

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 7th May, 2002

The House met at 2.30 p.m

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following paper was laid on the Table of the House:-

The Report of the Commissioner of Insurance for the year ended 31st December, 2000

*(By the Assistant Minister for Finance
and Planning (Mr. Marrimoi) on behalf
of the Minister for Finance)*

NOTICES OF MOTIONS

Dr. Oburu: Mr. Speaker, Sir, I beg to give Notice of the Following Motions:-

REVIEW OF TREATY ON USE OF LAKE VICTORIA WATERS

THAT, in view of the fact that the Treaty signed between the British Colonial authorities on behalf of the East African States and Egypt, regarding the utilization of Lake Victoria waters is outdated and inimical to the social-economic interest of the peoples living around the lake, and taking cognizance of the importance of the lake as a source of livelihood of the people, this House urges the Government, in consultation with other East African Governments to renegotiate the Treaty with all the States who are signatories.

GAZETTEMENT OF LAKE VICTORIA REGION AS ARID AND SEMI-ARID

THAT, in view of the fact that the climatic conditions obtaining in the Lake Victoria region covering the following districts: Busia, Siaya, Bondo, Kisumu, Nyando, Rachuonyo, Homa Bay, Suba and Migori are in the climatic zone four to six with rainfall levels below 600 millimetres per annum, thus falling within the criteria for inclusion in ASAL-arid and semi-arid lands, this House urges the Government to gazette the said districts under the arid and semi-arid lands.

ORAL ANSWERS TO QUESTIONS

Question No.232

GOVERNMENT EXPENDITURE ON TOURISM PROMOTION

Mr. Kariuki asked the Minister for Tourism and Information, whether he could inform the House the actual amount of money which the Government, in conjunction with Kenya Tourism Development Corporation, spent annually in the last three years to market and promote tourism in

Germany, Italy, USA, United Kingdom and Japan.

The Assistant Minister for Tourism and Information (Dr. Wamukoya): Mr. Speaker, Sir, I beg to reply.

The Kenya Tourist Corporation, established in 1965, is mandated to promote investments and the creation of enabling environment for investments in the tourism sector. However, realising that the hon. Member does not know the difference between the Kenya Tourist Development Corporation and the Kenya Tourist Board, I would like to inform him that the Kenya Tourist Board is the one responsible for marketing and promoting Kenya as a tourist destination.

The annual expenses incurred in marketing and promoting tourism in Germany, Italy, USA, United Kingdom and Japan in the last three years is as follows:-

	1998/99	1999/2000	2000/2001
	(Kshs.Million)		
Germany	22.3	18.1	21.7
Italy	9.1	6.7	2.8
USA	6.0	1.8	14.3
UK	29.8	28.9	27.9
Total	67.3	55.5	66.8

The figures for Japan are not available.

Mr. Kariuki: Mr. Speaker, Sir, it is very disappointing to note from the figures laid on the Table by the Assistant Minister that the amount of money spent on marketing of tourism is on the decline, whereas Kenya's record of bed occupancy has been on the decline. This, therefore, means that the Government is not putting enough effort to market tourism, which at one time was the top foreign exchange earner.

Could the Assistant Minister agree or disagree that, currently, it is hotel owners, airlines and travel agencies who are now spending money to market Kenya as a tourist destination rather than the Government? Is the Government not behaving very irresponsibly by failing to market this country's major foreign exchange earner and letting the tourism sector grind on its own rather than investing in it? You cannot harvest what you have not sown.

Dr. Wamukoya: Mr. Speaker, Sir, the Government is making all efforts, using the resources it has to market Kenya's tourist destinations. I would like to inform the hon. Member that tourism is already the second foreign exchange earner, despite the near collapse of tourist activities in 1997. This money is being utilised abroad, and we already have production development representatives in the countries that I have mentioned here, doing marketing. I am sure you have seen activities where our Ministry attends exhibitions abroad. It is not true just to say that the airlines and the hotels are the ones which are promoting the tourism industry.

Dr. Kituyi: Mr. Speaker, Sir, considering that irresponsible utterances that threaten peace and security at home can cause much more adverse effects on the tourist industry than the non-performance of any marketing agent outside the country, what role is the Government playing in restraining irresponsible politicians in your Government from making threatening speeches - like Mr. Nassir did - which scare away tourists?

Dr. Wamukoya: Mr. Speaker, Sir, I am not aware about what Mr. Nassir did to threaten peace. What he was doing was merely politicking, and I do not think that was a statement that could scare away tourists.

Mr. Angwenyi: Mr. Speaker, Sir, I am a fortunate person in the sense that I was a member of a delegation of Kenyan Parliamentarians that made a trip to the Far East. We went to a country like China, which exports tourists in excess of 100 million per year. We asked them why they do not come to Kenya and they replied that Kenya tourist attractions have never been promoted in that country. We went to Korea and we were told that they do not even know--

Mr. Speaker: Order, Mr. Angwenyi! I know that you have been to all those places. The correct thing to do is to write a report to Mr. Speaker! Put your question!

Mr. Angwenyi: Mr. Speaker, Sir, my question is: Could the Government undertake to promote tourism in the Far East, so that it can increase its revenue generation to develop our country?

Dr. Wamukoya: Mr. Speaker, Sir, we already have a development representative who is doing exactly what the hon. Member has talked about in our embassy in Japan.

Mr. Kariuki: Mr. Speaker, Sir, maybe the Assistant Minister could guide this House as to how many tourist offices the Government of Kenya is manning outside this country. But, more importantly, what assurances could he give to this House that there will be no repeat of the Likoni and Rift Valley clashes which drastically affected tourism in this country, particularly when we are facing an election year?

Dr. Wamukoya: Mr. Speaker, Sir, firstly, I want to say that we have development representatives in the

specific countries that the hon. Member asked about. Therefore, there is something that is being done. Secondly, as an Assistant Minister in the Ministry of Information and Tourism, I can only pray that we will never see clashes again. That is because I would like to see more tourists coming in with more foreign exchange.

(Applause as Messrs. Shakombo and Muturi entered the Chamber)

Hon. Members: Shame! Shame!

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. Maybe, the Chair should guide the House! I do not know whether we have a stranger in the House or what is the position of Mr. Shakombo?

Mr. Speaker: Order, hon. Members! I think I am, as the Speaker, completely at sea as to what is happening in our body politik. To start with, the hon. Member now rising, is supposed to have gone to a party other than the one that sponsored him! But he is not alone. If I look across both sides of this House, I do not know what Member belongs to what party

Mr. Kamolleh: I am in KANU!

Mr. Speaker: It is a worrying phenomenon. It is a phenomenon that should worry the whole country. This political nomadism is something that is worrying the Chair. They do not bother to write to the Chair. So, I do not know what party you are in. I am not talking about Mr. Shakombo alone. I am talking about both sides of the House. I think in your wisdom, you passed a constitutional amendment last time, that tied the hands of the Speaker, that the Member must inform Mr. Speaker in writing. Now, I will re-look at the whole issue. I am afraid that it could be disastrous for all of us. It could be a massacre! If the House wants to restore some semblance of dignity and honour to multipartyism, then you are at liberty to prod me; to look at all the Members who have declared their defections from one party to another through the back door. So, you are at liberty to prod me!

Mr. Katuku: Mr. Speaker, Sir---

Mr. Speaker: And in what party are you? Go ahead!

Mr. Katuku: Mr. Speaker, Sir, I have not got any NPK membership yet! But Mr. Shakombo has got the KANU membership!

Mr. Speaker: Order! Ask your Question!

Question No.117

PROVISION OF STD SERVICE TO MWALA EXCHANGE

Mr. Katuku asked the Minister for Transport and Communications when Mwala Exchange will be provided with Subscriber Trunk Dialling (STD) service.

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Speaker, Sir, I beg to reply.

Mwala Exchange has been included in the 2004-2006 Telkom Kenya Development Programme for automation of the market centre with STD services. Presently, Telkom Kenya has no immediate plans to automate Mwala Market with STD services. The market is currently served by a 70-line manual exchange. The manual exchange has 28 subscribers, whose total revenue amounts to Kshs27,343 per month. That does not justify the capital investment of Kshs20.3 million required for STD automation. We are aware that there are another 15 subscribers who are in the process of being connected, to bring the total demand to 43 lines, out of a capacity of 70 lines. We require a capacity of 120 digital lines compared to the present 70 lines to justify the required STD cost of Kshs20.3 million for the 18 kilometres from Masii to Mwala, which is the nearest centre.

Mr. Katuku: Mr. Speaker, Sir, the answer given by the Assistant Minister states that Telkom Kenya has a plan of doing so in the 2004-2006 Development Programme. It is so difficult to access Mwala because you have to call through Machakos, Kangundo and then Mwala. It takes a whole day for a call that one has booked to go through. Could the Assistant Minister talk about the 2002-2003 Development Programme instead of talking of the 2004-2006 Development Programme so that these people can be assisted?

Mr. Keah: Mr. Speaker, Sir, we are in the process of commercialising these services. Much as I sympathise with the hon. Member because of the present predicament, I can only urge him to get more subscribers. When we have more subscribers along the route we can justify the cost of such an investment which in this particular case is Kshs20.3 million. I have said that we are only getting Kshs27,000 per month which, when compared with the total cost of Kshs20.3 million, is certainly not a commercial viability aspect.

Mr. Sungu: Mr. Speaker, Sir, currently the Government has liberalised this sector and we have a number of operators particularly providing mobile phone services. We know for certain that one company has failed us totally because their network is permanently congested. Could the Assistant Minister tell us the Government policy with respect to the provision of mobile phone services in the country because the Mwala case could be catered for by mobile

phone services instead of waiting for trunk lines which are expensive to install?

Mr. Keah: Mr. Speaker, Sir, the Government policy on mobile phone services was included in a Paper that was tabled in this House which shows the programme for telecommunication provision services for the next five years. Mobile phone services have so far been restricted to two companies, but the Communications Commission of Kenya (CCK) is in the process of investigating the possibility of having a third mobile phone service provider and once that has been completed, this House and the country will be duly informed.

Mr. Katuku: Mr. Speaker, Sir, it appears Mwala people will never benefit from the fruits of Independence. What the Assistant Minister is telling us to do now is impossible. I want to remind the Assistant Minister that Kshs20.3 million is not a lot of money since we have thieves in this country who have stolen billions of shillings. I would want to appeal to the Assistant Minister to consider providing us with mobile phone services if he is not giving us this STD service. Could he assure me that he will provide us with these mobile phone services instead of the STD service?

Mr. Keah: Mr. Speaker, Sir, I do not entirely agree that Kshs20.3 million is not much money. Maybe, according to hon. Katuku it is little money. By any standards, an investment of Kshs20.3 million is certainly substantive. However, his sentiments have been heard and I shall certainly be speaking to the two mobile telephone service providers and urge them to speed up provision of mobile phone services to Mwala Market.

Mr. Munyao: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to confuse the House and also change what had been agreed on by his Minister because in 1988, which was 14 years ago, a Motion was passed in this House and the then Minister for Transport and Communications, hon. Magugu, accepted that there would be STD services in Mbooni, Wamuyu, Mwala, Kalawa and all those other areas? Is he in order to now start going behind the back of the then hon. Minister and deny what was accepted on in this House?

Mr. Keah: Mr. Speaker, Sir, policies change. The days of hon. Magugu are different from these days. We have gone into commercialisation and making sure that--

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

Mr. Keah: Mr. Speaker, Sir, could the hon. Member give me time to answer him rather than--

Mr. Speaker: Order, hon. Munyao! We shall have orderly business in the House!

Proceed!

Mr. Keah: Yes, I am aware hon. Munyao is referring to the days of hon. Magugu, but we have recently superseded that agreement by accepting a Paper in this House on telecommunications which lays out a programme of the telecommunications development in this country. Therefore, this Paper supersedes what hon. Magugu said then.

Mr. Speaker, Sir, in any case, I have just said that we are today in the age of commercialisation and unless we get enough subscribers in this area, it is not possible to sink in Kshs20.3 million for a handful of subscribers.

Mr. Speaker: Next Question by hon. Dr. Kituyi!

Question No.214

DISCRIMINATION IN BUYING CENTRES OPERATION

Dr. Kituyi asked the Minister for Agriculture:-

- (a) why the Government, through the National Cereals and Produce Board, discriminated in favour of North Rift in the opening and operation of maize buying centres at the beginning of this year; and,
- (b) what steps he has taken to ensure that other areas are given consideration in future.

The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo): Mr. Speaker, Sir, I beg to reply.

(a) The Government does not discriminate in buying maize from farmers. Purchasing by NCPB is, however, normally concentrated in the main surplus regions of the country for the operations to be cost-effective. It is also guided by seasonal production patterns. For instance, during the current season, it opened buying centres as follows:

(i) South Rift areas of Kericho, Bomet, Trans Mara, Kehancha and Ntimaru in South Nyanza in October 2001.

(ii) Western Kenya; in areas like Webuye, Bungoma, Kakamega, Malaba, Lugari, Kapsokwony and Kipkaren River in November, 2001.

(iii) North Rift regions in areas like Turbo, Moi's Bridge, Kapenguria, Kitale, Ziwa, Eldoret, Mosoriot, Kipkaren, Salient and Lessos in December, 2001 and January, 2002. The Board has also recently started operations of buying maize in Eastern Province to cater for the surplus short rains crop in Makueni, Kibwezi, Emali, Machakos, Kathiani, Konza and Tala. Therefore, there were no specific provinces or regions which were favoured in the market intervention programme. This mode of operation will be sustained.

(b) Since maize marketing is fully liberalized, traders and other private firms participate actively in buying and selling of maize. Therefore, the intervention mechanism is mainly concentrated in regions where there is market failure due to factors such as excessive supply and non-participation of the private sector.

Dr. Kituyi: Mr. Speaker, Sir, first of all, there is a lot of falsehood in the answer given by the Assistant Minister, because there has not been anything like the National Cereals and Produce Board (NCPB) buying maize. The NCPB has been collecting maize. Buying means you receive and you pay for it. Secondly, there was no part of western Kenya or even North Rift where they received maize and paid for it. It is not true that there was any place in Western Province---

*(Messrs. ole Ntimama and Biwott
consulted loudly)*

Mr. Speaker, Sir, could you save me from Messrs. ole Ntimama and Biwott?

Mr. Speaker: Order, Members! Order! Order! Can we have some audience?

Proceed, Dr. Kituyi!

Dr. Kituyi: Mr. Speaker, Sir, there is no single NCPB depot in Western Province which was opened as of the last day of November last year. But if the hon. Assistant Minister believes that they have been fair, could he explain to this House why, one, the NCPB was recording the price of maize at Lugari Depot Kshs50 cheaper than at Moi's Bridge Depot; the same NCPB in the same country and in the same Government? Why was maize in Lugari cheaper than in Moi's Bridge? Secondly, why is it that farmers in most parts of Western Province, particularly Lugari, Webuye and Bungoma up to now, have not been given money for the maize collected since December last year and yet, they are half-way through the planting season of this year's crop? **Mr. Sumbeiywo:** Mr. Speaker, Sir, I agree with Dr. Kituyi that the NCPB was collecting maize and that it was helping them to store the maize that was likely to be spoiled in their stores. As I said earlier on, the marketing of maize is fully liberalized. For the maize that had been delivered to the NCPB, up to the end of February, the farmers are now receiving the payments. It was only the other day when we got about Kshs1.5 billion which was used to pay farmers. In addition to that, the Government also sourced for another Kshs1 billion. As for the difference in the price, this depended on the quality of the maize that was being delivered to the NCPB.

Mr. Wamalwa: Thank you, Mr. Speaker, Sir. The Government introduced the idea of buying centres in the late 1970s and early 1980s to make it easier for the maize farmers to access centres where they could deliver their maize, even if it was only five or ten bags. For a long time, the buying centre idea worked to the benefit of the farmers and the Government was able to collect a lot of maize. Given the number of buying centres that the Assistant Minister has just read out, it means that the NCPB is only operating roughly one-tenth of all the buying centres that were opened in the early 1980s. What went wrong to make the Government go back on the idea of making it easier for the farmers to access the buying centres to just major towns, like Kitale, Kapenguria and Moi's Bridge, instead of the three or four small buying centres that were there in each location?

