

(Question of the amendment proposed)

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

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

(Clause 21 amended agreed to)

(Clause 22 agreed to)

Clause 23

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 23 of the Bill be amended:-

(a) in subclause (1)(b) by deleting the word "matter" appearing before the word "consent".

(b) in subclause (3) by deleting the expression "(1) and (2)" and substituting therefor the words "any provision of this section".

(Question of the amendment proposed)

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

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

(Clause 23 as amended agreed to)

Clause 24

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 24 of the Bill be amended in paragraph (c) by deleting the word "authorized" and substituting therefor the word "appointed".

The Temporary Deputy Chairman (Mr. Maore): Mr. Kajembe, can you throw some light on this? You have to expound on this, given the amendment we made in Clause 21. It is similar to this one. I do not know whether the Minister has noted this.

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, this one is different.

(Question of the amendment proposed)

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

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

(Clause 24 as amended agreed to)

(Clause 25 agreed to)

New Clause 18A

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended by inserting the following new clause immediately after Clause 18-

18A. This provision may not be claimed by any person where there are reasonable grounds for regarding that person as a danger to national security or to any community of that country.

The Temporary Deputy Chairman (Mr. Maore): Ms. Ndung'u, this is a new clause and you need to argue your case. The hon. Members have not had the opportunity to go through it before.

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, this amendment is directly related to the amendments that I proposed in Clause 19 in which the Commissioner needs reasons to withdraw the recognition of refugees. My proposal is that where a person is a danger to national security or to the community of this country, then that should give the Commissioner sufficient grounds to withdraw refugee status.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

Mr. Bifwoli: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the new Clause 18A be amended by deleting the words "this provision may not be claimed by" and substituting therefor the words "the Commissioner may withdraw the refugee status of".

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, those who are proposing these amendments need to come out clear. Persons that become a danger to national security will automatically be dealt with by other existing laws of the land. Could we be told what is the necessity of this extra clause when we already have existing laws to deal with the issue?

The Temporary Deputy Chairman (Mr. Maore): Here we are not talking about a citizen. We are talking about refugees. They can violate the national laws and then they insulate themselves with the immunity of their refugee status.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, with that explanation, it becomes very clear. I think it is very necessary for us to understand.

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

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

(Question, that the new clause as amended be read a Second Time, put and agreed to)

(The new clause as amended was read a Second Time)

(Question, that the new clause as amended be added to the Bill, put and agreed to)

First Schedule

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Schedule to the Bill be amended by deleting the word "chairperson" wherever it appears and substituting therefor the word chairman.

Mr. Muturi: Mr. Temporary Deputy Chairman, Sir, the proposal is to amend the Schedule to the Bill by deleting the word "chairman" wherever it appears and substituting therefor the word "chairperson". So, the first "chairperson" is a typographical error. It should read "chairman" and then the other one "chairperson".

The Temporary Deputy Chairman (Mr. Maore): Is that in the First Schedule or in all the Schedules?

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, this is wherever it appears.

The Assistant Minister for Planning and National Development (Mr. Ethuro): On a point of order, Mr. Temporary Deputy Chairman, Sir. We are making laws and it is not just sufficient for an hon. Member to tell us that these are typographical errors. We should not allow them. You should make an amendment to this, so that we can know which amendment we are talking about. We should be talking about an amendment that has no typographical errors.

Mr. Kajembe: Mr. Temporary Deputy Chairman, Sir, this amendment relates to Clause

5(ii). If you go through that clause, you will see---

The Temporary Deputy Chairman (Mr. Maore): We are in the First Schedule. So, in Clause 5(ii) of the First Schedule, you wish to replace the first "chairperson" with "chairman". The word chairperson appears twice.

Mr. Kajembe: Yes, Mr. Temporary Deputy Chairman, Sir.

(Question of the amendment proposed)

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

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

(First Schedule as amended agreed to)

Second Schedule

Mr. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting the Second Schedule.

The reason for this amendment is that after consultations with the Drafting Section of the Attorney-General Chambers, I was advised that there are no international conventions which refer to our Acts of Parliament. Therefore, from a technical point of view, this convention should not be part of this Bill. For that reason, I am proposing that we delete the Second Schedule.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Konchella):
Mr. Temporary Deputy Chairman, Sir, I beg to support the amendment by Ms. Ndung'u.

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

(Second Schedule deleted)

Third Schedule

Ms. Ndung'u: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting the Third Schedule.

This is for the same reason that these are international conventions which cannot be placed within an Act of Parliament.

(Question of the amendment proposed)

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

(Third Schedule deleted)

(Title agreed to)

(Clause 1 agreed to)

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Refugees Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE REFUGEES BILL

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has [Mr. Maore] considered the Refugees Bill and approved the same with amendments.

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for Health (Dr. Machage) seconded.

(Question proposed)

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, while appreciating that the House has in a bi-partisan way passed this very important piece of legislation, I wish to point out that it is sad that the Second and Third Schedules have had to be deleted by the House. It was pointed out by Ms. Ndung'u; after consultations with the technical arm of the Government. I want to urge that, in future, there should be wider consultation with the technical arms of Government before presenting Bills because we could very well, as a House, pass laws which will be very difficult to implement by the same Government.

With those few remarks, I beg to support.

Mr. Bifwoli: Mr. Temporary Deputy Speaker, Sir, I want to support the passage of this Bill. It is a very important Bill in this country given the fact that we have so many refugees coming in. Now, the refugees will be recognised and regulated while staying in this country. This is a very good Bill and I support it.

The Assistant Minister for Planning and National Development (Mr. Ethuro): Mr. Temporary Deputy Speaker, Sir, I also wish to associate myself with the sentiments of my

colleagues to thank the Minister for spearheading the passage of this Bill. I would also like to say one or two things.

Mr. Temporary Deputy Speaker, Sir, first, I want to agree with Mr. Muturi. The things that are technical should not appear here, including typographical errors from Office of the Clerk. However, more substantially, this Bill has brought into sharp focus the relationship between the host communities and the refugees. This is something that has been a big issue for those of us who represent communities that have been hosting refugees for a long time as the amendments were made in Clause 16.

With those few remarks, I beg to support.

Mr. Kajembe: Mr. Temporary Deputy Speaker, Sir, today is a memorable day for my Committee because the Minister can see the advantage of working with Parliamentary Departmental Committees. We assisted him to make the amendments, scrutinise the Bill and finally, it is becoming law. I would like to ask those Ministers who are working with the Departmental Committee on Administration, National Security and Local Authorities to come forward so that we can work very closely with my Committee for the betterment of this country. Today, the Government has been empowered, through that Ministry, to deal with the issue of refugees. They can negotiate with donor communities and they have more powers. What the Kenyan people---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Kajembe!

Mr. Kajembe: Thank you, Mr. Temporary Deputy Speaker, Sir.

I beg to support.

The Assistant Minister for Health (Dr. Machage): Thank you, Mr. Temporary Deputy Speaker, Sir. As I congratulate the Minister for the passage of this Bill, I will humbly request that the officers of this Ministry work very closely with the Ministry of Health, especially so in the monitoring of the demographic changes on the surveillance of disease patterns in this country, especially the purportedly eliminated diseases like poliomyelitis because we are concerned.

Ms. Ndung'u: Mr. Temporary Deputy Speaker, Sir, I just want to congratulate the House for passing this Bill. This Bill is way overdue! However, I think that some lessons have to be learnt when you have a Bill like this, which is addressing multi-disciplinary issues. The Minister should consult with multiple Committees. In this case, I feel that he should have consulted not only with the Departmental Committee on Administration, National Security and Local Authorities but also with the Departmental Committees on Administration of Justice and Legal Affairs, and Defence and Foreign Affairs. This way, we would not have had so many amendments. Otherwise, I am glad to just say that the Government is now in charge of the issue of status determination. I think that we should leave it to the Minister to balance the rights of Kenyans with those of refugees.

I beg to support.

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Refugees Bill be now read the Third Time.

The Assistant Minister for Health (Dr. Machage) seconded.

(Question proposed)

(Question put and agreed to)

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

The Temporary Deputy Speaker (Mr. Khamasi): Next Order!