Mr. Sumbeiywo: Mr. Speaker, Sir, it is true that the Government introduced so many buying centres in the late 1970s and early 1980s. But since the liberalization of the market as far as selling and buying of maize and other grain commodities is concerned, the Government found it very difficult to operate these small buying centres since it was not obliged, and it is not obliged up to today, to buy all the maize that is produced by the farmers.

Mr. Sambu: Mr. Speaker, Sir, the Assistant Minister has said that the recent payment of Kshs1 billion to the farmers catered for the maize delivered up to the end of February this year. That is not right. Most of the centres have not been paid for the maize delivered up to the end of January this year. They have just been paid for the maize delivered up to mid-January this year. There is over Kshs2 billion owing to the maize farmers in the maize growing zones. Will the Assistant Minister assure this House that all payments, which amounts to over Kshs2 billion, are made to the farmers before the end of this month to enable them pay school fees and also do their planting?

Mr. Sumbeiywo: Mr. Speaker, Sir, I agree with the Member for Mosop that the farmers are now suffering because they cannot pay school fees, but I cannot assure them that they will be paid by the end of this month. We are now negotiating with the Common Market for Eastern and Southern African (COMESA) countries to buy our maize. As I talk now, there is a consignment already of over 160,000 metric tonnes which is being loaded to ships in Mombasa, and others are still being loaded. I disagree with Mr. Sambu that the NCPB owes farmers Kshs2 billion worth of maize. Today, the NCPB owes farmers approximately Kshs1.5 billion. I can assure the House that the Kshs500 million---

(Loud consultations)

Mr. Speaker, Sir, could you save me? There is a lot of noise, I cannot---

Mr. Speaker: Order Members! Order! Can we be in the House now?

Mr. Sumbeiywo: Thank you, Mr. Speaker, Sir. As I was saying earlier on, some COMESA countries, like Zambia, Malawi and South Africa, are experiencing drought and so we expect, in the next few weeks, to export all the maize which is kept in the NCPB stores. By doing that, we shall have sold all the remaining stock of maize that the

farmers are still keeping.

Dr. Kituyi: Mr. Speaker, Sir, since the good Assistant Minister has told us that the reason why the NCPB pays less for maize in Western Province is because of quality, would he tell this House what instrument they use to assess that the quality of maize in Western Province is lower than that in North Rift? We buy seeds from the Kenya Seed Company like farmers in the North Rift! How do you assess the quality by province?

Mr. Sumbeiywo: Mr. Speaker, Sir, it is not done by the province. It is by the kind of seeds that the region uses. Some of these regions use what is called, in the local dialect, *choge* seeds.

Mr. Speaker: Next Question, Mr. Githiomi!

Question No.079

TARMACKING OF ROAD C69

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

- (a) when the tarmacking of Road C69 will commence; and,
- (b) if the tarmacking will not commence this year, whether he could consider spot-patching the road to make it passable.

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

- (a) The Ministry does not have immediate plans to tarmack Road C69.
- (b) My Ministry will consider spot-patching the road in order to make it passable during this financial year.

Mr. Githiomi: Mr. Speaker, Sir, the answer that I have been given is unsatisfactory, irresponsible and calculated to demean the intelligence of Nyandarua people. Last year I asked a similar Question in this House and the answer that I got is that the road would be tarmacked in one and a half years. This Parliament approved Kshs12 million for a feasibility study of this road in the Budget of 2000/2001 financial year. There is an agreement between the Kenya Government, the Treasury and Badea, an Arab Bank. Could the Assistant Minister tell us whether this position has changed because even the President drove along that road and promised that it would be tarmacked soon?

Eng. Rotich: Mr. Speaker, Sir, the position he is talking about is true. We did our own feasibility study as a Ministry and found that the road is economically viable. When we presented the report to Badea they wanted to do their own feasibility study which is ongoing as of now and which they are funding. As soon as they complete their feasibility study and accept it, they will release the money for tarmacking. The situation has not changed and we are not demeaning anybody. As soon as we complete the feasibility study, we shall start tarmacking the road.

Mr. Githiomi: Mr. Speaker, Sir, could the Assistant Minister give us a projection of when he thinks the Arab Bank, Badea, will complete the feasibility studies and whether, for sure, this road will ever be tarmacked or not? It seems the Government is now playing about with the intelligence of Nyandarua people.

Eng. Rotich: Mr. Speaker, Sir, I wish to repeat that we are not playing with the intelligence of anybody. The fact is that the money will come from Badea Bank and we must first fulfil their conditions before we get the money. One of the conditions they gave is that they have to carry out their own feasibility study irrespective of the fact that we had done our own study. They will complete this study by the end of May, this year. Hopefully, if they agree to fund us, we will start the process of tarmacking the road.

Mr. Speaker: Next Question!

Question No.027

ALLOCATION OF COUNCIL PLOTS

The Question by Mr. Angwenyi is deferred.

(Question deferred)

Next Question!

Question No.050

RATIFICATION OF VOTER
REGISTRATION RESOLUTION

Mr. Obwocha asked the Attorney-General when he will bring a Bill to ratify the resolution pursuant to a Motion passed by the House on continuous registration of voters.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to reply.

The amendments on the continuous registration of voters are contained in the Statute Law (Miscellaneous) Amendments Bill, 2002, published on 28th March, 2002. Clause 4(A) of the Bill is of particular reference. The Bill is currently before this august assembly and having passed Second Reading, awaits the Committee Stage and Third Reading.

Mr. Obwocha: Mr. Speaker, Sir, I brought this Motion to the House on 26th February, 2000, and it was passed on 3rd May, 2000. There are three million Kenyans who have not yet registered as voters, so this is a very important issue.

Mr. Speaker: Did I hear the Attorney-General say it is before the House?

Mr. Obwocha: Could he confirm that we will pass this Bill before we go for recess?

Mr. Speaker: But supposing the Bill is rejected?

(Laughter)

Mr. Wako: I can confirm that, subject to the House Business Committee, the Committee Stage and Third Reading of the Statute Law (Miscellaneous) Amendments Bill should be completed before we go for recess.

Mr. Speaker: Very well. Next Question!

Question No.174

RELEASE OF SUSPECTS

The Question by Mr. Maore is deferred.

(Question deferred)

Question No.207

COMPENSATION TO MR. MOKANO'S FAMILY

The Question by Mr. Anyona is deferred.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

ISSUANCE OF IDENTITY CARDS

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

(a) Is the Minister aware that many people in Samburu East have not registered as voters because of lack of national identity cards?

(b) What action is he taking to ensure that there is a programme for issuance of identity cards?

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

(a) I am not aware that many people did not register as voters because of lack of national identity cards.

(b) The Government continues and will continue to register and issue national identity cards to the eligible Kenyan nationals as prescribed by law in all parts of the Republic. The department has put in place the necessary machinery including mobile programmes to speed up the registration of persons and the subsequent issuance of national identity card countrywide.

Mr. Leshore: Since the Minister is now aware of the problem, what will he do about it so that the people of Samburu East get identity cards before the resumption of registration of voters?

Mr. Sunkuli: Mr. Speaker, Sir, there are two issues involved here. The hon. Member wants us to repeat this exercise, but we have already covered areas of Kisima, Losuk, Barsoloi, Dulu, Batakwen, Yare, Opiroi, Slurhor,

Lojokedek, Wesgej, Ndonyiwasi, Soleslip up to Ngaroni. The second issue is that there are about 1,500 identity cards which have actually been issued in Samburu District, but they are lying at the headquarters awaiting collection. There are 757 identity cards lying in Wamba Division where the hon. Member comes from. There are 565 identity cards in Waswa Division which are not collected.

We have tried to distribute these cards through the chiefs and assistant chiefs, but the results have not been very successful. Since the hon. Member is quite influential in his district, he could help us to urge his constituents to go and collect these identity cards. Next time I will encourage those registering persons there to go and do mobile registration like it is done elsewhere.

Mr. Ndicho: Mr. Speaker, Sir, the issue of getting an identity cards is a very big problem to Kenyans. You will find that in some areas there are thousands and hundreds of cards awaiting collection. Could the Minister make it a Government policy that the issuance of identity cards be made as easy as it is to obtain birth certificates? It is very difficult for Kenyans to obtain these cards, especially those who come from border districts. In my constituency, if you are a Luo or Luhya, you are told to go back to Busia, Kakamega, Baringo or wherever to get an identity card there. Could he make it compulsory that when you are born, you are registered and at the age of 18 that identity card is sent to your father's post office box number?

Mr. Sunkuli: Mr. Speaker, Sir, in the first place I do not know why a Luo was sent to Baringo District. As my "learning" friend will know, I could easily make that proclamation, but it would be against the law because registration of persons is governed by an Act of Parliament.

Mr. Wamalwa: Mr. Speaker, Sir, the Minister has hinted, perhaps unwittingly, that there are many cards awaiting collection. Sometimes the reason why people have not collected these cards is because the chiefs and DOs want them to pay something in form of a Harambee donation before they are given the cards. Could the Minister, in his usual forthright manner, give a directive that the issuance of identity cards should not be tied, in any way, to Harambee contributions or anything that the Provincial Administration may wish to levy?

Mr. Sunkuli: Mr. Speaker, Sir, I hope that is not happening, but I will definitely bring the matter to the notice of the District Commissioners. I hope that these things will not happen and that everybody will get his identity card once it has been taken from the headquarters to the district.

Mr. Speaker: Could you ask the last question, Mr. Leshore?

Mr. Leshore: Mr. Speaker, Sir, I toured my constituency in January and February. Quite a number of young warriors and ladies who have been married had not had the chance to get identity cards. When is the Minister going to send mobile registration units to Ngarinarop, Ndonyowasi and to most parts of Waso Division, so that these young people could be issued with identity cards?

Mr. Sunkuli: Mr. Speaker, Sir, I have already sent mobile registration units to Ndonyowasi but if the hon. Member feels that the registration teams are not adequate, I will instruct the Samburu District Registrar of Persons to go there next week and issue people with identity cards.

Mr. Speaker: Very well. Let us proceed to Mr. Anyona's Question.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. You are taking us back! Could we go forward?

Mr. Speaker: Ooh! I am sorry. I beg your pardon. I was referring to Mrs. Mugo as Mr. Anyona.

(Laughter)

Mrs. Mugo: Mr. Speaker, Sir, Mr. Anyona pretends that he is the Member of Parliament for Dagoretti Constituency. He is not; I am the Member of Parliament for Dagoretti Constituency.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. Is Mrs. Mugo in order to insinuate that I pretend to be the Member of Parliament for Dagoretti Constituency when she very well knows that I am the Member of Parliament for Kitutu Masaba Constituency, and that, historically, I have other connections with Dagoretti Corner?

Hon. Members: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! Honestly, I did not have any intention of causing this "war". If I am the one who has caused it, I now declare a truce.

Proceed, Mrs. Mugo!

Mrs. Mugo: Mr. Speaker, Sir, before I ask my Question, I would like to bring to your attention the fact that I have not been supplied with a copy of the written reply to it. I hope that the Minister will tell the House why he has not supplied me with a copy of the written answer.

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

(a) Is the Minister aware that on the night of 17th February, 2002, at around 10.30 p.m., police officers from Kilimani and Muthangari Police Stations attacked several business premises in Kawangware which led to the following losses:-

	<u>Kshs.</u>
(i) Our Choice Guest House -	11,050
(ii) Canary Cash -	19,000
(iii) Meeting Point -	85,000
(iv) Bells Bar -	20,500
(v) Uchumi Bar -	Kshs12,000 and 4 ID cards
(vi) Njoro's Bar -	3,000
(vii) Sam's Bar -	5,000 and one mobile phone
(viii) Vineyard Bar -	8,2000 and one mobile phone
(ix) Chemadus Bar -	1,800 and one mobile phone
(x) Round Table Bar -	Mobile phone
(xi) Heroes Bar -	Unknown amount of money
(xii) Bora Bora -	Unkown amount of money
(xiii) Peponi Bar -	Unkown amount of money
(xiv) Sweet Waters -	Unkown amount of money
(xv) The Vellers -	Unkown amount of money

(b) Is he further aware that the bar owners reported the matter to the Police Commissioner who, despite my efforts to seek an appointment with him, delegated the matter to his Personal Assistant and the Head of Operations who had promised to furnish the aggrieved bar owners with the findings of an investigation they were going to launch?

(c) What measures will he take to ensure that the bar owners are reimbursed their money, and that the lost items are recovered?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I personally did sign the written answer and caused it to be dispatched to Parliament. So, I cannot tell why the hon. Member has not received a copy of the same. I had undertaken to ensure that written answers to Questions come to Parliament in time.

Mr. Speaker, Sir, I beg to reply.

(a) I am aware that a joint operation was mounted on 17th February, 2002, by police officers drawn from Kilimani, Embakasi and Buru Buru Police Divisions at Kawangware Market to flush out criminals responsible for escalating crime in the area, including the murder of Senior Superintendent Barasa of the CID Headquarters. I am further aware that some businessmen operating in the area launched complaints of harassment, robberies and theft of money and other valuables as a result of the operation. Statements were taken from the reportees and an inquiry launched as per Muthangari Police Station Inquiry file No.1/2002. The reportees were required to report back to the station for an identification parade in a bid to identify those alleged to have been involved in crime but to date, none of them has shown up. So, the matter is still pending under investigation.

(b) I am aware that the matter has been addressed competently as explained in the answer to part (a) of the Question.

(c) The co-operation of the complainants is crucial to the identification of alleged culprits. Until this is done, the culprits will never be known, and hence will be an impediment to the intended action.

Mrs. Mugo: Mr. Speaker, Sir, I believe that the Minister is misleading the House. The complainants have never been invited to identify the culprits. Also, I believe that any identification parade should be planned. You do not just appear at a police station and say that you have gone to identify whoever committed a certain crime. Investigations into the incident were supposed to have started in February, 2002. I do not believe that any such investigation has taken

place. I have even tried to contact the Commissioner of Police over the matter, but he did not have anything to tell me. Instead, he referred me to his personal assistant, who said nothing.

So, could the Minister tell us exactly what is happening with this case, when the culprits will be identified and punished, and what steps he is taking to ensure that the police do not harass people any more in Dagoretti Constituency?

Mr. Sunkuli: Mr. Speaker, Sir, when I got this information, I asked the police to organise another identification parade on 13th May, 2002, at Muthangari Police Station. The complainants have, again, been informed in writing to be at Muthangari Police Station on Monday, 13th May, 2002, at 10.00 a.m., to identify the criminals. I hope that the hon. Member will help in this regard by ensuring that the complainants attend the identification parade.

Mr. Anyona: Mr. Speaker, Sir, just to demonstrate that there is no ill will at all, Mrs. Mugo is talking about Kawangware, but such incidents have been taking place all over the place, namely, at Dagoretti Corner, Kawangware, among other places. The Minister has actually admitted that the particular operation did take place. Could he tell us the purpose of that raid, and what it achieved? He is telling us about an identification parade when he has not told us what the police were looking for in the first place and what they achieved. Really, that is wasting Kenyans' time. What were the police looking for and what did they achieve?

Mr. Sunkuli: Mr. Speaker, Sir, I am informed that during this particular operation, the police were trying to get a number of people whom they suspected had gone to Kawangware to commit certain offenses. I cannot give the exact details because most of these people have not yet been arrested, and we still intend to arrest them.

Mr. Speaker: Could you ask the last question, Mrs. Mugo?

Mrs. Mugo: Mr. Speaker, Sir, this is a very serious matter. A total of Kshs165,000 and other unspecified amounts of money plus mobile phones were stolen by the police on the fateful day. That was not the first such incident. Why are the police behaving like an occupation army in this country? Could the Minister tell the House the steps he intends to take to ensure that the businessmen are reimbursed the money they lost as a result of the particular police raid? It is not true that the police were looking for any criminals. They went there for the purpose of stealing from the people of Kawangware.

An hon. Member: Were the criminals hiding in the mobile phones?

Mr. Sunkuli: Mr. Speaker, Sir, I wish Mrs. Mugo could one day be polite and realise that the police are actually doing a good job in this country. If there were certain excesses by some police officers on that fateful night, let us address them as such. Let us not say that the police went there for the purpose of stealing from the people. The police did go there in their ordinary course of duty, to try and ensure that law and order was maintained.

Mr. Speaker: Very well. Let us proceed to Mr. Mwalulu's Question.

SAFETY IN PUBLIC TRANSPORT

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

(a) Why do public transport vehicles plying the Taveta-Voi route need armed escort?

(b) What urgent measures is the Minister taking to ensure safety in public transport in the area?

Mr. Speaker: Mr. Sunkuli, are you the one who is supposed to answer Mr. Mwalulu's Question by Private Notice?

The Minister of State, Office of the President (Mr. Sunkuli): Yes, Mr. Speaker, Sir. In fact, I have the answer to the Question. Could you, please, give me a minute to sort out these papers?

Mr. Speaker: You have got it. Meanwhile, hon. Members, let us proceed to Mr. Munyao's Question.

CANCELLATION OF KCSE RESULTS

Mr. Munyao: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that several Form Four students from Kalawa Secondary School did not get their results for last year's Kenya Certificate of Secondary Education (KCSE) examination?

(b) How many were affected and which were their subjects?

(c) Could the Minister urgently carry out a thorough investigation and inform the House whether all the students will be allowed to repeat and what action will be taken against the culprits?

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Speaker, Sir, I beg to

reply.

(a) I am aware that several Form Four students from Kalawa Secondary School did not get their results for last year's KCSE examination.

(b) Seventy-eight students were affected in respect of Mathematics, 47 in respect of Biology, 20 in respect of Physics, and 23 students in respect of Chemistry. Overall, 92 students were affected.

(c) Investigations carried out immediately revealed that the students were involved in cheating. They are allowed to repeat the examination this year at their own expense.

Mr. Munyao: Mr. Speaker, Sir, this Question affects parents of the students affected in Kalawa Secondary School and the local community. I would like the Assistant Minister to take it so because it affects children and the community in the area. It has brought a lot of bad feelings in the community. Could the Assistant Minister - because part (c) of the Question requires the Assistant Minister to tell us more - carry out thorough investigations to know how the collusion took place, who was behind it and what happened? Could he now come out thoroughly and tell us - and be more concerned - more about the feelings of the parents of these students?

Mr. Karauri: Mr. Speaker, Sir, we have done thorough investigations and we found out that the invigilators, the supervisor and headmaster were involved, and all of them have been interdicted.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. Earlier on, this Question came up in a broader context, and this was one of the schools mentioned. The Minister for Education did say that they would do what Mr. Munyao is asking; that, they would investigate and come here with a list of those who were involved. In fact, they owe this House that response which has not come.

Mr. Karauri: Mr. Speaker, Sir, I have just said that we know who was involved---

Mr. Speaker: Is it the headmaster or the invigilator?

Mr. Karauri: Mr. Speaker, Sir, we have interdicted the invigilators, the headmaster and the supervisor. Their letters of interdiction are dated 8th April, 2002.

Mr. Munyao: Mr. Speaker, Sir, it is true that the Assistant Minister has done nothing about investigations, because if he did he would have known much more than this. The people who were involved and who the Assistant Minister somehow does not want to tell us--- He should as well tell us whether he also had a hand in the confusion. Otherwise, why can he not tell

us who was involved? The truth is that the way the situation is being taken so casually by the Assistant Minister would make even people who are innocent to suffer. What kind of report is he going to bring to this House so that we may know exactly what happened and the people who were behind it?

Mr. Karauri: Mr. Speaker, Sir, but we have taken very drastic action because we have interdicted the following invigilators; Messrs. Kyule Mulinge, Mumo Emille, Maguti Amulwa and Mutuku Joseph. We have also interdicted Mr. Mulwa Solomon Musembi, a supervisor, Mr. Kisavi Benson Musau an invigilator and the headmaster of the school because investigations revealed that they were involved.

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

Mr. Speaker: Order, Mr. Munyao! I do not think we need to interdict the whole Ministry! Time is up!

*(Messrs. Munyao and Katuku
remained standing)*

Order, the two of you! Time is up! Sorry! I think I must bend a little and get to Mr. Mwalulu.

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

Mr. Speaker: Order, Mr. Katuku!

Yes, Mr. Mwalulu!

SAFETY IN PUBLIC TRANSPORT

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

(a) Why do public transport vehicles plying the Taveta-Voi route need armed escort?

(b) What urgent measures is the Minister taking to ensure safety in public transport in the area.

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

(a) There have been incidents of robberies and banditry in the past along the Taveta-Voi Road which raised

the need for armed escorts. To protect the public from these acts of banditry, it was, therefore, important that the police did have to escort vehicles along that route.

(b) Surveillance on the road has been increased to protect against occurrence of crimes and incidences.

Mr. Mwalulu: Mr. Speaker, Sir, the route

that I am talking about goes through three constituencies; Voi, Mwatate and Taveta. I am saying that this whole region is going through a situation similar to that of North Eastern Province (NEP), at the height of banditry menace. We are seeking a permanent solution to this problem which is spreading very fast. Could he give a comprehensive answer as to what specific long-lasting solutions he is going to give to these problems?

Mr. Sunkuli: Mr. Speaker, Sir, the Commissioner of Police is looking into this matter in particular because the hon. Member wants to compare this with the NEP. But the situation in the NEP has been tackled. Now, people do not need armed vehicles to escort them to the NEP. We had to do this for this particular situation because there was an immediate problem that had to be solved.

Mr. Mwakiringo: Mr. Speaker, Sir, this is a very busy commercial road, between Voi and Taveta. It is becoming an embarrassment because buses take a very long time before they are escorted. We want to be assured by the Minister whether he can place, at least, about five police officers after every kilometre towards Taveta. Otherwise, the Taveta people feel as if they are not in Kenya. Therefore, it is better that they are left to be managed by Tanzanians.

Mr. Sunkuli: Mr. Speaker, Sir, I cannot say that, that is the exact action I am going to take. But, definitely, I am going to look into the situation and see the best ways so that the people do not get inconvenienced in their travels.

Mr. Mwalulu: Mr. Speaker, Sir, we are not just talking about insecurity on these routes. But we are talking about a situation that is deteriorating in the whole constituency and in the district. We are burying victims of armed banditry almost every week. It is a very worrying situation. What action is the Minister taking to ensure that insecurity in Taita-Taveta District is tackled not just along these routes, but in the whole district and specifically in Taveta?

Mr. Sunkuli: Mr. Speaker, Sir, as I said, the Commissioner of Police has informed me that he is carefully studying the situation in Taita-Taveta so that he can be able to recommend and take quick action.

COMMUNICATION FROM THE CHAIR

MISREPORTING BY *KENYA TIMES*

Mr. Speaker: Order, hon. Members! I am afraid time is up. I have a very short communication which I wish to communicate to the House.

Hon. Members, yesterday, Monday, 6th May, 2002, the *Kenya Times* newspaper in its lead story carried an erroneous and misleading report to the effect that the Tribunal looking into the terms and conditions of service of Members of Parliament had made recommendations to the Parliamentary Service Commission which contained new salary scales for Members of Parliament. The issue in its banner headline, titled, "MPs' Earnings Set For Hike" alleged that Members of Parliament were now set to earn a whopping Kshs822,000 per month, while the Speaker of the National Assembly would earn Kshs1.2 million monthly!

(Laughter)

Contrary to the fertile imagination of the writer of the report, the following are the facts:-

(a) No such report or recommendation has been presented to the Parliamentary Service Commission by the Tribunal or any other body.

Indeed, last Wednesday, the day the report was allegedly presented to the Commission, it was a public holiday, May Day. The Tribunal is still receiving representations and has yet to conclude its report.

(b) The Tribunal has received a great number of very valuable representations from the general public, Government and other bodies as opposed to the impression given in the report.

(c) Once the report is complete, it will be presented publicly to the Commission, as the Tribunal was publicly appointed by the Chairman of the Commission, who is also the Speaker. I, therefore, direct the *Kenya Times* newspaper, to correct the misleading impression given by the reporter and to issue the necessary apology and give it the same prominence as the story had taken. I have deemed it necessary to do this because such false stories have only one aim; to make members of the public hostile to Members of Parliament. So, they are now ordered by me, to do exactly what they did yesterday. They should put a lead story to undo that falsehood.

Thank you.

Mr. Ndicho: Mr. Speaker, Sir, we thank you very much for that ruling, because we read a lot of mischief in

that report. As you have said, it is meant to antagonise us with the public and, taking cognisance of the fact that this is an election year, we know that there are some people in the *Kenya Times* who would like to see some Members of Parliament out of this House by writing falsehoods. Although you have made that ruling, you have not said what action you will take if they refuse to do what you have ordered them to do!

Mr. Speaker: Order, hon. Members! The Chair does not act in vain. I know that my order will be complied with. If it is not complied with, then they will refuse to do so at their own peril!

Mr. Anyona: Mr. Speaker, Sir, of course, they have no option but to comply, but I have never seen such apologies done on the same magnitude as the original story. But this story was in the British Broadcasting Corporation (BBC)! How are they going to correct the story aired by the BBC? Will they make sure that they have an interview with the BBC to correct that impression? The whole world was treated to a wrong story!

Mr. Speaker: Order, hon. Members! I think the BBC is also represented in Kenya. They get their stories from here and they also listen to Mr. Speaker. I am now directing generally that those who have spread that rumour must undo it because it is untrue, false and has never happened. It is clearly a false story!

Mr. Wamae: Mr. Speaker, Sir, you have clearly stated what the newspaper should do. What are you going to do with the journalist who filed that report? We should do something about that particular journalist if he or she is attached to Parliament!

Mr. Speaker: I have made the order that they do rectify that false story. It is a false story and they know it. As a matter of fact, if I may go further, and I can understand the anxiety of hon. Members, yesterday, the Clerk of the National Assembly called the *Kenya Times* and wrote them a letter expressing his and my shock at that falsehood and demanded that the newspaper should this morning make a correction about that false story. To my shock, this morning, I looked at the *Kenya Times* and there was nothing. That was the Clerk of the National Assembly but this is now the Speaker! Let us now leave this matter to rest. I know that you are all annoyed but we must make progress.

Dr. Kituyi: Mr. Speaker, Sir, you will agree with me that as the National Assembly of Kenya, we have not been doing our public relations properly, so that some lies peddled in our name are carried as whole truths. Could the Chair, in the same breath, ask the *Daily Nation* to stop misleading Kenyans that we earn Kshs600,000 per month? It has been doing that for a year!

Mr. Speaker: Why do they want us to earn more than we do? If they do want to know what we truly earn, why can they not ask the Speaker to make available to them the payroll? So, could all these falsehoods be stopped forthwith?

On a more serious note to our reporters, who sit literally above my head, could they please, be serious with the House? Do not trivialise the House and do not give falsehoods to the Kenyan public about this House, which will lead to this House being held in contempt. I am sure that we have tried, as much as possible, as the administration of Parliament, to be open and available to the Press any time they sought any information. I can confirm to this House that not a single reporter has ever sought of me, to know what we truly earn. All our information is in the public domain and we are prepared to give it. But that story of yesterday, really shocked me!

Let us now move to a different issue altogether. Mr. Kibicho!

POINTS OF ORDER

ASSISTANCE TO FLOODS VICTIMS

Mr. Kibicho: Mr. Speaker, Sir, I request the Minister of State, Office of the President, to issue a Ministerial Statement in respect of the 200 families submerged in water in Baricho at Thiguku, Kirinyaga District. What urgent steps is the Minister taking to provide those families with food and medicine? There has been an outbreak of disease in the same place. What steps is he also taking to relocate them, because water is shooting from underground due to the heavy rains?

FEAR OF VOLCANIC ERUPTION IN SOUTH IMENTI

Mr. Murungi: Mr. Speaker, Sir, last week on Thursday, I requested the Minister of State, Office of the President, to give a Ministerial Statement to this House, regarding the tragic landslide in South Imenti which killed 12 people. The situation on the ground is very grave. The people left there are not sleeping because there is great fear that there is an imminent volcanic eruption. I would be happy if the Minister could clarify what steps the Government is taking to offer relief food to those people and also to allay fears as to whether there is a volcanic eruption which is about to occur in that place or not.

Mr. Speaker: Is there a Minister of State, Office of the President, in the House responsible for this issue?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, the appropriate Minister will issue that Statement on this issue.

Mr. Speaker: Could he do that tomorrow? Quite frankly, you know that this is a disaster issue and Kenyans would like to know what the Government is doing. As Mr. Murungi has said, there are some people who are peddling rumours like the one he has alluded to; that Mt. Kenya is about to erupt into volcanic activity, which is likely to wreak havoc in that area. Could you get the Minister to issue that statement tomorrow?

The Minister of State, Office of the President (Mr. Sunkuli): Yes, that will be done tomorrow in the afternoon.

Mr. Speaker: Very well.

LOGGING IN NGONG FOREST

Mr. Munyao: Mr. Speaker, Sir, last week, about five Ministerial Statements were sought and the Chair directed that all of them must be given this week. The Leader of Government Business who was in the House then noted that those Statements were going to be made this week.

I wanted the Minister for Environment to tell us why clearing of forests is going on throughout the country, for example, in the Mt. Kenya Forest and more seriously, in Ngong Forest. The Chair directed that he gives that statement today. What has happened?

Mr. Speaker: Very well, I think I will ask them to do that tomorrow.
Next Order!

BILLS

First Reading

THE SUGAR (AMENDMENT) BILL

The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo): Mr. Speaker, Sir, I beg to move that in accordance with Standing Order No.101A, the Sugar (Amendment) Bill, Bill No.16, be referred to the relevant Departmental Committee.

Mr. Speaker: It is so ordered!

*(Order for First Reading read - Read the First
Time - Ordered to be referred to the
relevant Departmental Committee)*

Second reading

THE CORRUPTION CONTROL BILL

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to move that the Corruption Control Bill, 2002, be now read a Second Time.

I crave leave to refer to my notes in moving this very important Bill. I am happy to move this Bill because hon. Members will recall that I published the Anti-Corruption and Economic Crimes Bill, 2000, which never saw the light of the day. I then published the Anti-Corruption and Economic Crimes Bill, 2002, and again it was never tabled before the House. I am glad that today, after two attempts, I am now at long last moving that the Corruption Control Bill, 2002, be now read a Second Time.

Mr. Speaker, Sir, as hon. Members are all aware, the Government and the people of Kenya have declared war against corruption, and have instituted a zero-tolerance policy against corruption, both in the public and the private sectors. This war against corruption is one in which every person in Kenya must be enlisted as a soldier.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. I need the guidance of the Chair. The Attorney-General is a leading learned man in this House. He is moving a Bill called "The Corruption Control Bill" and he has told the House that the purpose of the Bill is to promote zero-tolerance to corruption. In your understanding of the English language, does "corruption control" entail zero-tolerance to corruption or keeping it at manageable levels?

Mr. Speaker: Dr. Kituyi, I honestly do not know where corruption was invented, and whether it is controlled, regulated or eliminated, this is the whole issue that you are debating. But you are also at liberty to amend the title of the Bill.

Mr. Oloo-Aringo: On a point of order, Mr. Speaker, Sir. With due respect, the public address system is not reaching us where we are sitting.

Mr. Speaker: I am sorry about that! What is happening?

Mr. Oloo-Aringo: Mr. Speaker, Sir, please find out what is happening because we cannot hear what you are saying and, therefore, we cannot make a decision on your ruling.

Mr. Speaker: Well, I hope you can hear me now. Can you?

Mr. Oloo-Aringo: Mr. Speaker, Sir, may I request you to repeat what you said because it is very important that we are in charge all the time?