MOTION

ADOPTION OF 1998/99 PAC REPORT

THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya accounts for the year 1998/99 laid on the Table of the House on Thursday, 26th October, 2006.

(Mr. Omingo on 28.11.2006)

*(Resumption of Debate interrupted
on 28.11.2006)*

The Temporary Deputy Speaker (Mr. Khamasi): Who was on the Floor? Is it the Minister for Finance or the Chairman of the Public Accounts Committee?

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, I commenced moving this Motion yesterday and, therefore, I will spend a little time to recap on what I spent time on yesterday, and then proceed to give a detailed analysis of what our findings were in our Committee that sat in the year 2003 in terms of investigating the accounts for 1998/99.

Mr. Temporary Deputy Speaker, Sir, as I had said, there has been "cannibalization". The resources of this country have been "eaten" up by a few sharks. As if that is not enough, that habit continues even now with impunity. It is for that reason that we intend, and we must, as a necessity in our recommendation, to have the Public Accounts Committee (PAC) not conducting a post-mortem on dry bones, but stopping irregularities and wastage on a daily basis. That can only be done if PAC is given capacity to research. Given that this report comes from the Controller and Auditor-General's office, the office should be given sufficient capacity. If possible, Parliament should be connected with them in terms of queries, so that we can also be pro-active in terms of investigating and stopping wastage as it continues. We are now dealing with the Report of Financial Year 1998/1999 when those who "ate" have either retired or passed on to the next world. For that reason, I request that this House adopts this Report, so that Parliament can be more pro-active as opposed to doing a post-mortem.

Mr. Temporary Deputy Speaker, Sir, I highlighted some of the anomalies in the projects we visited, including some white elephants today. PAC recommends, but the implementing agency who is supposed to be the Chief Legal Advisor does not take action. It is a pathetic situation where we find that the recommendations are made year in, year out, but nobody cares to implement the same. I had moved to talk about construction of Customs houses which were, indeed, a white elephant project. I also stated issues regarding the YK-compliant computers which were acquired without technical support and evaluation. Treasury, the biggest financier and supporter, passed them to Ministries without a technical report on their authenticity and their being user-friendly or technically-compliant. That was in excess of Kshs440 million, which is £2.6 million.

Mr. Temporary Deputy Speaker, Sir, I stopped at the point where imposture in the Ministries are not surrendered. When I talked about "cannibalization" of our resources, it does not stop there. It has even gone to the political parties. People are now "cannibalising" parties. They are "eating" them as if they were resources. But that is an appendage of one wanting to entrench himself in power. They want to maintain the *status quo* and continue eating.

Usually, an officer is supposed to surrender the imposture within 48 hours upon return from

an official visit for purposes of accounting and justification. Among the Ministries which were outrightly flouting the rules, was State House. That is amazing, yet again, the office of the Attorney-General, the custodian of the law, disobeyed or broke the law. Then one wonders; if the Chief Legal Advisor's office is not legally operating, how will we advise others to obey the same law? It is the same issues that we have heard year in, year out. Things are happening with impunity and they must stop. Even if they do not do, I am sure they have heard. History is being written and it will judge them harshly. The truth can never be sat on. It will germinate in whatever form. The Ministry of Home Affairs, Ministry of Energy and Office of the President were part of the game. The holders of imprests wasted billions of shillings in uncounted for imprests. Some of the officers retired without surrendering the imprests. Some could not be traced while others died. As a result, Treasury lost a substantial amount of money.

Mr. Temporary Deputy Speaker, Sir, regarding public hearings of the PAC proceedings, we all know for a fact that indeed, exposure is part of a deterrent feature. This House did recommend that our business be open to the public. Unfortunately, I remember the Chairman of that Committee is now the current Minister for Agriculture, Mr. Kirwa. They did a wonderful job and they visited places and recommended on what was supposed to be done about opening up Parliament to the public. Why is it important? I am talking about those people who "eat" blood money. It is important that their children in their sitting rooms, get to know that their father brought home stolen money. They can either choose to look for a foster father other than "eating" the blood money or they could even query their fathers as a social check. If you are driving a Mercedes Benz bought with stolen money, and it will be exposed in PAC sittings, when you drive it you do not derive any pleasure. Therefore, exposure is part of a deterrent feature.

The Committee noted with concern that despite its previous recommendations that Committee hearings be open to the public, its hearing remain closed. In Uganda, PAC is assisted by the police and the investigating officers. When you are suspected to be an offender, the investigators and the police do not have to open a file and commence investigations because they have had facts from PAC and that is evidence enough to prosecute the culprits. That is also a deterrent feature. To enhance accountability, transparency and good governance, the PAC hearings should be open to the public in line with what is happening in many parliaments of the world. The Committee reiterates its earlier recommendations. If they are going to be implemented, so be it, but I know we are talking to stones. They do not even listen. However, the Standing Orders Committee must consider amending relevant Standing Orders in order to achieve the objective of opening parliament to the public. That is also important. When you find Minister "X" dozing during the Budget Day or when the Budget is being debated, the voters can know that they elected a "sleeper". If the seats are also empty, voters can also know who represents them in the House and take action in future.

Mr. Temporary Deputy Speaker, Sir, the Committee would like to thank the Attorney-General, the Head of the Public Service and Secretary to the Cabinet, the Permanent Secretary to the Treasury and the Permanent Secretary, Directorate of Personnel Management for appearing before it to respond to policy matters which arose during the appearance of various Accounting Officers. Deliberations were mainly on expenditure control, statement of public debts, pending bills, abandoned projects, collection of Appropriations-in-Aid (A-in-A), outstanding imprests and compensation and *ex-gratia* payments. The Committee would further wish to thank all Accounting Officers who appeared before it for their co-operation.

Having said that, you find some serious flaws in terms of co-ordination within Ministries. An issue of pending bills, as I said yesterday, is a thorny issue in our resource management. Application of resources for purposes intended, has been an issue in this Government. It is important that today, we become accountable to people and justify every coin we use for purposes

of value addition. Of course, we do know that the Government is not supposed to be involved in business, but there is a provision - a generally accepted accounting practice and social background - that we must provide social good to the public. How do we assess social good? It is by providing good infrastructure, water and electricity. It is a bit unfortunate that when I find that we are borrowing money to enjoy and return to the coffers in terms of technical support, it is high time we evaluated what money we are receiving and for what purpose and who signs for it.

The Committee would like to thank the Speaker, the Deputy Speaker and the Clerk of the National Assembly for facilitating its sittings, and while undertaking inspection tours and visits to other parts of the country and out of the country. The Committee visited the Parliaments of Canada in Ontario and the Federal Parliament of the United States of America. The Committee laid on the Table of the House reports, which have not seen the light of day, in terms of prioritisation by the House Business Committee. The recommendations done by the Committee in those reports were quite radical, in terms of changing the face of this Parliament into a First World Parliament. The Committee also wishes to extend its appreciation for services rendered by officers from the Kenya National Audit Office (KNAO), the Treasury and the Office of the Clerk of the National Assembly. Indeed, their efforts made the work of the Committee and the production of this Report possible.

Having made those preliminaries, I would like to go into a few specific issues and then allow my colleagues to contribute. As I said yesterday, this Committee arrived at this Report on consensus. Therefore, if there is no any iota of doubt, you should know that implementing this Report would be a noble thing for this country. We should give respect to taxpayers who have been giving us their money to look after.

I talked earlier about a Customs project. It is important to amplify the issue and give specific statements. However, as I said, some of the people who floated the regulations of procurement and the errand contractors are still in the register of Government contractors, of course for convenience and kick-backs. Secondly, the contractors are being paid for the shoddy work that they did, which was not completed and was not valuable to the Ministries. I am talking about a project in Oloitokitok. When we visited the project, we found that any sensible human being with feelings, no matter how strong, could not avoid to shed a tear. It was a white elephant project. We saw around 53 houses with seven officers seated inside. The revenue for that project cost the Government Kshs531 million; the Oloitokitok Customs Project. That is not interesting. The project was initiated without a feasibility study and given to the fourth lowest bidder, in the pretext that he was far more expensive than the first, second and third bidders and, therefore, may not need a re-evaluation. On the contrary, the contract was revalued upwards into some penalties which stood at Kshs531 million and was to be paid to a contractor in the name of Don Wood.

As I said yesterday, the gentlemen push a wheelbarrow, without a wheel and wait to hand over the project to the Government, as the other machineries worked for the Government elsewhere, in the pretext that they had not handed over the project. That way, they would continue accumulating liabilities and penalties for the Government. At that time, we had Kshs612 million outstanding pending bills, in the name of the same contractor. The project was supposed to cost Kshs44 million. However, it was revalued upwards to Kshs531 million. The pending bills stood at Kshs612 million, and accumulated to a total of Kshs1.1 billion. Amazingly, the revenue from the "white elephant" was Kshs2,500 per month. So, if you want to recover the money, it would take you more than 1 million years.

We recommended that the Accounting Officer - this is the first time that we did not want to beat about the bush and mentioned his name - should assist the Attorney-General, if he finds it difficult to trace who the Minister was, to get the information and annex it to this report for expediting. That is if he can, although I doubt if it will happen. The recommendations were that the then Accounting Officer, Ministry of Finance and the then Accounting Officer, Ministry of Roads

and Public Works be held responsible for losses incurred by the Government in that project.

That case is similar to the Shimoni Customs Office Project. I said yesterday that the arrangement in the two projects was the same. The contractors were spending money because it was available and as long as one had something to gain from the project. The Accounting Officer should have ensured that the buildings were put into use by June, 2006. That period has already passed. The Ministry of Finance has this information and I hope that when we are getting the Treasury's response, the Minister will effect these recommendations, as this House adopts the Report in order to safeguard us from further vandalism and deterioration.

We recommended that Don Woods Construction Company should, and must not be given more Government contracts. When hon. Mwiraria read his last Budget, this same company had pending bills of Kshs111 million. The Minister said that he would not pay the company. However, as of today, I think that money has fully been paid.

The Director of the Kenya Anti-Corruption Commission (KACC) should institute investigations into all the irregular transactions involving those projects so that all officers involved are prosecuted, if that can happen. That may be wishful thinking and I know it may even take 100 years. However, the truth will come to light one day. The contractor, Don Woods Construction Company, should be precluded from future awards or Government contracts and also be de-registered. Some contractors pretended that they were paying Value Added Tax (VAT) when in actual fact, they were not paying taxes at all. They were working for the Government and were paid their money, VAT-Inclusive, yet they were not paying the tax to the Government. So, they were actually double-robbing the Government, on shoddy jobs and direct payments and eating on VAT. There is someone out who was funding the project; the white elephant. In addition to the money paid to the contractor, he would facilitate the payment of VAT. Those are called smooth guys. That was an arrangement by someone from the Ministry of Finance.

The Ministry of Finance should oversee the other Ministries' efficiency in terms of expenditure. In fact, it draws the rules of the game. There is also the case of Shimoni House which was built in a very fantastic way. However, there is no bridge to take Accounting Officers to the side of operation, which involves inspecting ships that are coming on board. I have a few more issues to raise and give other hon. Members time to contribute.

Mr. Temporary Deputy Speaker, Sir, there is something that we must appreciate. This Government and Parliament must act in the interest of Kenyans and also take responsibility for the future of Kenyans. We have seen cases where money that has been set aside for a particular project in the Budget returned to the donors. The explanation given by the Accounting Officers is that there was no project this money would have been channelled to. A good example is a grant that was given to us for purposes of training some officers of the Government. The reason why it was returned to the donors was that the Ministry could not identify the trainees and trainers. Why did we lose this grant? It is simply because it was coming in kind. There was no hard cash coming on board. There was nothing for the technocrats and, therefore, they said: "We were trying to identify who needs to be trained." We lost about Kshs40 million. That money would have cushioned our Budget in terms of saving on our deficit. The procurement rules, procedures and bureaucracy in the Government is costing this country billions of shillings. I, therefore, want to urge this Government, as proactive as I believe it is, despite the fact that it has its own problems, to work in the interest of Kenyans. We should get value for our money. If we emphasise on efficiency, we will move forward.

Mr. Temporary Deputy Speaker, Sir, the buck stops at the Attorney-General's office when it comes to the issue of wastage of Government resources, particularly on contract cases. I sympathise with the Attorney-General because he may be lacking capacity to prosecute. This is because most lawyers working in his office look for greener pastures and leave him with a skeleton

staff. But if we must stop that kind of wastage, technical advice, information and support in terms of legal provision must be given capacity.

There is a case in this Report where a certain contractor went to court. In fact, he was induced to go to court by the technocrats. Unfortunately, he never appeared in court and the Government lost. He was supposed to defend the client, the Ministry of Roads and Public Works. They requested the Attorney-General to appeal against that decision, but he advised them to settle that matter out of court. Settlement out of court means that one must go to a hotel, take some coffee and, of course, there must be a mediator. They paid five times more than what they would have paid if the Attorney-General went to court. This is a total wastage of resources! A lot of money is lost because of our inability to prosecute on time or take action as advised. It appears like instead of the Attorney-General being in that office for the Government, most of the time, he acts for contractors. Some of these contractors exist, I am sure hon. Members know many of them. They were there yesterday and they will still be there tomorrow because they have a tap that they can turn on to release water to destinations that are so lucrative. Their doors are always open. However, a time will come when these doors will be closed.

On the officials of the Government, I take issue with the engineers in the Ministry of Roads and Public Works. In a particular contract, the contractor did not request for variation. In fact, it is the Ministry's officials who advised him, and this is on record, to take a variation of the contract to take care of some other unforeseen contingencies which were not there during the signing of the contract. It is supposed to be the contrary. It is the contractor who is supposed to say: "At the signing date, I did not foresee this and that." The technocrats acting for the contractor advised them---

The Minister of State for Administration and National Security (Mr. Michuki): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Omingo to speak in such a way that he gives the impression that the Controller and Auditor-General did not notice issues relating to other Ministries other than the Ministry of Roads and Public Works?

Mr. Ahenda: But that is what he is saying!

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, that is why, in the wisdom of Standing Orders, the Mover of this Motion is given unlimited time because of the volume of the Report. I wish Mr. Michuki does not doze, but instead listens to me! I will move this Motion for a long time!

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Omingo! I hope you are not threatening the hon. Member!

Mr. Omingo: Far from it, Mr. Temporary Deputy Speaker, Sir. Mr. Michuki is a senior friend and I respect him.

The Assistant Minister for Local Government (Mr. Muchiri): On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the hon. Member say that Mr. Michuki was *bla bla bla* while Mr. Michuki is fairly awake. Could he withdraw those remarks? That is not in order.

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, the HANSARD will bear me out, I never said *bla bla bla*. That is not my kind of language. I do not know whether that is English language or mother tongue. I said Mr. Michuki needs to hear me since I will be here for a little while!

Mr. Temporary Deputy Speaker, Sir, to address Mr. Michuki's concerns, I am not just addressing issues of the Ministry of Roads and Public Works, I am also talking about the Ministries of Finance, Transport, Energy and the Office of the Attorney-General. Yesterday, I talked about State House. According to this report, it was the biggest culprit in wastage of the Government resources. In fact, during the Financial Year 1998/1999, it spent beyond their allocated budget. That is the highest office on the land. If the father behaves in a funny manner, what do you expect

of the children? So, I did not really zero in on the Ministry of Roads and Public Works.

The Minister of State for Administration and National Security (Mr. Michuki): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is Mr. Omingo in order to talk as if this issue happened yesterday when this is an issue that happened a long time ago, during the Financial Year 1998/1999?

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Michuki! Mr. Omingo is actually discussing the Financial Year, 1998/1999. He is saying that, at that time, State House was really a home of wastage, unless you can challenge him on that.