Mr. Speaker: Order! I think this House is my witness that I can actually communicate to the whole House without using a microphone. All I need is hon. Members to pay attention.

Proceed, Mr. Wako!

The Attorney-General (Mr. Wako): Thank you, Mr. Speaker, Sir. I was in the course of addressing the point which has been raised by Dr. Kituyi.

Why are we against corruption? Corruption, as we all know, has devastating effects on the social, economic and political foundations of any society. Corruption negates any economic and social development and programmes to eradicate poverty. It hinders economic growth because it kills entrepreneurial spirit of innovation and patience in getting results. Corruption distorts the markets, particularly in a country which has a market-driven economy. Corruption, we all know, lowers the

quality of the infrastructure. We all complain about the poor state of our roads, and you may recall that during the hon. Members' consultation meeting in Mombasa, it was stated that a road that had just been tarmacked, within six months the tarmac was no more. There must have been corruption involved there. Corruption decreases Government revenue. On this issue, if you read the so-called "Kombo Report", on page five, you will find that 56 per cent of the tax revenue was misappropriated in the year 1999, and in the same year, Kenya lost Kshs130 billion in revenue through tax evasions. That was set out on page five of what has become known as the "Kombo Report".

Corruption also is detrimental to the national character of Kenyans in that, instead of being a people who are hard working, we have become a people who want to cut corners so that we can enrich ourselves quickly. More importantly, corruption undermines the democratic system of government. In Kenya, as you know, we have declared in our Constitution that we are a multiparty democratic state. Corruption undermines any democratic system of government.

It was Mr. Edmund Burke, the British politician and statesman who lived in the year 1729 to 1797, who stated in a letter to the Sheriff of Bristol: "Among a people generally corrupt, liberty cannot exist". He stated that where in any society corruption is prevalent, and is accepted by the people and the people engaged in corruption, democracy cannot exist. Another 20th century statesman has stated: "Unless we beat corruption, corruption will beat democracy". That statesman has stated that corruption and democracy are now on two sides and one side can beat the other. So, unless we beat corruption, then democracy will be defeated and vice-versa.

Mr. Speaker, Sir, we are all agreed that corruption is endemic and has penetrated into all levels and strata of the society. Corruption is extensive and deep-rooted. Corruption is not just confined to corruption within Government and by Government officials, but it has also penetrated the Non-Governmental Organisations (NGOs), religious institutions, professional bodies and professionals. This comes out clearly in the Kombo Report, which was approved in this House. It stated that corruption has also penetrated into all these other areas. In that regard, I would like hon. Members to read page 39 of the Report. The experts whom the Government appointed recently also came to the same conclusion and quoted the Report which was prepared by the Kenya Anti-Corruption Police Unit (KACPU) in its study. The Report revealed that 75 per cent of the respondents had witnessed corrupt activities and 60 per cent reported to have been victims of corruption. Of that 60 per cent, 49.9 per cent were reported having given a bribe in order to get a service from a civil servant in a public office. It came to our conclusion that no section of the community was immune from corruption. People from all levels of society were involved in corruption and, therefore, it was not restricted to any one political group. This study concluded that the knowledge of corruption in Kenya is very high. It runs through all ages, genders, professionals, social settings and all environments that Kenyans live in. I am quoting page 13 of that Report.

Consequently, the war against corruption must involve all Kenyans from all sectors. All of them must play a role in combating corruption.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. I do not want to interrupt the Attorney-General, who is

moving this very important Bill. But, I want to ask the Chair whether Mr. Shakombo has notified the Speaker that he has left this side of the House officially and crossed over to KANU. He is very comfortably sitting there without having told the Speaker, anything!

Mr. Speaker: Where were you this afternoon, when we visited that issue?

Mr. Ndicho: I was not in, Mr. Speaker, Sir!

Mr. Speaker: You were not in? Order! Order! If you were not in, please, come in, in good time. I can also ask you to go through the HANSARD. But the short and long of it was that the Speaker is getting perturbed at the turn of events, where this Parliament has become a place for "political nomads" to the extent that I do not know which party even, you, Mr. Ndicho, belongs to! So, I had warned this House that, prodded, which you are trying to do, I may be tempted to go beyond what I read. Maybe, I may even cause a political massacre, under the Constitution, in ensuring that there is obedience to the Constitution, that you must belong to your party, or if you do not, then leave! But I am saying, if you prod me!

Proceed, Mr. Wako!

An hon. Member: Are you protecting the nomadism?

Mr. Speaker: Order! You can prod me later!

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, as I was stating, all Kenyans must be involved in this war against corruption.

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

Mr. Speaker: Order! Order! What is it, Mr. Ndicho?

Mr. Ndicho: Mr. Speaker, Sir, I am not prodding you on that issue. I may come to it later. But I want to make it very clear that I belong to the Social Democratic Party, and that is my party! By blowing the whistle---

Mr. Speaker: Order! Let us not get into that! As you know, I do not read newspapers. Somebody reads them for me and I listen as they are read. But at one time, I heard somebody reading a newspaper and, as he was reading, he said: "The hon. Ndicho threatens to go to the Democratic Party." So, you see you are not alone, so many other hon. Members have done it, and prodded, I may have to go through all those newspapers, television footages and things like that. Maybe, you want me to attend even public rallies? Please, do not!

Proceed, Mr. Attorney-General!

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I am glad that you and me are the only *ex-officio* Members of this Parliament and, therefore, that problem does not touch us.

Consequently, all of us must be involved in the war against corruption. No Government can, on its own, hope to tackle corruption without the active support or involvement of its citizens.

Mr. Speaker, Sir, the Non-Governmental Organisations (NGOs), religious organisations, the media and the private sector, must all be involved in this war against corruption. If we all get involved in the war against corruption, then all of us must, first of all, remove the beam that is in our own eyes, by being transparent and accountable. The NGOs can increase public awareness on issues involving corruption. Religious organisations and religious leaders have a very important role to play in changing the behaviour and the attitude of the people towards corruption; and in changing the character of the people. They have a role to play in ensuring that their moral teachings are actually accepted by the people, and the people do practise those moral teachings. Religious organisations must steer our society away from the culture of materialism, worship of money and wealth, and putting that in the forefront to a culture which obeys the dictates of moral values. Religious organisations should not just state and condemn the corrupt behaviour on the part of the public, but they should really aim at a more deeper level, in actually changing the character of the people. They are best qualified to do that.

Mr. Speaker, Sir, the media has an important role to play also, and in particular, making the public aware of the evils of corruption and exposing instances of corruption so that they can come to light in order to be dealt with.

Though corruption can really take place without the private sector's involvement, the private sector is also important in combating it. The hand that gives is as culpable as the hand that takes. In fact, I have argued elsewhere that the hand that gives is more to be blamed for corruption than the hand that takes. This is because the hand that takes could have numerous reasons for taking what is given; maybe it is because of poor terms and conditions of service; maybe, they need to put a meal on the table for the family, pay school fees and so on, and they are poor. In other words, those hands that take are normally in the category of the less advantaged members of the community. If we are talking about the society or nations, they are among the Third World countries. But the hand that gives or tempts these people is more to be blamed really, than the hand that takes. So, the private sector has also an important role to play in ensuring that they do not tempt the less advantaged persons in society in receiving. So, all of us have a role to play in combating corruption.

Mr. Speaker, Sir, the war against corruption cannot be confined only to investigation and prosecution; it must

be comprehensive to include research, public education and prevention. These consequently need to strengthen key public sector institutions, such as the law enforcement agencies; the police, the Judiciary, the Attorney-General's Chambers, the office of the Controller and Auditor-General and Parliament, which really oversees the Executive. There is need to strengthen the role of Parliament in the war against corruption. The Government has begun addressing this issue. As far as the legal sector is concerned, we already have in place a technical committee on the reform of the entire legal sector, on which is represented the Judiciary, the Attorney-General's Chambers, the Police, the Prisons Department, the probation services and other agencies involved in ensuring that the legal sector operates efficiently and effectively. The technical committee is also getting involved in computerisation of our registries and so on. This Parliament, under the Statute Law (Miscellaneous Amendments) Bill is also addressing aspects of this problem by increasing the terms and conditions of service of the constitutional office holders, most of whom are members of the Judiciary.

Secondly, it is important, in this war against corruption, that the principles of integrity, transparency and accountability be the norm in the public and private sectors. We should find a way in which these cardinal principles are the norms in our society, both in the public and private sectors. In the public sector, one way in which we are trying to achieve this is through what this Parliament will debate soon. This will be the Public Officers Ethic Bill. This Bill provides for the guiding principles or codes of conduct and ethics and their enforceability. We are aware that professional bodies have codes of conduct and how they can be enforced. I hope that most of the professional bodies will find ways and means in which their codes of conduct can be effectively enforced. This is because there is a general public outcry against professionals. Members of the public say that their complaints are not being dealt with in an efficient and effective manner by the professional bodies. They also complain that the professionals tend to protect their own. I hope that professional bodies, in this war against corruption, will also strengthen the machinery for enforcing discipline among themselves. About two weeks ago, I was pleased that the banks had also come up with their own code of conduct. I hope that other sectors of the private sector will also come up with their own codes of conduct and how they will be enforced.

I also hope that journalists will regard themselves as professionals. I am also glad that they have come up with a code of ethics and conduct. I hear that, very soon, they will launch a media commission. That is laudable, but I know that at the end of the day, the Attorney-General is prepared to assist and convince the Government that whatever they come up with be converted into a legislation so that it is enforceable. What we require of journalists is a code of conduct which is enforced by themselves and with the full backing of the law. All I want is to give the media the force of law in doing what they want to do and not what anybody else wants to do. This is also part of the war against corruption, because there have been instances where we have heard that corruption has also invaded the field of journalism, just like everybody else in the society. So, my message to all professional bodies and journalists is to come up with codes of conduct which are enforceable and the Government is willing to give them legislative backing to ensure that the machinery is effective and does its work. Indeed, if we can achieve this, then this aspect can form a very important part of Kenya's national ethics, so that we are known as a people who have integrity and offer efficient service to others.

In order to fight corruption successfully, there must be an appropriate legislative, administrative and policy framework aimed at enhancing accountability and transparency, strengthening oversight and control of institutions, improving public expenditure management by strengthening budget planning and execution, changing incentive structures within the public service and removing opportunities for corruption, fraud and other abuses. Apart from this Bill, therefore, there are other Bills which will provide the necessary legal framework in which our war against corruption will be waged. The Government, in addition to the Public Officer Ethics Bill, which is before this House, will publish the Kenya National Audit Office Bill. The Government will also publish soon, the Public Financial Management and Accountability Bill and the Procurement Bill. All these Bills are aimed at assisting in the war against corruption. However, the Bill which I am moving now is the most important one when dealing with investigative and aspects of prosecution of our war against corruption.

Efforts to have a legislative framework in the war against corruption began way back in 1991. The Prevention of Corruption (Amendment) Bill No.13 of 1991 was one of the first Bills that I brought to Parliament soon after I was appointed the Attorney-General. Under that Bill, penalties were increased and an Anti-Corruption Squad answerable to the President was created. The next stage was the setting up of the task force to review penal laws and procedures. One of the mandates of that task force was to make proposals to the making of provisions and enhancing control of economic and environmental crimes. As far as the environmental crimes are concerned, we have the Environmental Management and Co-ordination Act, but as far as this other aspect is concerned, the task force recommended that we publish an Economic Offences Act.

Mr. Temporary Deputy Speaker, Sir, it may be recalled that when I appeared before the PIC in 1995, I duly informed that Committee of the recommendations of this task force. I stated that what we really need is a

comprehensive legislation on corruption and economic crimes. This was followed by the 1997 amendments to the Prevention of Corruption Act via the Statute Law (Miscellaneous Amendments) Bill, which created the Kenya Anti-Corruption Authority (KACA) as a body corporate with powers to investigate and prosecute, advise the Government and parastatals on ways and means of preventing corruption; with powers of enlisting the support of the public in fighting corruption by use of education and outreach programmes.

[Mr. Speaker left the Chair]

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

The KACA was constituted and given the necessary structure; money, personnel, resources and we all know that it performed a very useful function as part of the development in our war against corruption.

Mr. Temporary Deputy Speaker, Sir, it is illustrative to note, if I may say so, that the defunct KACA, when it existed, did state, in their annual report, that they enjoyed an operation rhythm with the Attorney-General's Office. In their annual report they even went further to state: "We have never had a problem with the Attorney-General in giving us a nod to prosecute." I am saying this because the Bill which is before this House preserves the powers of the Attorney-General to prosecute. Therefore, it is important to note what the defunct KACA stated in their only annual report, that they had never had a

problem with the Attorney-General as far as giving the nod to prosecute was concerned. In fact, there was operational rhythm between the defunct KACA and the Attorney-General's Office. Consequently, all those cases that went to court through the defunct KACA could not have gone there without my authority. I did give authority and in good time.

Mr. Temporary Deputy Speaker, Sir, but it may be recalled that even when I was moving those amendments to the Prevention of Corruption Bill, I did state that we were merely holding fort at that time. But I did indicate to Parliament that I would be bringing a more comprehensive Bill to deal with corruption and economic crimes.

Mr. Temporary Deputy Speaker, Sir, at the next stage, Parliament began getting more involved in this. On 8th July, 1998, Parliament passed a resolution constituting the Parliamentary Anti-Corruption Committee under the chairmanship of Mr. Kombo. I do not have to go through the mandate of that Committee. I believe that, if Mr. Kombo will speak on this, he will state what the mandate of that Committee was. But as the name suggests, they were supposed to come up with a number of recommendations. One of these recommendations was a Bill to provide for stiff penalties on all corruption related offenses. It will be recalled that, on 25th July, 2000, Parliament passed a Motion adopting the Report of the Parliamentary Anti-Corruption Committee and recommending to the Attorney-General to introduce a Bill entitled: The Anti-Corruption Economic Crimes Bill (2000).

Mr. Temporary Deputy Speaker, Sir, the Motion read:-

"THAT, this House adopts the Report of the Anti-Corruption Select Committee laid on the Table of the House on Tuesday 9th, May 2000 and further recommends that the Attorney-General introduces a Bill entitled: The Anti-Corruption and Economic Crimes Bill (2000) contained in the report." This was because in the Report, the draft Bill was there.

Mr. Temporary Deputy Speaker, Sir, following that passage of the Motion in Parliament, on 23rd August, 2000, the Government then published the Anti-Corruption and Economic Crimes Bill (2000). We know that, that Bill was never debated by Parliament. Parliament went into recess before it debated that Bill. One of the reasons was that a decision of the court was awaited. This was because a number of constitutional challenges had been filed in court and a decision was awaited. Indeed, the decision of the Constitutional Court was made on 23rd December, 2000, in which the court upheld those applications and declared the KACA unconstitutional. When the KACA was declared unconstitutional, it became then necessary to see the next step forward. Part of the thinking at that time was that the way forward was, first of all, to amend the Constitution itself so that KACA becomes a constitutional body which could not be challenged again as being unconstitutional. So, two Bills were published, one was the Constitution of Kenya (Amendment) Bill, which sought to establish the KACA as a constitutional authority with powers to investigate and prosecute offenses of corruption, economic crimes and other related offenses. Secondly, based on the assumption that, that constitutional amendment would go through, the Anti-Corruption and Economic Crimes Bill (2001) was also drafted and published.

As hon. Members are aware, the Constitution of Kenya (Amendment) Bill did not receive the 65 per cent affirmative vote of all hon. Members of the National Assembly. It came very close to receiving that vote because it received 130 votes. And for the first time in the history of this Parliament, the Head of State came personally to cast his vote. It came very close, but it never passed. So, that attempt was defeated. Consequently, because it was defeated, the Anti-Corruption and Economic Crimes Bill (2001) which had been predicated on its passage, could not

also be tabled in Parliament.

Mr. Temporary Deputy Speaker, Sir, following that, we had to go completely back to the drawing board. This is where there was then a turning point in which Kenyans felt that they must now deal with this issue of corruption together without any regard to what divides us in this House. I am glad, therefore, to inform this august Assembly that in the drafting of the Bill, a process of intensive consultations and constructive dialogue was undergone resulting in this Bill. The turning point, if I may say so, came during the meeting of the 10th International Anti-Corruption Congress which was held in France. It was attended by a 32-person Kenyan delegation, of whom six were hon. Members of Parliament who are also Members of African Parliamentary Network on Anti-Corruption (APNAC) and also key Members of the Parliamentary Select Committee on Anti-Corruption. The Chairman of that Committee attended that meeting. I also attended that meeting. It was good in that we were able to come together as Kenyans and analyse a situation under history and make a serious attempt to get a legislative framework of the issues of corruption.

Mr. Temporary Deputy Speaker, Sir, in attendance also at that meeting were senior Government officials from those institutions recharged with the responsibility of combating corruption, such as the police, the representatives from the Office of the Attorney-General, the Kenya Revenue Authority (KRA), Ministry of Foreign Affairs and International Co-operation and Directorate of Personnel Management. Also in attendance were religious leaders, representatives of NGOs such as Transparency International, the media and the Institute of Economic Affairs.

Mr. Temporary Deputy Speaker, Sir, because it was an important meeting and it resulted into a joint declaration, permit me so that what we stated then is on the records of HANSARD, just to read part of that statement in so far as this pertains to this Bill. The statement, in so far as it is relevant, reads as follows:-

"The Kenyan delegation to this meeting is led by the Attorney-General, Mr. Amos Wako and it includes representatives of Government, hon. Members of Parliament, civil society organisations, businessmen, the media and religious leaders. This is the first ever joint delegation to the International Anti-Corruption Congress (IACC). This fact reflects our recognition that the fight against corruption is a collective responsibility which requires a broad based coalition and, indeed, the national support of all Kenyans."

"Corruption has undermined development in Kenya".

We then go on to state that:-

"We came to France to affirm our solidarity with the global coalition against corruption and to share experiences, with and learn from those countries which are grappling with similar challenges".

We talk about the conference, then we refer to recent setbacks in our efforts.

"One of those setbacks was the non-passage of that Bill, as one amongst others, to establish an independent anti-corruption agency responsible for investigating and prosecuting corruption and other economic crimes. That has taught us that this is a challenging undertaking. New institutions must be designed to be consistent with constitutional principles and the national institutional framework. Existing legal institutions such as the police, office of the Attorney-General and the Judiciary must be adequately empowered with independent, human and other resources so that procedures from investigations, through prosecution to conviction can be expeditious and just.

Kenyans are engaged in intensive constructive dialogue on this issue, and this delegation is committed to nurturing and sustaining this dialogue until we reach at a consensus on the model that will ensure that an effective anti-corruption agency is entrenched. We do not underestimate these challenges. This delegation commits itself to creating a forum for participatory debate involving all sectors of our society on the Anti-Corruption and Economic Crimes Bill, 2001, and the Public Service Code of Conduct and Ethics Bill, 2001, that are currently before our National Assembly.

Kenya is undergoing multifaceted political, economic and consumer changes all simultaneously. The complexity of this problem presents opportunities and challenges, and surmounting the challenges will not be easy, but our meeting here in France has helped us to see how others have approached the problems we are facing. Nevertheless, we Kenyans are confident that working together with a clear focus, we can, and we will succeed".

Mr. Temporary Deputy Speaker, Sir, I have just read the statement in so far as it is relevant, and because I think it is a very important statement which was signed by the participants, I feel that I must table it to Parliament so that it is part of the records of this National Assembly. I hereby table it.

*(Mr. Wako laid a document
on the Table)*

Mr. Temporary Deputy Speaker, Sir, I would like to state that the Bill that we have before us is as a result of

that consultative process. What we call the *praha* spirit has prevailed. I, therefore, want to take this opportunity to thank all those who have been involved in the consultative process which has resulted in this Bill.

Mr. Temporary Deputy Speaker, Sir, having said that, I think it is time for me to now touch very briefly, on the Bill itself. First, as indicated on page 432, the purpose of this Bill is to have an Act of Parliament to provide for the prevention, investigation and punishment of corruption and related crimes, and for matters incidental thereto and connected therewith. That is the purpose of this Bill as set out in the preamble to the Bill.

Then, Clause 1 of the Bill states that:-

"This Act may be cited as the Corruption Control Act, 2002".

I take the point that has been made, and in fact, it is a point that, through the consultative process, we have also come to realise that the word "control" signals to the effect that we are not serious with eliminating corruption. Of course, control can also mean to eliminate, but can also mean and connote to regulate corruption. To regulate corruption may mean that corruption can go on, but if it is I who is enjoying it this time round, the next time it will be somebody else. So, in order to eliminate this wrong perception, I will, at the Committee Stage, move an amendment to the Title of the Bill to read, "Kenya Anti-Corruption Commission Act, 2002". I believe that this new Title will send out clear signals that our policy is one of zero tolerance towards corruption. That, it is an important issue of control, but it is an issue of complete elimination of corruption in our society.

Mr. Temporary Deputy Speaker, Sir, Clause 2 mainly deals with definitions of the various issues. The only issue I want to refer hon. Members to is what a corruption offence means. Again, at the Committee Stage, I will be moving an amendment, so that it reads, "Corruption or Economic Crimes", so that whatever is corrupt or whatever is regarded as an economic crime is captured in. Again, this is sending very clear signals that we are out to cover each and everything.

On page 434, still under definitions, I would also like to refer hon. Members to the definition of "unexplained assets". "Unexplained assets" means, assets of a person, acquired at or around the time the person allegedly committed a corruption offence and whose value is disproportionate to his known sources of income, and or around that time, and for which there is no satisfactory explanation. That is important because, if in the course investigations one has property which comes within this definition and can be proved that he cannot explain how he acquired those assets, taking into account his known income, then, under Clause 51, that property will be liable to forfeiture to the State.

Mr. Temporary Deputy Speaker, Sir, under Clause 53, the fact of that unexplained assets will, in itself, be corroborative evidence that a person has committed a corruption or economic crime offence. From what I have stated about the change of Title, it means that there will be consequential amendments throughout the Bill to reflect the new Title, so that, for example, under Clause 3 instead of "Kenya Corruption Control Authority", it will read, "Kenya Anti-Corruption Commission" and so on.

Mr. Temporary Deputy Speaker, Sir, the functions of this Commission are set out in Clause 4, on page 435. The important function is to investigate any matter that, in the Authority's opinion, raises suspicion that any of the following have occurred or about to occur; conduct to constitution and corruption offence or conduct liable to allow, encourage or cause conduct constituting a corruption offence.

Mr. Temporary Deputy Speaker, Sir, Clause 4, which deals with the functions, is very comprehensive. I do not need to go through each and every function, except just to say that it is very comprehensive and if any issue arises during the debate, we shall reply to it at the end of the day. Apart from investigation powers, they will also have the powers to examine practices and procedures of public bodies, in order to facilitate discovery of corrupt practices, and to secure the revisions or methods of work or procedures that, in the opinion of the Commission, may be conducive to encourage such practices. They will also advise public bodies on how to put in place measures to discourage corrupt practices.

Mr. Temporary Deputy Speaker, Sir, under (g), they will have the duty to educate the public on the dangers of corruption, and to enlist and foster public support in combating corruption. Our experts said that the education aspect of the war against corruption is, perhaps, one of the most important because it is important for the peoples' attitudes to be changed, so that they do not condone or accept corruption in our society as a given occurrence, but to be against it.

Mr. Temporary Deputy Speaker, Sir, on page 6 of their Report, in paragraph 2(i)(b), they stated that there must be a realistic appreciation of how much effort, financial resource and time will be required to change what has become a major endemic issue. On page 7, they stated that Kenya must create effective preventive and educational programmes in support of the deterrence. On page 23, they stated that in their respective review, if corruption is to be effectively addressed within Kenya, the public must be educated to accept their responsibility of not becoming involved either as victims or perpetrators. They must assist the authorities in fighting corruption. That means that they must report attempted corruption and be prepared to give evidence in courts of law. But, while leadership must come from the Government, political will must involve everyone included in the body politik; that means every other Kenyan citizen.

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you, like I did, hear the Attorney-General say, before he quoted the report from the Risk Advisory Group, whose expertise is about corruption in Hong Kong, that our "experts on corruption"; when I thought our experts in corruption are the people behind the Goldenberg? The people in the Government who know about corruption are our experts in corruption and not the Risk Advisory Group. Are you satisfied that those Britons are our experts on corruption?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, when we are here, and I am here speaking about the war against corruption, strategies to combat corruption and so on, it is the experts - and the Report was circulated to all Members of Parliament - who recommended. We accepted what we already knew; that, there must be educational and promotional activities against corruption. They were the experts and, if I may add, they were not just experts from Hong Kong. They were world renowned experts on the issue of anti-corruption strategies.

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

The Attorney-General (Mr. Wako): I do not need your point of information! I am more of an expert than yourself! So, I do not need your point of information. I do not accept it!

Mr. Temporary Deputy Speaker, Sir, let us move on to who can move the Commission. There are four ways in which the Commission can receive complaints. One, it can receive a complaint. Two, it can, on its own initiative, look into a complaint. In other words, it does not just have to sit there waiting to receive complaints and to act on them. It can, at its own initiative, look into the issue of the complaint. Three, it can also, at the request of the National Assembly, look into the complaints. I think that is a very important function because we are aware of the major functions of Parliament, which include legislation and oversight functions against the Executive. In that process, this Parliament has a number of important Committees which undertake that duty. It has the Public Accounts Committee (PAC), Public Investments Committee (PIC) and so on. They normally go round and make recommendations on the various issues they see happening in the Government and other public institutions. So, the Commission has the power to receive, from the National Assembly, requests for investigations. That provision is there.

Mr. Temporary Deputy Speaker, Sir, the Attorney-General can also request the Commission to carry out investigations. The Commission will have a director and assistant directors. The normal provisions relating to directors are there. The normal provisions relating to financial arrangements are well set out.

Let me move on to Clause 13 on page 442. Clause 13 establishes the Kenya Corruption Control Advisory Board. The Board will consist of one member nominated by each of the following: The Law Society of Kenya, the Institute of Certified Public Accountants of Kenya, the International Federation of Women Lawyers (FIDA) Kenya Chapter, the Kenya Association of Manufacturers, the Joint Forum of Religious Organisations described in Subsection 3. They are described as the Supreme Council of Kenya Muslims, the Kenya Episcopal Conference, the National Council of Churches of Kenya, the Evangelical Fellowship of Kenya and the Hindu Council of Kenya. Then, we have the Federation of Kenya Employers, the Kenya Bankers Association, the Central Organisation of Trade Unions, the Association of Professional Societies in East Africa, the Architectural Association of Kenya and the Institute of Engineers of Kenya.

Mr. Temporary Deputy Speaker, Sir, during the Committee Stage, I will propose to add one more professional body; that is the Kenya Medical Association. We have thought it prudent to include that body because, according to the Reports of the PAC, PIC and what we know in Kenya, a number of shady deals and corruption has gone on within the Ministry of Health and, in particular, the Central Medical Stores, tendering of drugs and so on. Some of the many cases that I am facing in court worth billions of shillings arise out of the supply of drugs. So, we thought it fit to include the Kenya Medical Association, which covers doctors, dentists and so on, on the Advisory Board of the Commission. How they will be elected is shown on the Schedule. Briefly, each one will propose three names which will come to the relevant Committee of Parliament. Parliament will short-list the three to two and then from there, they will go to the President to choose one. That is basically the framework of the appointment procedure as far as that body is concerned. If I may say so, that is the appointment procedure that was provided for under the Anti-Corruption and Economic Crimes Bill, 2000, and the Anti-Corruption and Economic Crimes Bill, 2001.

The principal function of the Advisory Board is to advise the Authority generally on the exercise of its powers and the performance of its functions under this Act. The rest of the provisions are on how the Chairman and the Vice-Chairman shall be elected and so on which are the usual routine matters. I will address those issues if any issue there arises from the Floor of the House in the course of the debate.

Mr. Temporary Deputy Speaker, Sir, we then go to Investigations under Section 19, Part III which states:-

"(1) The Director or a person authorised by the Director may conduct an investigation on behalf of the Authority.

(2) Except as otherwise provided by this part, the powers conferred on the Authority by this part may be exercised, for the purposes of an investigation, by the Director or an investigator."

Mr. Temporary Deputy Speaker, Sir, under Clause 19(3), I will be moving, during the Committee Stage, an

amendment to make sure that all the powers of the police, as far investigations are concerned---

Mr. Khamasi: On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard the Attorney-General refer to Clause 19(3) and as per this publication there is no Clause 19(3) unless I have a different copy of the Bill.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, as usual, the hon. Member is too quick since he moves faster than me. I said: "There will be a new Clause 19(3) which I will be moving during the Committee Stage and which will read as follows:-".

So, listen very carefully and do not be confused by hon. Kombo with regard to this one.

Mr. Temporary Deputy Speaker, Sir, the new Clause 19(3) which I will be moving during the Committee Stage will state as follows:-

"For the purposes of an investigation, the Director and an investigator shall have the powers, privileges and immunities over a police officer in addition to any other powers the Director or investigator has under this part."

So, it will be a new Clause 19 (III) which will be moved at the Committee Stage, which if this House accepts and I do hope that the hon. Member will vote for this clause--- You should vote for this clause because it is really giving the Commission all the investigative powers that a policeman enjoys in addition to any other powers that it might be having under this Bill.

Mr. Temporary Deputy Speaker, Sir, the other clauses are straightforward. Of course, I will be proposing quite a number of amendments to them. I will not go through all of them, but I am just pinpointing those I regard as important.

Mr. Temporary Deputy Speaker, Sir, Clause 24(1), states:-

"The Authority may by notice in writing -

- (a) require a person, whether or not suspected of having committed a corruption offence, to produce specified records in his possession that may be required for an investigation; and
- (b) require that a person or any other to provide explanations or information within his knowledge with respect to such records, whether the records were produced by the person or not."

Clause 24 relates to the production of records and property.

Mr. Temporary Deputy Speaker, Sir, Clause 25 relates to the search of the premises. Clause 26 relates to admissibility of things produced or found. Clause 27 relates to the surrender of travel documents. All these are necessary powers in the course of investigations in addition to whatever the police may have.

Mr. Temporary Deputy Speaker, Sir, let me draw the attention of the hon. Members to Clause 30 which states:-

- "(1) No person other than an investigator shall represent himself to be or act as an investigator.
- (2) A person who contravenes this section is guilty of an offence and is liable, on conviction, to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three years or both."

If you do that, you shall have committed an offence. We know that there are a number of cases which have arisen, where people go round parading themselves as police officers and intimidate and really blackmail people into surrendering money or other property of any kind. We are creating that as an offence here.

Mr. Temporary Deputy Speaker, Sir, Clause 31 becomes important because, as I stated earlier, the authority of the Attorney-General to prosecute remains. The Commission's main function, apart from promotion and so on, is to investigate. Once they have finished their function of investigating and, I believe in addition to what I have just gone through now, Members of Parliament will know that we are trying to make the Commission very effective. We are giving it effective powers to be able to carry out successful investigations into the issues of corruption.

Mr. Temporary Deputy Speaker, Sir, once they have finished that, as stated under Clause 31 (1),

"Following an investigation, the Authority shall report to the Attorney-General on the results of the investigation."

So, once they complete their investigations, then they report to the Attorney-General.

Mr. Temporary Deputy Speaker, Sir, Clause 31 (2) states:-

"The Authority's report shall include any recommendation the Authority may have that a person be prosecuted for an offence."

So, they finish their work and hand over the file to the Attorney-General together with their recommendations on whether or not there is enough *prima facie* evidence for prosecution.

Mr. Temporary Deputy Speaker, Sir, Clause 32, which is very important, states:-

- "(1) The Authority shall prepare quarterly reports setting out the number of reports made to the Attorney-General under Section 31 and such other statistical information relating to those reports as the Authority considers appropriate.