Mr. Omingo: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to tell Mr. Michuki, who is my good friend, that, indeed, he was in that system. Since the Government's hand is very long, they are even fishing some people from the archives! That is the only unfortunate thing about them. This was an anomaly by the patrons then. Interestingly, they are still patronising even now. I want to remind my senior friend, Mr. Michuki, whom I respect tremendously, that some people served during the colonial times. They served with the late Kenyatta, former President Moi and they are now serving with His Excellency President Kibaki. If I take power tomorrow, they will serve in my Government. This was an anomaly that was cancerous and we must stop it. If we stopped it in 1998, the issue would not have re-appeared in 2002. Unfortunately, because there is continuity of State wastage and the culture of swallowing blood money - it is blood money because when somebody is dying at the Kenyatta National Hospital (KNH) because of lack of a respiratory machine, another person is enjoying good food with his family. That is how archaic this is. If we put things in perspective, some of us will commit suicide. I did not say this was only happening then, but even now it is still going on. A courtesy of continuity. We have a culture of continuity that determines the way we did things yesterday, how we will do them tomorrow and in the coming years.

So that I can make my senior friend, Mr. Michuki happy, I want to address issues of another Ministry. I would like to say that we have a weak prosecution system. Why do I say this? In all the Ministries, actually they would spend, and I do not know whether to blame Parliament or not. But, again, when you are muzzled up and your parties are dead, when you want to do this and they have the power and muscle, you cannot do anything.

Our prosecution systems are wasted. Why am I saying this? Corruption before and today is very lucrative. When I was studying Economics at college, I was told that the higher the risk, the higher the returns. In Kenya, it is the contrary. The higher the risk, the lower the returns in terms of graft. Why? Those who have eaten are being pampered. You remember some time during the previous regime, which is also happening today, one is taken to court and still remains in Cabinet. How do you prosecute me? What powers do you have? Somebody was taken to court with a national flag, with the coat of arms. How do you think a judge can convict that person when his confirmation is going to be debated at the Cabinet level with his input?

Our prosecution process is flawed. The risks of having to stop this are very low. If we were to increase the punitive measures, get these gentleman and deal with them quickly, graft would have gone down. Indeed, you remember, in 2003, I commended this Government on the platform on which we gave them our votes. This was zero tolerance to corruption. If you remember, between January, February and March, 2003, Kenyans had resolved that "*Kibaki amesema hatutaki kitu kidogo.*"

The Temporary Deputy Speaker (Mr. Khamasi): Order! Mr. Omingo, confine yourself to the Report and within that period.

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, I am trying to explain why it is not risky to conduct corrupt business. This is because when you are held, you are released. I was giving you an example of the police officers who were being arrested by the members of the public and

taken to the cells then they were received with golden gloves by their colleagues and set free. This is lack of punitive measures for graft. If we were to penalise people in good time, we could succeed. If it had started coming down, we would be safer now. But I think the tempo went down. The fuse of graft was reconnected in April, 2003 and things started happening.

Mr. Temporary Deputy Speaker, Sir, I want to wind up by saying one or two things regarding the management of our accounts. When we were going through the records of the PAC, it was recommended that we needed to go e-commerce or e-government. We asked that our system be computerised to the extent that we have an on-line system where when you procure, you are supposed to have your results almost instantly and when you press a button, you have your trial balance so as to prepare accounts quickly. There is a company that was supposed to computerise Customs Department called Computer Applications Ltd. They "ate" from the Government. They brought "shells" of computers which were gathering dust in the pretext of computerising Government. Treasury itself wants to remain manual so that if there is a transaction that is moving with speed, they stop it and change its course. Computer Applications Ltd, a company that was banned from supplying computers to the Government is now a good boy again.

Mr. Temporary Deputy, Speaker, Sir, we need to respect this Parliament by implementing the reports of PAC. It is a gesture of honour. We make the reports and the Executive is supposed to implement them. It is criminal that we are burdening unborn children with Kshs32,000 in debt as soon as they are born. These are public debts incurred irregularly. I hope hon. Michuki, who is here, will tell his colleagues that this country is bigger than one regime or individual. If you do not implement PAC Reports now, and I am not threatening anybody, you cannot sit on the truth; it will germinate in whichever way and it does not matter the time it will take to germinate.

Mr. Temporary Deputy Speaker, Sir, there is the issue of Eldoret International Airport. Again, there was no feasibility study. Somebody gave private land, like they usually do, and procure it. Like I am told some people are now speculating on areas where we may strike oil. They are now gathering several thousands of acres of land at Ksh100 per acre. Of course, being a government state land you can also be given, if you are politically correct. So, somebody did the same. He speculated. He took the airport there for construction and it was done on private land. I am sure this was later compensated at a substantial premium. We require to be sensible people and respect those who have elected us.

Finally, I want to pay tribute to hon. Peter Oloo-Aringo who brought the issue of Parliamentary Budget Office which may, in its operation line, oversee these issues, so that we do not guillotine. We cannot, for example, guillotine the Vote of the Ministry of Agriculture, which is the backbone of our economy. Parliamentarians need to interrogate the Budget before it is read. It is also important that we appoint people into authority who understand what they are doing. Some Accounting Officers were so desperate to give us answers which they did not even understand. I am saying, for Heaven's sake, can we favour somebody who is competent, if we have to favour to avoid double tragedy. You have somebody who is appointed through nepotism and he is incompetent. That is double tragedy. It is important that the Government is accountable to the public. This is like a limited company where you give value for money given.

Mr. Temporary Deputy Speaker, Sir, with those few remarks I beg to move and request the Shadow Minister for Finance, Mr. Billow, to second this Motion.

Mr. Billow: Mr. Temporary Deputy Speaker, Sir, we are looking at the accounts for 1998/1999. It is true that those are many years ago. However, as human beings we need to learn from the past. It is said that the past should not be a tombstone, rather it should be a touchstone, that is, something you can go back to and make reference in order to learn and change.

Although we are looking at the Report for 1998/1999, what we realise is that we are dealing with the same catalogue of errors that we handled many years ago. If you look at the Reports for

1995/1996 and 1996/1997, you will realise that we are talking about the same things. Today, as we debate this matter, the Public Accounts Committee (PAC) is looking at the Report for 2004/2005. The same history of misappropriation, misuse, plunder and destruction of public resources continues. Therefore, it is really disheartening that this House which has the responsibility not only to scrutinise public accounts, but also play an oversight role over the expenditure by the Executive, continues to give the same recommendations year in, year out. That is really unfortunate. We give the same views in our successive reports and yet no Government has ever taken action. For 40 years now, we have had different Governments in power, but none has ever taken action on the reports. Unfortunately, the same trend continues today. Why is that the case?

The reason for this is that there is no single major change in the way we do our accounts. There is no single major change that we have seen in terms of accountability for public resources. Expenditure requires prudence. When we sit here and approve the Budget, we do it on the basis of prudence, that we need a certain expenditure because it is needed for the purpose of rendering a particular service. However, when we start getting reports from the Controller and Auditor-General that the money has not been spent in the manner in which this House voted, then we get in a situation where we need to take action. That action, unfortunately, has to be executed by the Executive. The people who run the Ministries and the Accounting Officers work for the Executive. That is exactly why our recommendations are directed to the Executive. Unfortunately, that is where our weakness lies.

Those who are in Government today may say that this is the responsibility of the Government that was in power in 1998. However, these recommendations include specific recommendations that need to be taken by this Government before a particular date. For example, by 30th June, 2006 the Government should have done this and that. All these recommendations are contained in this Report so that if this Government really wanted to take action on those people who plundered and misappropriated the resources, they have the recommendations and all the facts in this Report. All the evidence that they need is in this Report and there is no reason why action cannot be taken by the current regime.

Mr. Temporary Deputy Speaker, Sir, the lack of action by this Government or the previous Government is very clear. I am mentioning this Government because since we are dealing with this particular Report, we want action from it. Today, as we speak, we are still talking about the same catalogue of mistakes being committed. Good and recent examples have been given by hon. Omingo. He mentioned the Anglo Leasing scandal and others. When this Government was in the Opposition before 2002, they issued reports together with the civil society saying that the former Government of KANU was losing approximately Kshs100 billion every year as a result of corruption. I was not a Member of Parliament then, but I believed it. Today, in the annual report of Transparency International (TI) which was issued last month, the current Government, which was accusing the previous one, is losing Kshs85 billion through procurement corruption alone. Where are we going to end up, Mr. Temporary Deputy Speaker, Sir?

The reason why these things are happening is that, unfortunately, the same Government Ministers who served the former regime are the same ones serving the current one. The public servants who served the former regime are the same ones who are serving in the current one. Indeed, it is found very profitable by regimes to pull out those retired public servants because they are said to profess an expertise in terms of identifying resources where you can get money. That is why in this regime, we have over half-a-dozen senior Accounting Officers whose names were laid on the Table of this House and who ought to have retired long ago, but have been contracted. Those, unfortunately, are the kind of problems that we have to live with.

Mr. Temporary Deputy Speaker, Sir, where is the commitment by any of the Governments that have been in power? They have been pledging, for the last 40 years, that they are going to

ensure that there is accountability in public expenditure. That responsibility falls on this House. We need, as a House, to do a few things in order to take some action on some of these issues.

Mr. Temporary Deputy Speaker, Sir, because of the fact that the officers in the past regime are the same ones serving in the current regime and probably the next one, we shall continue having the same problems. This disease of misappropriation and unaccountability, therefore, keeps on spreading. That influence, unfortunately, is what makes this Government--- I want to advise this Government not to read from the same script that the former President, hon. Moi, read from. That will not help this Government or any other succeeding one. Even if one believes in being a professor of politics, the political dishonesty and breach of trust that we see today are defined in the Kenya Anti-Corruption Act. This Act expanded the meaning of corruption to include political dishonesty and breach of trust by officers who have been given responsibilities. What do we see today? I will quote an example from this Report.

An airport was constructed in Eldoret at a cost of £194 million. That is equivalent to Kshs3.8 billion. According to the Controller and Auditor-General in this Report, that expenditure has not yet been regularised. It was in 1996/1997 that the Controller and Auditor-General gave recommendations of the action that should be taken in respect of that expenditure. The recommendation includes the following: Kenya Anti-Corruption Commission must investigate this matter further and the Attorney-General should take action on all those people who were involved in that exercise.

*(Mr. Omingo consulted loudly
with Mr. Michuki)*

Mr. Temporary Deputy Speaker, Sir, could you, please, protect me from the loud consultation?

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Omingo! Your Seconder wants to be heard.

Mr. Billow: Mr. Temporary Deputy Speaker, Sir, no action has been taken with regard to that project up to today. Indeed, on the contrary, some of us can now begin to think why no action has been taken. Those people that this country believed were responsible for plundering that project are today the ones who are in bed with this Government. We cannot get anywhere if that is the way this Government is going to work.

Mr. Temporary Deputy Speaker, Sir allow me to give another example, this time round in the Office of the President. I will mention each Ministry.

With regard to relief food, the Controller and Auditor-General says that £152 million, which is over Kshs1 billion was spent to buy food for drought victims in 1998/1999 Financial Year. That money could not be accounted for because there were no documents provided to the Controller and Auditor-General. He recommends that action must be taken against the officers who were responsible at that time.

Unfortunately, even before that department was transformed into a Ministry a couple of years ago when hon. Michuki was in charge, the same misuse of relief food has been continuing. The same people who have been accused in the past are the same ones who still serve in the current Government. We need action because the recommendation in this Report is very clear. It states which officer was responsible at that time. There is no point, therefore, of accusing us all the time that it is KANU which stole from Kenyans. The KANU which stole from Kenyans is defined in this Report. We want this Government to take action so that this House is given credence. There is no need of the PAC writing Reports if action cannot be taken. If action is not going to be taken, then we can be excused for believing that this regime shares the same views and aspirations with

these corrupt fellows. That is exactly why action is not being taken.

Mr. Temporary Deputy Speaker, Sir, all the recommendations are very interesting. Some of the recommendations say: "Those public officers who have been involved in this plunder should not be hired again in public service". Quite a number of the officers who have been blacklisted here have since been hired by the same regime. It says that those public officers should be surcharged, as per the recommendations, and none of them has been surcharged. Investigations have been called for but there is nothing happening. So, we have a situation where we, unfortunately, have to continue with the misuse of public resources and we have seen it in the recent by-elections and in the referendum and today in the accounts that are being done for this year. The same misuse and plunder of public resources is going on and the same institutions that would have been responsible for accountability continue to be undermined.

Mr. Temporary Deputy Speaker, Sir, let me come to procurement. One major avenue through which this country loses a lot of money is in procurement and the same illegalities which have been used are the same ones which we have just addressed through the Public Procurement Act, unfortunately, which is yet to be fully operational. However, it is interesting to note that in this document we have recommended specific companies to be blacklisted. Before the Financial Year 1996/1997 and all the previous years, there are a number of contractors who have been recommended for blacklisting by the Public Accounts Committee (PAC) but those contractors continue to do business with this Government even today. I am, therefore, asking from the Floor of this House: How do you go anywhere if you allow the same blacklisted people who have ripped off billions of shillings from public coffers to continue?

Mr. Temporary Deputy Speaker, Sir, secondly, the same reasons are given like: No documentation, delays by donors in sending vouchers, variations by Ministry of Public Works and then we are told that the Attorney-General is not doing his job. If you sit in the PAC, you really get bored going through this document because the same reasons are given but no actions are being taken. We expected this regime, which had expressed their commitment to fighting corruption endless number of times to take action on this Report and this is a challenge to them.

Mr. Temporary Deputy Speaker, Sir, I want to look at the Ministry of Finance. One of the areas in which the Ministry of Finance has been accused of, even in this Report, is the discretionary waiver of taxes.

(Mr. Omingo consulted Mr. Kimunya)

I would be happy if the Chairman of the PAC gives the Minister time to listen because discretion by the Minister for Finance is one of the major issues. I want to give one example from this book. When the then Minister for Finance gave a discretion to waive tax amounting to UK£533 million to the then Kenya Posts and Telecommunications--- The Controller and Auditor-General is complaining. It is true it was a Government company but when it was split, one arm of it was sold to a private company called Vodafone, which is today one of the most profitable companies, but for that company to be sold the Controller and Auditor-General said: "The Minister for Finance, without approval from this House, gave a waiver of UK£533 million in outstanding Value Added Tax (VAT). That is Kshs11 billion of VAT that was written off through a discretion by a Minister without approval and the Controller and Auditor-General says that: "He did not take any action to pursue other avenues for recovery of that tax, neither did he seek the authority of this House". To-date, the Controller and Auditor-General has been seeking the Government to regularise that anomaly by getting approval from this House. Those are the kinds of problems that we continue facing.

Mr. Temporary Deputy Speaker, Sir, coming to the loans, in the statement of loans issued--

- In other words, the Controller and Auditor-General says that:

"The statement of loans issued through 12 Ministries amounted to UK£2 billion or Kshs20 billion of which only 12 per cent was ultimately repaid during the year by those Ministries".

His argument is that apart from the fact that these loans are not regularised through Parliament and they are given through the backdoor, these loanees cannot be traced. I want to say that there are many people, some of whom are now Members of Parliament I understand who have been beneficiaries of Government loans after getting securities and guarantees from the Government. Today, they are some of the wealthiest people and the same people today who say it is the former regime to blame. These are the same people who have been doing these things since 1960s, 1970s and 1980s. They have been collecting loans and that is why the Controller and Auditor-General says those loans do not make sense and they are fictitious.

Mr. Temporary Deputy Speaker, Sir, the excesses of the Government, that is the amounts of money that these people over-spent, is one of the major challenges when you go through the PAC Report. The Treasury, which is responsible for oversight and controlling public expenditure, always seems to be helpless. Indeed, they are not helpless. Treasury has powers. They appoint the Accounting Officer. If an Accounting Officer over-spends more than what has been allocated, the Treasury has powers to revoke his appointment as an Accounting Officer, an action that has rarely been exercised by the Treasury in this country. Consequently, we see a situation where an Accounting Officer can spend as much as he wants and the consequence is the billions that we end up with every year known as pending bills.