(2) A quarterly report shall indicate if a recommendation of the Authority to prosecute an offence was not accepted.

(3) The Authority shall give a copy of each quarterly report to the Attorney-General.

(4) The Authority shall cause each quarterly report to be published in the Gazette."

The upshot of all these things is for the public to know in essence what has gone to the Attorney-General from the Commission. These include how many cases have been submitted to the Attorney-General, what was the recommendation of the Commission to the Attorney-General relating to those investigations and whether there was a recommendation to prosecute and, more importantly, if there was a recommendation to prosecute, whether the Attorney-General has refused to prosecute.

Mr. Temporary Deputy Speaker, Sir, with regard to this whole debate on investigative and prosecutorial powers, I think it is important for hon. Members of Parliament to know that some of the top experts in this field have stated again and again that it will be oppressive and dangerous to vest in one authority both investigative and prosecutorial powers. If one authority was to have those powers, that can lead to oppressive prosecutions. That has been stated.

Mr. Temporary Deputy Speaker, Sir, contrary to what some editorials and magazines have said, that no one can trust the Attorney-General to prosecute, I refer them to the Report of the Risk Advisory Group Limited on that issue. First of all, the Report of the Kenya Anti-Corruption Authority (KACA) said there was no problem with the Attorney-General in giving a nod for prosecution and that it enjoyed operational rhythm. The KACA itself said so and not the Attorney-General. Secondly, this Report stated quite clearly on page 30 as follows:-

"This has included a deliberate lack of willingness to accept facts where they do not support political argument. One such example is in respect to the stated perception that the Attorney-General's Office will not support prosecution of high ranking politicians and civil servants. In order to test this allegation, we sought specifics from those interviewed who made these allegations. They were unable to substantiate the claim with examples. In its annual report, KACA stated in respect of this specific issue, that no problems had been experienced in this regard. Finally, we have reviewed a list of prosecutions, actually being pursued by the Attorney-General's Office and these include Cabinet Ministers, Permanent Secretaries and District Commissioners..."

They produced the annex of those cases. In short, the evidence does not support the allegations of political interference. Of course, they have preferred many charges since that time. So, this concept that is contained in this Bill that the Commission does its work of investigation and that it comes to the Attorney-General to play his work of prosecution, is well supported.

QUORUM

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House right now, for which we are paid. Could the Members be summoned to come in here?

The Temporary Deputy Speaker (Mr. Muturi): Yes, we have now quorum. Ring the Division Bell!
[The Temporary Deputy Speaker]

(The Division Bell was rung)

Order! Order Members! We now have quorum. Proceed, Mr. Attorney-General!

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I was giving the assurance that the Attorney-General will prosecute as he has continued to do in the past, on any file that reaches his desk where there is *prima facie* evidence of corruption. That will happen and that has been the policy which has been recognised by other people.

Mr. Temporary Deputy Speaker, Sir, Clauses 31 and 32 introduce transparency in the whole issue in the sense that the Commission makes quarterly reports on the number of cases that have been investigated and submitted to me, together with what they recommended to me. If I say I will not prosecute and then the Commission also reports that the Attorney-General said he cannot prosecute--- During the Committee Stage, I will be moving an amendment to make the process even more transparent. If I refuse to prosecute, I will be informing this House, through a committee, why I refused to prosecute, if it came to that. I will be moving an amendment during the Committee Stage to effect that because I believe that the issue of corruption should be transparent. There is nothing to hide. It is by being transparent that we can again successfully fight this war against corruption.

Mr. Temporary Deputy Speaker, Sir, elsewhere, the Commission is supposed to submit annual reports to Parliament and it will only be responsible to Parliament. We shall be, again, making some light amendments there

because as it is currently, they will be submitting reports to Parliament only as relates to the investigation in criminal cases. But since they also have the power and functions under the Act to institute civil proceedings against public officers who have been responsible for losses of money in whatever way, that annual report will also include information on those civil proceedings.

Under Clause 33, I will be making an annual report to Parliament with respect to prosecution of corruption offenses. Then we come to the offenses which are on page 453. I am sorry that your own copy does not have it, but Part Four relates to offenses and the definitions of agent, principle, bribing agents, secret inducement for advice, deceiving principle, conflict of interest, improper benefits to trustees for appointment and bid rigging. Maybe I should refer to that one. It will now be an offence under Clause 40 which reads as follows:-

"This section applies with respect to a benefit that is an inducement or reward for:-

- (a) refraining from submitting a tender, proposal quotation or;
- (b) withdrawing or changing a tender proposal, submitting a tender and so on."

That becomes an offence. As we know, a number of corruption deals occur during the procurement procedures. Therefore, we have to create these offenses to discourage people from committing and, thereby rendering the entire procurement procedure irrelevant. Clause 41 is also important because it relates to the protection of public property and revenue. That clause covers issues of fraud, embezzlement and misappropriation of funds, *et cetera*.

Under Clause 42, we have abuse of office. Clause 43 deals with suspect property. Clause 44 deals with the penalty for offenses. It reads as follows:

"As of now, a person convicted of an offence under this part shall be liable to a fine not exceeding Kshs1 million or imprisonment for a term not exceeding ten years, or both."

During the Committee Stage, I intend to increase the penalty there because we have to send the message across; that, corruption or commission of an economic crime is a very serious offence. We shall introduce an amendment which states that in addition to the fine and imprisonment, the defendant must pay twice the value of the loss of the advantage or benefit that he may have received. I think that is important and it will be one of the amendments that will be moved during the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, there is also liability for improper benefits, compensation on conviction and so on. Most of these are straightforward. A number of them appeared in the Anti-Corruption and Economic Crimes Bill and I will only touch on them if hon. Members raise an issue where they require an explanation. On page 465, Clause 52 gives the power to the High Court, on an *ex-parte* application, to make an order prohibiting the transfer or disposal of/or other dealings with property on evidence that the property was acquired as a result of corrupt conduct. This power is necessary. It is important that it be *ex-parte* because if it is *inter-partes* and the other party knows that the case is in court, nowadays one can transfer property three times over in one day. If it is heard *ex-parte* one can be stopped from transferring that property and then afterwards she can come to court to explain. If she successfully challenges that order then the property can be transferred. In most cases, because we will have reached that level after having had enough evidence, I do not think such an individual will succeed. Part 4 relates to the technical issues of evidence and so on. Part 7 deals with miscellaneous issues.

I would like to refer to Clause 58. I will have a new amendment here which in effect will be that, if any person is charged with an offence, he must immediately be suspended at half salary and if he is convicted then he should obviously be dismissed with no salary. If he files an appeal he should not enjoy any salary until that appeal is heard and determined. This Bill applies to all Kenyans with or without a flag, shoes or a tie. That will be in addition to any other disciplinary process that may be available against that public officer. For example, it may very well be that on a mere charge alone, an officer can be dismissed under the disciplinary procedures which are available. Whatever is here will be in addition to whatever is available under the relevant code of conduct that governs that particular public office.

On page 470 there is Clause 60 which refers to this in passing and it deals with protection of informers. Informers have to be protected. Unless we have a machinery to protect informers, then we may not get the evidence that is required to convict somebody because of fear. People who are involved in high level corruption can also instil fear amongst people who have information that can lead to their conviction. They might threaten them to the effect that if they report, their lives will be at stake. We have put there a Clause which protects informers. In Clause 61, under miscellaneous issues, it is stated that it will be an offence to obstruct persons who are acting under this Act. Part 8 deals with the repeal, transition, amendments and so on. I will not go into the details there.

Then we go to the schedules. The First Schedule talks about provisions relating to the staff of the Authority. Rule 1 on page 475 states that to be appointed a director or assistant director, a person must satisfy the following qualifications: The person must be knowledgeable about or experienced in at least one of the following: Laws, public administration, accounting and financial matters. We are adding a fourth ground there which is that the person must be honest with integrity, considerable knowledge and experience in whatever field he considers himself to be an expert.

I have gone quickly through the Bill because most of the provisions are straightforward. As I said, I will be able to comment on any provisions which I have not commented on, where any hon. Member may want clarification. I want to assure this House that when this Bill is passed, it will not operate in a vacuum. We already have in place the Anti-Corruption Police Unit (ACPU) which has done quite commendable work. For example, as of 30th April, 2002, the ACPU had received 912 complaints and action was taken on 93 of them. Three hundred and sixty-four of them were referred to other investigative agencies because they were not matters which fell within the jurisdiction of the Anti-Corruption Police Unit (ACPU). One hundred and eighty-nine cases referred to public service organisations. There were 83 complaints seeking civil remedy, and ten complaints seeking more details.

Mr. Temporary Deputy Speaker, Sir, the ACPU took over the 132 cases which were being handled by the defunct Kenya Anti-Corruption Authority (KACA). The status of these cases, which are complaints registered with the ACPU, as at 30th April, 2000, is as follows: A total of 186 files had been opened, 19 cases have been dropped for lack of evidence, and a total of 35 cases taken to court. Investigations of 113 cases are almost complete; four files are now with the Attorney-General. I would like to confirm that I received the four files only last Friday. I am now studying them to see whether we can prosecute the suspects.

In addition to the investigations, the ACPU has done quite a lot in the area of research, information and public education. For example, the National Anti-Corruption Plan Steering Committee and a nucleus secretariat have been established, and are operational; the National Anti-Corruption Plan (NACP) launch symposium will be held in June, 2002; the Public Sector Integrity Service Book has been approved and printed; the Public Sector Integrity Programme nucleus secretariat has been established and is operational, and a Public Sector Integrity Programme workshop will be held towards the end of this month.

The ACPU has also undertaken a number of preventive measures. There is the index for corruption-prone functional areas that has been done. There has been an examination assignment that have been done as follows: They have toured all the traffic police departments and Ministry of Lands and Settlement offices in seven provinces. So, a lot of work has already been done. A very commendable job has been done by the ACPU in the short time it has been in existence. That is why I am confidently saying that the ground work of what is envisaged in this Bill has already been done. So, the enactment of the Bill will be a continuation of our war against corruption.

With those few remarks, I urge Mr. Sunkuli to second this Bill.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I will, definitely, not take as much time as the Attorney-General because, firstly, my time is not unlimited and, secondly, this Bill has been debated by the public for a very long time. So, may not have enough new material to enable me speak for very long.

For a long time now, Kenya has been considered a country that is prone to corruption. In fact, corruption has been one of the foremost allegations that have consistently been made by our opponents against us, as the Government. There have allegations by Transparency International, which have perpetually ranked Kenya as one of the most corrupt countries in the world.

For that reason, therefore, since 1991, the Government has taken several serious measures to get rid of this perception, which has not always been rooted in reality. After setting up the defunct KACA, which was subsequently declared unconstitutional, the Government put in place interim plans, which included the setting up of the ACPU, to deal with immediate and pending cases. The passage of this Bill, therefore, will obviously go a long way, not only in improving the image of our country but also in dealing with the problem of corruption.

Corruption is an evil which cannot be underrated. It is an evil because it overlooks the basic tenets of a state; that what belongs to the common good should not be appropriated by a few individuals. Corruption destroys the work ethics of a nation since through it, some people can get rich unjustly. It kills the purpose of hard work. If we kill the purpose of hard work, we create a nation of very lazy people who believe in quick fixes.

Mr. Temporary Deputy Speaker, Sir, as clearly stated by the Attorney-General, the purpose of this Bill is to create an independent Anti-Corruption Authority which will be able to do its job effectively. The body being sought, through the Minister, will be accountable to Parliament. Once set up, the Authority, on its own motion, or when requested by the National Assembly or the Attorney-General, or by a complainant, will investigate offenses. Apart from carrying out investigations, the Authority will also advise public bodies on ways of detecting corruption.

Mr. Temporary Deputy Speaker, Sir, proper controls have been put in place to make sure that this Authority does not become a dragon that will operate away from society and, therefore, become dangerous. The body being sought will be headed by a director. It will be set up by organisations, some of which I really do not think should have been included in this Bill. The organisations will nominate persons to the Anti-Corruption Advisory Board. There will be a director who will be answerable to the Board, and Parliament will be entitled to receive a report. These are the measures which have been put in place to ensure that the proposed Authority will not go on a frolic of its own.

Mr. Temporary Deputy Speaker, Sir, in setting up the Anti-Corruption Authority, certain matters will arise.

First of all, whereas the Bill intends to tackle corruption, it is absolutely important to realise that we actually want to deal with the Kenyan we want. We will not be dealing with the Kenya we ought to have had, but rather the Kenya we ought to have. I have read the report of the Risk Advisory Group on the Anti-Corruption Initiative. I have seen how it treated the question of amnesty. The report gives statistics. It says that an ACPU study reveals that 65 per cent of its respondents do not believe in an amnesty, but that an amnesty should be granted, while 31 per cent believe that it should be granted. A significant 31 per cent of the respondents believe that an amnesty should be conditional on repayment of the benefits that accrued.

The report of the Rescue Advisory Group goes on to say that the Kombo Report dealt with the issue of amnesty and rehearses some of the arguments identified above. To the best of my knowledge, every jurisdiction does deal with the question of amnesty. A very important issue we should raise here is this: What is the purpose of our corruption laws? Are they meant to dig a grave in order to try and discover what skeletons are hidden there, and try and penalise the past, or are they meant to build a foundation for a good and bright Kenya?

Mr. Temporary Deputy Speaker, Sir, I belong, of course, to a different generation. We have had no opportunity to be corrupt. But having said that, I want to say that it is absolutely important that those who have had opportunities to get corrupt should not mar our vision forward. Corruption has existed in this country since 1963 when we got Independence. Of course, many people would like to treat corruption as a KANU affair. Even when multipartyism came in, those who crossed the river Siloan went and started throwing stones from the other side and said that corruption is on this side. I come from a pastoralist community, and there is one characteristic of thieves; that, when they have stolen, and after they have locked up their stolen wealth properly, that is the time they feel clean enough to come and look for other thieves who want to steal their cows.

It has just happened. When you look around, you will see people who have made money; gotten wealth in the past which is not commensurate with what they have been earning justifiably through their salaries. That could be your father, my father and a leader of any political party. But I think the laws of Kenya should not be put in place in order to dig graves or do an excavation job in order to discover the past. I think this law ought to have had an amnesty clause that says: "We are going to deal with corruption from today onwards, not from today backwards."

I realise that my good friend, Mr. Kombo - and Kenya shall never forgive him - says that corruption should be timed as from 1972; whatever 1972 was for! I do not know.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would not like to unduly interrupt my learned friend, Mr. Sunkuli, but as a lawyer, is he in order to imply that in the law books of Kenya, there are statute limitations to crimes or to a criminal offence?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, first of all, as you know yourself, it is totally out of order for a political scientist to call himself "a learned friend." So, he cannot call me "my learned friend," because I have not studied political science; I studied law. I can appropriately call you my learned friend.

But that is beside the point. The point is that this is an offence we are creating now. When we are creating an offence called corruption, we should not penalise those who existed and did think before we created the law. I think it is absolutely unjustified.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have read the Bill very carefully, but is the Minister, as learned as he is, in order to imply that the Attorney-General has in any way implied in this Bill that it would be implemented retroactively?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, like the hon. Member, I have been a resident in Kenya, and I have heard him - including reading his own comments - talk about what ought to be the application of this law. I am just responding to that. In my own opinion, the Attorney-General did not, in fact, give an amnesty clause, and some people would, definitely, be tempted to use this law to open up old scores, or do an excavation job.

Mr. Temporary Deputy Speaker, Sir, my second point is that the enactment of this Bill must go together with public education. Once this law is in place, very many things can easily be interpreted to refer to corruption. In ordinary society, of course, citizens do exchange gifts. When you go to an elders' meeting, when two of you have a dispute, the elders would resolve the dispute and they would--

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Just for the purpose of clarification, is the Attorney-General saying that this law would only apply to people who commit crimes in the future? That is what this hon. Member said. I want that to be made clear to me.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, but not only that; Mr. Angwenyi is a university professor. He ought to have read the law and understood what it says. But if he needs the advice of a lawyer, I am sure he does have his own lawyer to advise him. But we need to put in place public education on this matter so that people understand that there is a law on corruption. This is also in order that soya and

other gifts given to persons are not easily interpreted to be forms of corruption.