The Controller and Auditor-General says: "The total value of the pending bills is UK£18 billion, that is Kshs360 billion. It represents 63 per cent of our Gross Domestic Product (GDP); that is the total public debt. However, on the pending bills the total value as at the time we audited this, according to the Controller and Auditor-General, was UK£42 million which is Kshs8 billion and it is "growing" to today. The reason is because of that failure by Treasury to exercise its powers. We want to call on the Treasury today, even as we speak, because the same problems are there in today's accounts that we are looking at. Treasury must exercise its powers! If an officer over-spends without authority and goes beyond what has been allocated, you have powers to withdraw his appointment as an Accounting Officer. You have powers, in fact, under the Financial Management Act to even discipline that officer. That is not the case and you can guess which is the most notorious department of the Government in this regard; it is the Department of Defence (DOD). Forget about the Anglo Leasing of today. There was a time the DOD had pending bills of over Kshs2.2 billion in 1998/1999 Financial Year and yet there has been no authority absolutely from this House for that money to be spent before allocation.

Mr. Temporary Deputy Speaker, Sir, let me come to my last three or four points on the Treasury. In 1998/1999, Treasury endorsed and allowed the National Bank of Kenya (NBK) to over-draw Kshs2.47 billion from the account of the CBK. Listen to this: In the same year, Treasury again allowed CBK to advance Kshs2 billion to NBK.

Why is the Government giving Kshs4.47 billion to the NBK? The reasons are very clear. According to the Controller and Auditor-General, this money is being given in order to write off non-performing loans. This House did not give approval of allocation or transfer of that money. It is a backdoor way of paying out money without the approval of Parliament and yet these are non-performing loans by tycoons, Ministers, Members of Parliament, companies and so forth. So, we tax our people on their kerosene, little glass of water and we allow the rich people, who can afford to pay their debts, to have their loans written off by the stroke of the pen by the Minister in the Treasury. This House does not get to approve such loans. Action was recommended on this by the Controller and Auditor-General and the PAC.

Our recommendations is to this Ministry and the others in the Government to take action because no action has been taken to date, including even getting approvals from Parliament to pay out this money.

Mr. Temporary Deputy Speaker, Sir, you do not take money from the Central Bank of Kenya (CBK) and, straightaway, ask the CBK: "Can you credit the account of the National Bank of Kenya?" That is illegal. If that Kshs2 billion was dividends to the Government of the Republic of Kenya, the Constitution requires, under Section 99, that the Kshs2 billion must, first, be accounted for as Consolidated Fund money. Only after it has been accounted for as revenue in the Consolidated Fund, can the Treasury disburse it through this House. It is for that simple reason of the Government's failure to seek parliamentary approval that, up-to now, that amount continues to be reflected here as an audit query. Subsequently, the Kshs2 billion or the hundred---

The Minister for Finance (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Speaker, Sir. I have been listening to the hon. Member contribute to this debate. As much as I appreciate the principles he is elaborating, he is referring to the issues as if they are happening today when, indeed, we are discussing matters that happened in 1998 and 1999. Is he in order to mislead the House that this is what is happening today when the Report is very clear that this happened in 1999, when my colleagues on the Opposition side were in the Government?

Mr. Billow: Mr. Temporary Deputy Speaker, Sir, the Minister came in late. We discussed that issue earlier. Unfortunately, the majority of the people who were in the previous Government are in the current Government today, and the person who superintended over that regime is the same one advising the current regime, day and night, at State House. He is not here. The recommendation here is to the current Government to take action, and not to the past regime. The Minister has missed that point. So, one of the recommendations by the Committee is: "Can this Government take action now on those people?"; but because those in the current regime are in debt with them, you are unable to take any action against them. That is why we are pointing a finger at the Government.

Mr. Temporary Deputy Speaker, Sir, let me conclude by saying that the Kenya Anti-Corruption Commission (KACC), the Attorney-General's Office and all other institutions that exist for purposes of accountability, do not need to go to Ecuador and other funny places to look for evidence, so that they can prosecute people. There are enough recommendations in this Report for those people to act on today. However, because of political expediency, and because this regime has been unable to run the Government and, therefore, has had to poach people from the Opposition, it is unable to act on the recommendations contained in this Report and on all the other recommendations contained in previous Reports, begging for action.

Mr. Temporary Deputy Speaker, Sir, I want to appeal to this House that, at some stage, time will come when we shall empower Parliament. The main problem is that Parliament is not empowered. We need to empower this House's watchdog Committees by providing for their proceedings to be covered live by the media, so that Kenyans can know the people who are plundering the resources of this country. We need to empower this House, so that Members of Parliament can have powers to discipline Ministers and recommend on the Floor of this House, as is done in Rwanda and other countries, for such Ministers to be dismissed; a resolution which will be binding to the President. Those are the recommendations that we had at the Bomas of Kenya. Until we have a comprehensive constitutional review, I do not think the current Government, or any other government, can talk about governance in this country.

With those few remarks, I beg to support.

(Question proposed)

Mr. Ojaamong: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this debate. First of all, I wish to support the Motion.

Mr. Temporary Deputy Speaker, Sir, I must pay tribute to my party, the Liberal Democratic Party, for having appointed me to serve in this Committee when this Parliament started. I also wish to thank the other parties which supported me in the election of Mr. Omingo to chair the Public Accounts Committee. In the course of our work, we faced a very technical problem because these irregular expenditures were incurred by the previous regime, which was under KANU. So, I saw no reason as to why KANU should have audited its own accounts. That is why I went out of my way to propose Mr. Omingo as the Chairman of the Public Accounts Committee; instead of Mr. Kenyatta, who was the KANU Chairman at the time. I also want to thank Mr. Ethuro, who seconded the chairmanship of Mr. Omingo. Indeed, our Committee worked as a team.

We listened to various witnesses from various Ministries. We went round the country and saw for ourselves the kind of projects that were undertaken. What we saw was a real plunder of public funds. Had the wasted funds been put into proper use, I do not think we would be suffering the way we are now. For instance, when we went through the accounts of the Electoral Commission of Kenya, we found incidents whereby ghost vehicles were hired to take care of the transportation of election officials and materials. In real sense, very few vehicles were hired to do the job but the quotations were inflated to the extent that one would wonder why so much money was spent for the various reasons indicated in the Commission's accounts.

Mr. Temporary Deputy Speaker, Sir, in fact, most of the irregularities were not even unearthed by the Public Accounts Committee. They were detected by the Commission's officials themselves very early, during the election time but no action was taken. The problem was carried forward until the Controller and Auditor-General detected them and included them in his report. They eventually ended up being discussed by the Committee, which finally came up with these recommendations. It is very unfortunate that the Committee's recommendations have not been acted upon, as my colleagues who spoke earlier said.

The former Ministry of East African and Regional Co-operation was being housed at the Kenyatta International Conference Centre (KICC). The Ministry, time and again, in the period between 1993-1999, undertook very imaginary renovations of the KICC.

An hon. Member: It was Mr. Biwott!

Mr. Ojaamong: And that is the very man they were trying to propel to the position of Leader of the Official Opposition!

Mr. Temporary Deputy Speaker, Sir, the man undertook very imaginary renovations of the KICC. If I may quote the figures involved, the Ministry's allocation for renovation of the KICC in the year 1998/99 was K£167,863. However, the Appropriation Account for Vote R09, which was the Ministry's Vote, as at 30th June, 1999, showed an expenditure of K£1,249,974 incurred against this Item. You can imagine that magnitude of variation against the approved estimate of K£167,863. There was an over-expenditure of close to K£1,082,111.

Was any renovation undertaken at the KICC? If you ever went there for yourself, you must have noted that the lifts were never renovated until recently, when Mr. Tuju took over the management of that building, but look at the colossal amount of money that the "total man" took away from the Government! That is the money he used to transport people to Mombasa. That is very unfair. There are recommendations by the Public Accounts Committee to the Government to take action. We have our colleagues here who were heading those Ministries. Why is the Government taking so long to take action against them? The Kenyatta International Conference Centre (KICC) has now reverted back to being a Government facility. Why can the Government not surcharge the Ministers, Permanent Secretaries and all those people who were involved in the plunder of all the funds that the KICC should have generated? There were so many Ministries

which were housed at the KICC being allocated money and yet no renovations were being done.