It would be very important - as we look for ways of restitution - that we ensure that the equitable principle of tracing is applied properly so that people do not mix up properties that are acquired justifiably with those that are unjustifiably acquired. I said too, that it is important that it is not just the Government that should be left alone in this fight against corruption.

Mr. Temporary Deputy Speaker, Sir, corruption is also a morality issue which has to be handled, by among others, the Church and those new organisations, or human beings called NGOs who get lots of money to conduct civic education. Those also should try and ensure that they inform the public correctly so that we can have a public that is properly informed on this issue. We, of course, do realise that most of these parts of the Bill were found in the Kombo Report. I said that, unfortunately, there was a very telling thing as regards the Kombo Committee. Like many of the Committees that were organised and are composed of politicians, they simply left the ball and went for the leg. They started hitting and knocking down people out of-- I am not supposed to attribute malice to them, but I do not think the Kombo Committee did justice to this country.

I am saying that because if the Anti-Corruption Authority operates the same way as the Kombo Committee did, then, we are going to be doomed. This is because what is going to happen is that some people are going to define corruption as "that offence which is committed by people who are not their friends." If you look at the way the Kombo Report dealt with corruption, you will find that even those people who are *prima facie* corrupt in Kenya were not included in the Report, and other poor people, like some of us, are said to own 18,000 acres of land. Even if I am very clever, where would I hide 18,000 acres of land? This kind of thing is one of the reasons why it is regrettable for Kenyans to forgive Mr. Kombo and his Committee.

Mr. Temporary Deputy Speaker, Sir, I think if we create organisations, they must operate on the principle of *bona fide* and should not go on maliciously in--

Prof. Anyang'-Nyong'o: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Sunkuli, who, by his name "Julius," is a Christian, to say that Kenyans cannot forgive Mr. Kombo when forgiveness belongs only to God?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, that is why I am saying that, because I am not God, and Kenyans are not God, they will not forgive. But God, definitely, will forgive him when he goes to the counter up there in Heaven.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the "Attorney-General" to quote the Bible like Satan did, by misdirecting this House?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, between Prof. Anyang'-Nyong'o and the Attorney-General, the one who is likely to have more Christianity is the Attorney-General, Mr. Amos Wako! So, I would like to believe his version!

Mr. Temporary Deputy, Speaker, Sir, I raised this issue because these authorities are prone to abuse. I hope that once they are set up, it is proper that they operate justifiably. I am saying this because there are some people who have said that once they take over the Government, it will be their responsibility to clean up Kenya and get rid of corruption. You fail to understand where they will acquire the new techniques of getting rid of corruption, when they were not able to deal with it when it was growing up. If anything, they were just there! If I could be allowed to quote a Kikuyu proverb here, I would quote one that says: "There is no difference between a thief and the one who is looking at the one who is stealing." If you were in the Government those days, why did you not raise this issue? Why did you raise the issue of corruption the day you left the Government and the day you had your own political party or the day you started feeling that you could become the President of Kenya? Why can some of these people not explain to us, how it is possible to be a District Officer, District Commissioner or whatever you are, 12 hours a day and be one of the richest people in the country today? Can some of these people explain how they became rich out of their salaries? But I am not going to mention names here. I know that Prof. Anyang'-Nyong'o, has very many other weaknesses, but he is not a rich man. So, for this one, he is exempted! But I am talking about some of those colleagues of his, whom he never dares to criticise. An offence for some of these gentlemen will never be an offence unless it is committed by KANU. But even those in the so-called alternative Government need to explain to Kenyans how they became some of the richest people in the country, just because of the positions they acquired. They are the ones - because their wealth has accumulated - who do not want to come out clean. They are instead rushing the Government, including some of us, who have not acquired anything.

Mr. Deputy Speaker, Sir, it is time the younger people in the Opposition realised that corruption is not a KANU affair! There are people both in KANU and the Opposition who have "eaten." There are people who want to become President because they want to continue eating again. We must say that because all those people who have been engaged in corrupt activities, we must forgive them. The dot.com generation should not be corrupt. So, the Attorney-General should put an amnesty clause and say that all these other people are forgiven their sins, and that, let

us build a Kenya that is not going to be based on malice and witch-hunting. If we were to look for corrupt people since 1963, I am sure there are plenty of them, but how will that help us as a country? It will only make us witch-hunt and achieve absolutely nothing.

Mr. Temporary Deputy Speaker, Sir, the Corruption Control Bill will assist many sectors in Kenya. In fact, many of our county councils are not able to perform because some of the people who run them are corrupt. The laws should be applied vigorously on the county councils; in fact, much more than on the police. Some people see the police as a very corrupt organisation. In the recent past, we dealt with the salaries of the police and because of that, certain measures have been taken to ensure that we deal with corruption. But this law will help this society, so that it does not tolerate corruption. I did say that I do not have many words as the "Attorney-General."

With those remarks, I beg to second.

(Question proposed)

Mr. Kombo: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute. In moving the Bill, the Attorney-General has done very well. But in seconding the Bill, Mr. Sunkuli, displayed some---

Mr. Khamasi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it not in order that, as an official responder from the Opposition, Mr. Kombo should speak from the Dispatch Box, if you could allow it?

The Temporary Deputy Speaker (Mr. Muturi): I think that is okay. Mr. Kombo, just speak from the Dispatch Box.

*(Mr. Kombo moved to the
Dispatch Box)*

Mr. Kombo: Mr. Temporary Deputy Speaker, Sir, as I said, in moving this Bill, the Attorney-General did a good job. In seconding the Bill, Mr. Sunkuli displayed some strange situations. You know, the guilty are always afraid. That is what he was trying to demonstrate; that, he is worried about this or that. Why are you worried about the Bill, hon. Sunkuli? Do not start saying this or that will happen. It will not happen if you are not guilty at all!

The Minister of State, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to allege that I had any other intention, other than contributing to the Bill for the good and the future of Kenya?

Mr. Kombo: Mr. Temporary Deputy Speaker, Sir, well, I repeat that the guilty are always afraid.

The fight against corruption is a long one. The passing of this Bill is not going to be the panacea to finishing corruption in this country. We do recognise that, and the road on which Kenyans have travelled to try and fight the endemic corruption that exists in this country has also been a long one. Corruption, as the Attorney-General ably demonstrated, destroys the fabric of the nation. Corruption is responsible for the poverty that exists in this country today. It is endemic as it touches on almost every Kenyan, so that every Kenyan is either affected, practising or doing something about corruption. It is a cancerous thing that we must fight very hard. Corruption has given rise to scandals like Goldenberg, which destroyed our economy totally and we have not recovered since then, ten years down the road. In the Goldenberg case, individual Kenyans pretended to export air! This is the only country where air can be exported and money is paid. That is what Goldenberg was all about!

Mr. Temporary Deputy Speaker, Sir, corruption gave rise to the destruction of the Karura Forest and many other forests that are being destroyed right now, because of the greed brought about by corruption. It is a disease that will destroy this nation totally, unless we struggle with it very strongly.

Mr. Temporary Deputy Speaker, Sir, from the onset, I would like to say that I have been involved, for a long time, in the eradication of corruption. I did chair the Anti-Corruption Select Committee of this House. The Report of that Committee remains a well-thought-out Report. So, as Mr. Sunkuli thinks that Kenyans will not forgive us, I think it is only him, as an individual who might not forgive us. But Kenyans are proud of that Report. It was through that Report that we were able to shake and awaken Kenyans, so that they could do something about corruption.

Mr. Temporary Deputy Speaker, Sir, the Attorney-General touched on the Kombo Report. I do not want to repeat what he said, but, basically, my Committee had the responsibility of studying and investigating the nature and the extent of corruption in the country. We had the function of identifying key perpetrators of corruption. We had the job of recommending measures to be taken against the perpetrators, now and in the future. When the Report came to the House, many people concentrated on the key perpetrators and ignored all the other issues. However, the House passed the Report, and although the names of people who had been mentioned were expunged, the Report still remains a record of this House.

Prof. Anyang'-Nyong'o once told me a story when we were talking about corruption. He told me that in 1969, the per capita income of this country and that of Singapore were at par, at US\$680. Today, as you know, our per capita income is US\$280 and it is falling. The per capita income of Singapore is US\$10,000, and is rising. What went wrong? Prof. Anyang'-Nyong'o told me that he once met Mr. Lee Kwan Yu, the former Prime Minister of Singapore, and asked him exactly the same question. Mr. Lee Kwan Yu looked at him and said: "Well, in 1969 I got experts in Singapore, put them together and asked them to advise me correctly on what I should do". He then asked Prof. Anyang'-Nyong'o what Kenyans did. Prof. Anyang'-Nyong'o had no answer, but Lee Kwan Yu told him: "You started by killing Tom Mboya".

You can see that whereas Singapore was thinking ahead about the economy, Kenyans were thinking about other things. That has continued destroying us up to today. Prof. Anyang'-Nyong'o also told me that Mr. Lee Kwan Yu told him that when you manage the affairs of a state, you can do everything else, but you must never put your hand into the national till. In Kenya, that has been the order of the day.

We have had many false starts in trying to fight corruption. But what has been lacking in this country has been the political will to fight corruption. We had attempts such as the formation of an anti-corruption police squad, which the Attorney-General referred to. You know what happened to the police squad. Its offices were burnt and its files disappeared as soon as it looked dangerous to certain quarters. We then had the Kenya Anti-Corruption Authority (KACA) in place led by Mr. Mwau, the former Chairman of the Party of Independent Candidates of Kenya (PICK), who has now joined KANU. As soon as Mr. Mwau started moving, and taking some actions and touching some raw nerves, you know what happened to him. Then we had KACA under the chairmanship of Justice Ringera.

The Minister of State, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it right for Mr. Kombo to say that Mr. Mwau touched raw nerves and that, that was why he was sacked from the chairmanship of KACA, without telling us the name of the person he touched?

Mr. Kombo: Mr. Temporary Deputy Speaker, Sir, Mr. Mwau touched the Government nerve.

Then we had KACA under the chairmanship of Justice Ringera. Again, Justice Ringera was doing a good job and the minute he started touching raw nerves, we know what happened to him. The Executive, because of lack of political will, went around and used another arm of Government, the Judiciary, to destroy KACA. The Judiciary gave one judgement that I think Kenyans should be crying about. Kenyans should be crying about the "Gachengo ruling". It was dishonest, unfair and was not meant to fight corruption, but to distract Kenyans from fighting corruption.

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to cast aspersions on the Judiciary? We know that there was no interference from the Government, and the Judiciary was exercising its own independent powers, as the Judiciary, to arrive at a decision, which even the Attorney-General said was wrong? So, it could not have been the Government using the Judiciary, but the Judiciary acted independently on that issue.

Mr. Kombo: Mr. Temporary Deputy Speaker, Sir, I did not cast any aspersions on the Judiciary. We know that the courts themselves have accepted that they have problems in so far as corruption is concerned. Even the Chief Justice himself has admitted this. So, I do not know what aspersions the Attorney-General is talking about.

The fight against corruption has got to be holistic. This fight has to be holistic and must include prosecution, investigation and education. This Bill has come out strongly on investigation and education, but it is very weak as far as prosecution is concerned. In fact, on this point alone, the Bill will be a toothless bulldog. I will come to the issue of prosecution later.

Parliament also has got to play a role in the fight against corruption and this Parliament has done its work beautifully. You will just have to look at the work of the Public Accounts Committee (PAC), the Public Investments Committee (PIC), and all the other Departmental Committees to see the recommendations they have come up with. But because of lack of political will, those Committees' Reports have gathered dust on shelves. When Transparency International (TI) came up with its perception index on the most corrupt countries two years ago, Nigeria was rated the most corrupt country and Kenya was rated ninth from the top. At that time, I happened to have been in Abuja and I know that Mr. Obasanjo retorted: "Yes, we realise we have a problem and we are doing something about it. We must do something about it". When I came back to this country, our leadership was saying: "Transparency International has rated us ninth in its report and that is not too bad". So, you can see the perception. Mr. Obasanjo accepted that his country had a problem and was struggling to do something about it, while Kenya's leadership said that Kenya was not the most corrupt country, and so that was not too bad. This shows you that political will is one ingredient that will help us to fight corruption in this country.

One scholar defined corruption thus: "Corruption equals monopoly of power plus discretion of power minus accountability". That is what has happened in this country, and the process that we are starting today is only a first step. We must make sure that we put institutions in place to ensure that no one leader has got the monopoly of power and all the discretion that goes with it, and is not accountable to Kenyans. One hopes that all that can be done within the

dispensation of the Constitution that we are trying to rewrite.

Mr. Temporary Deputy Speaker, Sir, coming back home, I want to say that - and I am glad that the Attorney-General has said it - a lot of things that the Attorney-General has put in this Bill have been negotiated. When we were in (Prague?), we formed the Kenya Anti-Corruption Coalition that involved many people, and the Attorney-General read out the document prepared. But one thing that we said at that time was that there was a need for an independent institution to fight corruption, and there must be wide consultations and participatory debate for the legislation; then there should be commitment from a broad-based coalition and recognition that corruption undermines the State. So, in terms of participation and consultation, I want to commend the Attorney-General because he has been consulting with the coalition at large.

Mr. Temporary Deputy Speaker, you are a member of the coalition and, therefore, you know the story. So, there have been these consultations. In the first instance, and at the onset, I want to say that there were two issues that the coalition put forward, which were very contentious as far as we are concerned. The Attorney-General accepted one, and that was the issue of amnesty. The coalition is not prepared to legislate theft! Amnesty cannot be legislated, but it has to be negotiated by all Kenyans. So, on that score, notwithstanding what Mr. Sunkuli said, the Attorney-General has done the right thing by not including amnesty in this Bill. We must not legislate theft!

Mr. Temporary Deputy Speaker, Sir, prosecution was another issue. We have maintained, and we still hold that without effective prosecution, the law which we have in place will do us no good. So, because of Mr. Gachengo's ruling, which I have referred to, and which, as I have said, was a bad ruling, the Attorney-General has tried to legislate around that ruling in this particular Bill, in so far as prosecution is concerned. There were two alternatives; one was to fight him and keep on fighting him like we did before, or accept the position he has taken to legislate around that bad ruling, but always keeping in mind that we must sort out that bad ruling. That must not be a precedent in this country! So that, even as the Constitution review process is taking place, the Gachengo issue must be addressed by the Attorney-General. So, in this respect, what we thought we would do is just to try and strengthen the way the Act will be applied. The Attorney-General has touched on some areas which include reporting to Parliament on a quarterly basis. I hope there will be changes in the Standing Orders to allow for the Ethics Committee---

QUORUM

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. The issues that are being articulated by Mr. Kombo are so serious; they have been said in such graphic manner that we require the entire Front Bench and most of the KANU Back-benchers on the Government side, and a considerable number of hon. Members on the Opposition Front Benches. I am alerting the Chair that we do not have a quorum in the House. This is a very important Bill that we require a quorum so that the Attorney-General and the entire Front Bench can understand what they have done to this country by being corrupt!

(Laughter)

The Temporary Deputy Speaker (Mr. Muturi): Yes, there is no quorum in the House. Ring the Division Bell.

(The Division Bell was rung)

Order! Order, hon. Members! There is now a quorum in the House. Proceed, Mr. Kombo! You still have 15 minutes to contribute.

Mr. Kombo: Mr. Temporary Deputy Speaker, Sir, as I was saying, without prosecution powers, this Bill will be a toothless bulldog! Therefore, we should try and strengthen those areas. One way of strengthening that area, as I said, is to get the Attorney-General to report to Parliament what he has prosecuted on a quarterly basis. I hope that there will be a change in the Standing Orders, as I said earlier, so that we have a Committee of Ethics and Integrity in this House, as we have them in other jurisdictions. This committee will ensure that the reports from the Attorney-General are scrutinized on a quarterly basis and Kenyans know what is happening.