Mr. Temporary Deputy Speaker, Sir, in our Report again, we came face to face with the Office of the President and, very fortunately, hon. Wamwere was a victim in this case. There was an over-expenditure of over Kshs500 million. When we grilled the Accounting Officer on why there was an over-expenditure on this vote, he was very reluctant to give us an answer because hon. Wamwere was a Member of the Committee. But with further probing, he accepted to reveal why there was an over-expenditure. He said that during that year, the Government had to mobilize resources in order to go and counter hon. Wamwere, who was invading Kenya from Uganda with his army. I am imagining that Kshs500 million was set aside to counter hon. Wamwere, who might just have gone to buy bananas at the border of Uganda.

An hon. Member: He likes bananas!

Mr. Ojaamong: Fortunately, hon. Wamwere denied this allegation because he was nowhere near East Africa at that time. So, what was the Office of the President then doing with all this money? This was just a clear case of misappropriation of public funds, and the characters who are involved in all this have been revealed in the Report.

Mr. Temporary Deputy Speaker, Sir, in our Report again, we looked at the Prisons Department and, in particular, we singled out Shikusa Prison in Kakamega. This was a case of free-for-all. The prison warders were the purchasing officers. They were in charge of the prison, and they were in charge of everything! They were using prisoners to grow maize and they could sell the same maize to the same prison. The prison officers were the ones selling firewood to the prison. In fact, there was total corruption and chaos in that prison and all the procurement regulations were violated. The Government funds that were sent there were taken by the Government officers who were manning the station, just because they were the ones selling firewood and maize to the prison. Actually, the prison officers had taken over the whole prison. That was just one of the examples, and if you sum up the practices which were taking place all over the country, indeed, the Government lost quite a colossal amount of money during that period.

Mr. Temporary Deputy Speaker, Sir, we managed to go to Eldoret and inspected a few roads. Hon. Kipchumba and the engineers from the Ministry were there and they took us round. We also inspected some tarmac roads leading to Kitale, and they were in a terrible state. It was very unfair for the people of those regions, first of all, for the Government to have allocated those funds there and given the works to very unscrupulous contractors. The road that the then Government thought had been tarmacked had all been washed out when we went there. However, the contractors were paid in full. We requested them, in good faith, if they could re-do the job because the road had not even lasted for the specified period of time before it was damaged, but they refused. Despite our recommendations, people who had pending bills were being paid at night by the Treasury. When Mr. Raila was a Minister, he was so frustrated to a point of even confessing that the contractors he had blacklisted had been paid fully. In fact, it was very sad when a contractor even lured some Cabinet Ministers and Members of Parliament to his home, somewhere in Nyeri and fed them. Some were walking out with briefcases. It is very unfortunate that the same contractors have been brought back despite being blacklisted. As my colleagues have said, the past has a very clear reflection of the future. These people have learnt from the past how to be very corrupt.

The people who misappropriated these funds that were meant for the construction of roads are still there. In our Report, we have actually singled out those who were in charge of this project. We went to Loitoktok and Shimoni to inspect the projects, as Mr. Omingo said. The irregularities there were astounding. Most of these deals were being done in collaboration with Government officers. Even if the Government knew that they were irregular, the Attorney-General was very ineffective. I do not think he will ever be effective, because we have the very culprits here who

have committed all these crimes against our citizens and country. They have taken borrowed money from outside the country. I must say that this regime is better than the previous one, because, at least, it borrows and gives out something to the public. But those people could get loans from outside the country and put all the money into their pockets. Not even a cent was trickling down to the common citizens. This was very unfair to the common *wananchi*.

Mr. Temporary Deputy Speaker, Sir, the Ministry of Foreign Affairs was not left out. In fact, it was a free-for-all also in the Ministry during that time. Despite the Ministry getting its own allocation from this Parliament, it also receives money from visas and other charges from their various missions. We expect the Ministry to remit that money back here, so that we put it in the Consolidated Fund and then disburse it later on through the normal Budget. Officers from the Ministry used to collect this money and spend it the way they wanted. They could not even want to account for how they were spending it. When the Controller and Auditor-General highlighted this anomaly, we thought that the culprits would be dealt with and the money recovered through surcharging them.

Mr. Temporary Deputy Speaker, Sir, we tried as much as possible to put these issues to the Press, so that they were highlighted, but our Standing Orders could not allow us to do so. In fact, our Chairman at one time was being condemned for talking about issues before the Public Accounts Committee (PAC) in a funeral. If only the media could serialise some of these reports after they are officially tabled in this House, and encourage Kenyans to read them, this would expose all the corruption in Kenya. If Kenyans could reflect very well, this might change their attitude. It might also change their attitude to the people in the public service and those outside the service, and also towards the use of resources. It might change their attitude towards their own Government and advise how well to use resources for their own benefit. It might also make corrupt people to realise that they are under scrutiny. In that way, they will not dare to do bad things again.

As hon. Omingo said, we have a very poor judicial system. In fact, in Kenya, if you still a lot, you can also buy justice. If you steal Kshs500 billion, you will walk in Kenya scot-free, because you might only spend Kshs50 million to buy freedom. But a villager in Teso District who enjoys *busaa* brew at Kshs5, the police will mobilise even 100 Land Rovers to arrest him from his own home, and even from his bedroom. But how many people in a financial period have stolen millions of shillings belonging to Kenyans, yet, they are with us here in Parliament, because they went scot-free? Are laws made for the poor people or both for the poor and the rich? This is very unfair!

You can see that people who were implicated in the Goldenberg corruption affair being reappointed as Ministers for Education. Instead of being taken to prison or being grilled at the CID headquarters, they are being taken back to the Government. The same people who misappropriated finances meant for renovation of the Kenyatta International Conference Centre (KICC) are with us now masquerading as leaders of the Opposition in Parliament and causing confusion! For how long are we going to live with corruption in Kenya?

With those few remarks, I wish to urge the Government today to realise that the citizens of Kenya are more important than their wish to sustain themselves in a corrupt regime. If we improve our service delivery now, and arrest culprits who have misappropriated our funds, Kenyans will have more confidence in the Government. The Government should not call Kenyans to State House to teach them how to be corrupt and how to do bad things, how to carry out assassinations, how to bring in *mamlukis* and so on. This Government can change a lot. Forget about those who were in the past Government. We have enough brains in this Government. We have hon. Wetangula, very bright man from Sirisia. We also have hon. Kimunya. We have very brilliant people. Why does the Government go for political spent forces?

I am appealing to this Government to try as much as possible to improve its image. Our

stolen money is still out there. If only you can put in a little more effort to return a small portion of it, that will be better. You should negotiate with the people who hold it. But, very unfortunately, we sent the hon. Murungi abroad to look for this money. I think that is why he was reinstated into the Government. He was nearly spilling the beans because he did not want to "die" alone. He wanted to "die" with others who know where this money is. He knows it and that is why he was reappointed to the Cabinet. Otherwise, if he had no knowledge of where this money is hidden outside there, he could not have been reappointed. I know he dared the President. He was not going to stay in the cold. That is the reason.

Mr. Temporary Deputy Speaker, Sir, Mr. Kimunya should assist us now. Let us send him. I know he is a very sincere man, unlike Mr. Murungi. Let him get us this money, so that we can use it to build our schools, hospitals and roads. We will be very happy with him if he does that.

Thank you Mr. Temporary Deputy Speaker, Sir.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Motion.

Mr. Temporary Deputy Speaker, Sir, I want to congratulate Mr. Omingo for presiding over the Committee during that time and for doing a thorough job. This resulted in the Committee report that is before the House.

Mr. Temporary Deputy Speaker, Sir, PAC reports are factual. They relate to an analysis of expenditure and events that have happened. When PAC reports are brought here, one of the critical lessons we have to learn from them is to ensure that the flaws that led to haemorrhages of public finances, and were detected by this House through its committees, are sealed. The sanctuaries of those who cause the haemorrhage of funds should be destroyed and lessons learnt from these reports, so that similar misdemeanours and felonies are not committed again.

Mr. Temporary Deputy Speaker, Sir, right from Independence, this country has suffered from improper use of public funds, particularly by public servants. This happens in many ways. You know it because you have been a Minister in the Government. Public officers literally hold everybody hostage. The Ministers, Parliament and everybody is held hostage by them. Every time you make inquiries, they fly on your face ridiculous booklets called "Rules of Procurement" and so on.

We recently passed a procurement Bill. This is a Bill that is under the management of my good younger brother, who is sitting behind me, the Minister for Finance. However, when you go out there, we see the pilferage of public funds going on as usual. All this is happening in the name of procurement. The book that Mr. Omingo tabled here has a litany of cases of pilferage. I can give you an example, last year, the Ministry of Health allocated funds countrywide to health centres and dispensaries. In my constituency some little money--- It was not much, but theft is theft, whether it is of millions of shillings or of little money. One health centre in my constituency received Kshs240,000, so did others all over the country.

Mr. Temporary Deputy Speaker, Sir, when I went to the health centre to check how the money had been spent, I found that the level of theft committed by civil servants was shocking. A tin of Sadolin paint that costs Kshs295, they were buying it from a shop in Bungoma Town at Kshs970. It looks as if it is no money, but you should look at it in percentage terms. There are clay bricks which are moulded by youths in my constituency, which are available 500 metres away from the health centre. They were procuring a brick that costs Kshs3 at Kshs17.90. When you go and complain, they tell you that this is how procurement is done. They tell you that they sent out quotations.

This country and the Government should not be held hostage to spurious rules of procurement. If in the village of Siakago everybody knows that a moulded and burnt red brick costs Kshs3, why would anybody be allowed to procure it at Kshs17? This is all in the name of

procurement. We are recording a lot of success with the Constituencies Development Fund (CDF). I know that we have some colleagues who have managed the funds badly, but they are a hopeless minority. Those who are bastardising the CDF are largely our competitors who want to come to this House looking for excuses. When you look at the management of the CDF, you will find that out of the 210 constituencies, flaws could be found in less than 10 per cent or thereabouts. The rest of the constituencies are doing reasonably well. This is because of the rules that are formulated from the Treasury that each project must have a project committee. That project committee must have a procurement sub-committee within it and it must procure things locally. So that when you take money to a school, the project committee are invariably the parents of that school. From within them, you will have the procurement committee. They will find it highly immoral to buy a brick worth Kshs3 for Kshs17. Those senior Government officers like the Medical Officers of Health (MOHs), procurement officers, District Accountants and District Development Officers are all thieves. They sit at the district headquarters without caring that this money that we are ploughing back to the people is tax-payers money. They do not work for the Government or for the people. They work for themselves. If you post a senior Government officer to a district to work, you will find that within a year, he has built a house and a shop there and he is building something back home and there is no evidence that he has taken a loan or he is spending his salary.

Mr. Temporary Deputy Speaker, Sir, I am urging the Minister for Finance to find time, now that we are going on recess soon, to call Parliament and other persons who are involved in the management of public resources, and take us to a workshop to audit the procurement process in this country. There is no point, day in, day out, budgeting for money here, quarrelling that little money has gone to some people's constituencies and a lot of money to others, and at the end of the day, even areas that have received more money end up worse than areas that have received less money. The amount of money being pocketed by officers in leadership is colossal. This practice is not just confined to the Government. Even if you go to the private sector, it has been permeated by this same sickness of procurement. We need a major surgery! The largest business enterprise anywhere in the world is the government. If you want to do business, whether you are in the United States of America, the United Kingdom, Kenya or even Somalia, the biggest business enterprise is the government. It is the government that builds roads, undertakes major water works, sewerage systems and everything else. Let us not have the ritual of debating the Public Accounts Committee (PAC) reports here every year. Let these lessons that we are given here be a wake up call to turn round and say: "Surely, how do we close these loopholes?" Somebody stole money last year and we will be crying over spilt milk. How we stop someone from stealing money tomorrow is what is key.

Mr. Temporary Deputy Speaker, Sir, I am afraid from the example I have given you about my dispensary and many more. The Procurement Act that we passed, either is not fully operationalised or if it is, we did not pass a good law. If it is not operationalised, we need to have it operationalised and have the whole country sensitized on procurement. The whole country should be told that if there is Kshs900 million doing a road from Maai Mahiu to Narok, let Mr. ole Ntimama and the people he represents know and they will be able to tell whether the Chief Engineer, Roads, will have money more than his salary after that road is constructed.

We have been told many stories on how these fellows make money. They can shorten a road by two inches. If a road is 100 kilometres, that is millions of shillings. They can understate the quality of materials. For Heaven's sake, I want to appeal to Kenyans, if you have been given a position of responsibility, whether in the Government or the private sector, it is absolutely critical and moral that if you are in charge of a road, let there be a road. If you are in charge of a water works, let there be water. Otherwise, on the day of judgement, I think we will

have many more headed to the highway to hell than to Heaven because of this immoral behaviour.

Mr. Temporary Deputy Speaker, Sir, as I finish my remarks, I want to urge the Minister that, please, we do not want to stand here and be defensive or engage in explanations that are unhelpful. Let us sensitise the public, call Parliament particularly to audit the Procurement Act and process. Even if the Act has not been operationalised, we can still enrich it before it is operationalised to make sure that every project has a project management committee that is accountable and that will be able to oversee procurement. There are cases where someone sits in an office in Nairobi procures for something in Moyale or Kipipiri and yet, he has not been there. Such a person has no sensitivity about what is going to be done. Therefore, he does not even care at all.

This country is very rich and has a lot of resources. We speak with a lot of pride because this year's Budget has only 6 per cent component of foreign support. That is money from you and I, and everybody else. If you go to our neighbours, they are getting up to 45 or 46 per cent budget support. If you look at Egypt, for example, the United States of America (USA) is subsidising their budget by over 80 per cent. But here, it is our own money. What more can we demand from our public officers other than being honest custodians and watchmen of our money.

With those few remarks, I beg to support.

Mr. Kagwima: Mr. Temporary Deputy Speaker, Sir, thank you for this opportunity. First of all, I would like to join my colleagues by urging the Kenyan population, especially those in the public service, to ensure that their services become more efficiency. If they serve well and we have proper utilities, we shall all enjoy; both those being served and those who are delivering the services. If we have good roads, then we shall enjoy driving on them. Most of what we are reading in the Report, has arose because those rendering the needed services are not efficient.

Mr. Temporary Deputy Speaker, Sir, the other contribution is corruption. There are several reasons why people become corrupt; some may be worried about their life in retirement. In that connection, I would want to urge those responsible to ensure that we have a proper pension scheme. Let us put in place proper pension schemes, so that people do not have to worry about what will happen to them when they retire. That way, people will be able to render services without worrying about their lives after they have left the service.

Mr. Temporary Deputy Speaker, Sir, the other reason is that people want to accumulate money and probably, go into politics. Kenyans have a weakness in that, they worship the rich. When you go to them with money, they do not ask you where you got the money that you are spending so quickly and so carelessly. So, they sing for you and they elect you not considering the money that you took from their resources. I would like to ask the Kenyan public to ensure that the people they are electing, even if they are offering money, that the money was properly earned. Otherwise, they may be encouraging people to steal money from the public coffers just to buy them off.

Mr. Temporary Deputy Speaker, Sir the Report that we are discussing is also history. Hon. Members who have spoken before me said the same. We want to ask the office of the Controller and Auditor-General, even if he does not have enough staff, he should ensure that the office is properly staffed and whatever else is required is put in place, so that the reports are updated. We should be discussing reports of two financial years. A report of Financial Year 1998/1999 is a long time ago covers events that happened long time ago. The people who were supposed to be reprimanded may have found their way into senior positions, including coming to this House. We need to work and improve on the timing of the report, so that action may be taken. Those recommendations that have been made by the Committee---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Order! Mr. Kagwima, you will have 26 minutes when debate on this Motion resumes.

Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 30th November, 2006, at 2.30 p.m.

The House rose at 6.30 p.m.