Mr. Temporary Deputy Speaker, Sir, in the Bill itself, and looking at the Gachengo ruling, which, as I said was a dishonest ruling, there is no reason why the body that is going to sort out the bad ruling cannot prosecute. This is because we have the police and immigration officers prosecuting, and many other bodies. So, I will make a small amendment from the Floor of the House, on behalf of the coalition and African Parliamentary Network on Anti-Corruption (APNAC). The amendment says that the body that we are trying to create will be able to prosecute under

the control and direction of the Attorney-General. Since they have been given police powers, they should continue to prosecute these cases, like all the other people have done in the past.

Mr. Temporary Deputy Speaker, Sir, the Attorney-General went through a long list of issues which will be dealt with. On the aspect of prosecution, sometimes people have argued that we are creating a monster. But I would like to say that in Lesotho, the body has got prosecution powers. The body has also prosecution powers in Nigeria. In the United Kingdom (UK) and Denmark, the various fraud offices have got prosecution powers. So, we are not creating something new. This is not a monster that we are trying to create here because as a jurisdiction, it does happen. So, we would like to ensure that we do not have another body that just investigates corruption cases and nothing happens, like many other bodies in the country. The role of Parliament in legislating is being seen.

The other body which should be looked at when we finish with this is the Judiciary, because this institution can subvert the fight against corruption. We have seen them do it to the Kenya Anti-Corruption Authority (KACA), and during Mr. Ng'eny's case where it tried to give us new laws on jurisprudence, that there is a limitation to criminal law. So, the Judiciary has got to be dealt with, and Parliament should start thinking seriously on how to make our Judiciary truly independent.

There are many amendments which have come about because of negotiations, as I have said. I have got a whole list of those amendments, and I will touch on the important ones. We shall circulate this document to hon. Members of Parliament, who will be keeping a close eye on the Attorney-General to ensure that he brings those amendments at the Committee Stage. The Attorney-General has dealt with the preamble. We have added the word "economic". So we are talking about "economic crimes" as well. The title will change and read "The Kenya Anti-Corruption Commission." The Attorney-General has accepted to bring those amendments to this House.

Mr. Temporary Deputy Speaker, Sir, I will bring an amendment on the functions of the Kenya Anti-Corruption Commission, which we will create to prosecute corruption and economic crimes under the control and direction of the Attorney-General. I would like to give notice that I will bring that amendment to the House. We have refused that if the Authority, in the course of its work, finds another offence, it should deal with it. We propose that it should refer this case to the relevant authority.

The Attorney-General has touched on the Kenya Medical Association. As long as the Secretary to the Advisory Board is not given--- We are saying that the Attorney-General will bring an amendment that the Director shall be the Secretary of the Board. Under Section 15, the Advisory Board must be accountable to Parliament, just like the Authority or the Commission is. So, that will be another amendment which will be brought to the Floor of this House. I think the Attorney-General has dealt with the penalties; that we shall increase the penalties. This is because corruption should be made an expensive affair. We should make corruption a very expensive business if we hope to fight it effectively. Again, the Attorney-General has agreed that he will make sure that, that is done.

Earlier on, we had talked about ensuring that the officers of the Authority have sufficient police powers, but the Attorney-General has agreed, under Section 19(3), to introduce a new clause which will give provision for the officers to have police powers. So, that has been accepted.

The reports which we are being referred to in the Bill are prosecution issues, but the body has also powers to do civil recovery. We would like to say that in the annual report, Parliament has got to receive the whole report; civil, prosecution, criminal and so on and so forth. The list is long and I will not read the whole of it, but I will make sure that the list will be there and hon. Members will look at it. I would like to say that one good thing that the Attorney-General has agreed is to ensure that once somebody has been charged in a court of law, he is suspended.

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

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

I think that is a landmark. We do not want people flying flags as they appear in courts of law.

(Applause)

These are things that the Attorney-General has agreed to put in the Bill and we are quite happy. As I have said, they are many and the list will be there.

Mr. Temporary Deputy Speaker, Sir, I would like to refer to the Schedule. There will be a few changes in the Schedule, which I or some of my colleagues will move. For example, Rule 1 requires that three names are sent to Parliament, which in turn sends them to the President. We would like to say that Parliament, which is the first amongst

equals in the division of powers, will have the last word, and it will only send one name to the President who cannot change it. So, we will make some changes from the Floor of this House, so that the National Assembly shall within 21 days, after it first meets to receive the names of the nominees, consider them and approve one name, which it will send to the President. In the Schedule, the President shall within 14 days, after receiving the name from Parliament, approve the nominee from the Minister, who will, of course, take it to him. So, these are some of the amendments we intend to move on the Floor of this House.

I would like to conclude by saying that, indeed, what we are trying to do today is not perfect. The Attorney-General should not be jittery about this. We are not saying anything against his office. We are saying that the history of this country has been lack of prosecution. The Attorney-General rises and says: "Show me any case which was properly investigated and I did not do anything". What he probably does is to write to the police and order them to investigate the case, and the police sit on the case and do nothing. That is why we need one premier body to put together all these things, and there will be no excuse from the Attorney-General. While I am at it, Mr. Attorney-General, we do know of two cases which are lying in your office, namely, the case of a judge and a senior officer in your Chambers. We would like to ask him to give an example that he can actually act and prosecute the cases as soon as they arrive.

(Laughter)

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to quote these two cases when he ought to know that the Attorney-General of the Republic of Kenya has been very transparent in those cases and has issued a statement as to why no decision has yet been made?

The Temporary Deputy Speaker (Mr. Musila): Mr. Kombo, the Attorney-General will not respond to the hon. Member who is sitting down there because he does not have the Chair's permission.

Mr. Kombo, continue!

Mr. Kombo: Mr. Temporary Deputy Speaker, Sir, the Attorney-General has to deal with those cases to give an example that he is prepared to act, provide the goodwill and the political will and we shall support him to make sure that we fight corruption.

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

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill which I think is extremely important in the history of this Republic. Let me congratulate my friend, the Attorney-General, for ably presenting this Bill to Parliament, and for accepting in advance the amendments that the former Chairman of the Parliamentary Select Committee on Economic Crimes and Anti-Corruption, Mr. Kombo, will have proposed to him, in conjunction with the inputs of the Members of the African Parliamentary Network on Anti-Corruption (APNAC).

Mr. Temporary Deputy Speaker, Sir, before I proceed in making my substantive contribution to the Bill, I would like to draw the attention of Mr. Sunkuli, now departed, to the fact that Section 28 of the Bill, under part (vii) Miscellaneous, says very clearly regarding the conviction to which this Bill applies. This section does not apply with respect to a conviction that occurred before this Act came into operation. I do believe this is in line with the Criminal Law Procedures in this country. It will not apply to those who have been convicted, nor those who are yet to be investigated and to be found to have committed criminal acts in this Republic. Corruption is, for all intents and purposes, a crime. That is why in the Parliamentary Select Committee on Economic Crimes and Anti-Corruption, we added economic crimes to the list of crimes in this country. I do believe that referring to the extent to which the law can pursue criminals, there is no limitation. Law is a very common sense subject. Law is studied under many disciplines, including sociology and political science. I did study, as the Attorney-General knows, since he frequently consults, quite substantial law, including jurisprudence. So, I do speak with some amount of informed knowledge, without necessarily being burdened by the title "Learned Friend", which, obviously, Mr. Sunkuli does not deserve.

Mr. Temporary Deputy Speaker, Sir, in this Bill, it is important to note that one of the reasons why this economy has been doing badly, and Mr. Kombo has ably stated this, is because the productive capacity of this nation and the performance of the Government is undermined by corruption. I participated in a study entitled: "Corruption and Poverty in Kenya," undertaken by the International Centre for Economic Growth and edited by the Executive Director, Dr. Andrew Mule. Several Kenyan scholars and others have looked at corruption with respect to the Judiciary, the Civil Service, the tax systems, the disposal of public assets or privatisation, and the tendering and procurement systems in this country, and, finally, foreign aid. This study clearly revealed that in all these areas, corruption has undermined the performance of both the public and private sectors. Corruption is responsible for the increasing poverty in this country. So, unless there is a law that deals effectively with corruption; that punishes severely those who are engaged in the act so that there is a clear deterrent from being corrupt, we will never win our battle against poverty. It is, therefore, an extremely important Bill, and this Parliament should take it very seriously.

Mr. Temporary Deputy Speaker, Sir, when I was the Chairman of the PIC in 1994/95, we recommended then that there should be an Economic Crimes Bill in this country. I am glad that, subsequently, a Motion was brought to this Parliament that established the Select Committee, the result of which we now see a Bill brought to this Parliament by the Attorney-General. I remember, in particular, two cases which stood out to me as having been extremely notorious cases of corruption in this country. One of them involved the Nzoia Sugar Company. The other one was the building of the National Social Security Fund (NSSF) Building. In the case of Nzoia Sugar Company, not only did the PIC direct that a special Inter-Ministerial Committee be established to look into the recommendations and investigations of the Auditor-General (Corporations), but the PIC went ahead to receive the report of this Inter-Ministerial Committee, which comprised 11 different Ministries, including the Office of the Attorney-General and the Criminal Investigation Department (CID), and the Special Branch.

This Inter-Ministerial Committee found out that this Government had lost close to USA\$70 million in terms of revenue lost through corruption. The Attorney-General remembers that this case was taken to the International Court of Arbitration against an American company called Arkel International, but as fate would have it, we gave up on the case. The case was settled out of court and the Kenyan Government had to pay Arkel International another USA\$5 million as out of court settlement. Why? This was because one of the civil servants who had been the Executive Chairman of Nzoia Sugar Company, and who then retired from this job, turned to be witness against his own country in favour of Arkel International. Why? Because, apparently, this man never signed the Official Secrets Oath when he took office. The Attorney-General's Office was incapable of making this man account for his deeds. The man went ahead to witness against his own country, thus making this country lose colossal sums of money. Arkel International went scot-free. We need a law that makes sure that those who hold public office do not put their hands into the public till and go scot-free, like this particular person did in the case of Nzoia Sugar Company.

Mr. Temporary Deputy Speaker, Sir, one of the things bedeviling the sugar industry is corruption. The sugar industry is collapsing, not because it cannot perform, but because of corruption, mismanagement and wasteful use of public resources. This Bill is extremely important especially when it refers to those measures that will be put in place to ensure that those who are corrupt are severely punished. This Bill will go hand in hand with other Bills that the Attorney-General mentioned today when he was introducing this Bill. One of them, I believe, is the Public Officer Ethics Bill, which is extremely important. It will make public officers declare their assets and provide for a public record of the assets that people have when they are in public office, so that when they leave public office and they have more than what they had before, they can account for how they acquired those assets. That is extremely important.

Mr. Temporary Deputy Speaker, Sir, the other issue that contributes to the importance of this Bill is the fact that when the rules of the game are unclear, then culprits easily go unpunished.

Mr. Temporary Deputy Speaker, Sir, Mr. Sunkuli, in his contribution, said that we have to distinguish between the old guards and the young turks. Apparently, the young turks like him have not been engaged in acts of corruption. But I would like to remind Mr. Sunkuli that in the Bible, it is said that, if we say we have no sins, we deceive ourselves, and there is no health in us. It is further said in the Bible "that we all have sinned, and we fall short of God's grace". I believe that corruption has no distinction between age, sexes or---

Mr. Achola: On a point of order, Mr. Temporary Deputy Speaker, Sir, I hate to interrupt Prof. Anyang'-Nyong'o, but is it true that all of us have sinned? I know I have not sinned as far as corruption is concerned.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I was just trying to make the point that it is not very easy to lay a principle that if we are going to deal with corruption, we distinguish between the old and the young, or the women and the men, or those who come from the Coast or upcountry regions. Corruption knows none of these borders. In fact, the young could be culturally very corrupt. In other words, they would be prone to corruption more than the old. Indeed, in Mr. Sunkuli's contribution, he went ahead to display this culture by saying that the people on that side should not be accused by the people on this side. This Bill is accusing nobody. It is taking a Kenyan as a citizen and making that Kenyan be responsible, given that our Constitution upholds the rule of law. This is the principle behind this Bill.

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir, I know Prof. Anyang'-Nyong'o's father was a leading churchman and, therefore, it is very important that biblical quotations should be correct. It is not, "all have fallen in God's grace", but "we have fallen in God's glory".

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, it depends on which version the Attorney-General is reading. If he reads the revised standard version, he will definitely come to my side. I hope Mr. Muite, whose name was originally Saul but changed to Paul, keeps being a good boy.

Mr. Temporary Deputy Speaker, Sir, one of the things the Bill seeks to do is to ensure that the institutions that are going to be responsible for implementing the anti-corruption laws and the laws, dealing with economic crimes, are institutions which have the teeth to bite. In that regard, I would hope that the Attorney-General will respond positively to the proposals that Mr. Kombo has made with regard to the investigative and prosecutorial powers of the Anti-

Corruption Commission. I believe that it is within the docket of the Attorney-General to appoint prosecutors in other branches of the judicial system. We are not in any way trying to downgrade the Office of the Attorney-General. We want those investigatory and prosecutorial powers to reside within the Anti-Corruption and Economic Crimes Commission. The Attorney-General could as well appoint officers or designate officers performing within the jurisdiction of that Commission, not from the purview of his offices. This will bring in a clear division of labour, accountability and answerability, if there is any such word in English. You can be answerable without necessarily being accountable, but you have to be both answerable and accountable to one source. If, indeed, the Director of the Anti-Corruption and Economic Crimes Commission knows that those who are going to investigate and those who are going to prosecute will, first and foremost, answer to him before he submits his report to the Attorney-General, then, indeed, when the Attorney-General gets the report, he has the authority to say: "How are my officers in the Commission doing? To what extent is the Director of the Commission, who is also answerable to Parliament, playing *in tandem* with his office in trying to deal with crimes?"

Further, I would like to propose an amendment which, I am sure, will be brought in what Mr. Kombo will bring, to make sure that the reports of the Attorney-General to the National Assembly are done quarterly and not annually. That is in keeping with the reports that the Anti-Corruption and Economic Crimes Commission will be making to the Attorney-General. The Commission is going to submit to the Attorney-General quarterly reports. If, indeed, a job has been done by the Commission, the Attorney-General has no responsibility. He does not need to wait until a year to compile the reports and bring them to the House. I think it is better to bring them to the House quarterly and be dealt with expeditiously, so that at the end of the year, the Attorney-General is in a better position to compile a comprehensive report which the House has been looking through every quarter. Indeed, when it comes to crimes, the quicker they are dealt with, the better. Justice delayed is justice denied.

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir. I just want to assure the hon. Member that, in fact, I will bring that amendment during the Committee Stage.

Prof. Anyang'-Nyong'o: Thank you, Mr. Attorney-General! The other point that I would like to add is that, indeed, if you look at the successes of developing countries which have industrialised rapidly; if you look at the cases of Hong Kong or Singapore, you will realise that one of the things that was very critical in the rapid economic growth of those countries was that there were competent, honest and disciplined men and women, who were put in positions of leadership. There were competent, honest and disciplined men and women who handled state power. Men and women are not, by their very nature, honest, competent and disciplined. They become honest, competent and disciplined when they are subjected to certain rules and regulations, which those who put them in places of responsibility also live by and obey.

But if those who make appointments do not live by and obey the rules of competence, honesty and discipline, then the whole edifice of the state falls down like a house of cards, when it is invaded by corruption from top to bottom. That is what has happened to the Republic of Kenya. Corruption, incompetence, dishonesty and indiscipline begins from the top, percolates through the bureaucracy, and enters the general populace to the extent that, Kenyans now tell lies with tremendous impunity. Kenyans tolerate corruption as if it is the order of the day.

Mr. Temporary Deputy Speaker, Sir, we must develop a political culture that rewards decency and hard work, and act firmly upon slovenliness, avarice, ostentation, dishonesty, indiscipline and finally, corruption. We would like, when this Bill becomes law, for the Government to set an example. We would like the Government to dismiss from office, persons and individuals against whom gross misconduct has been identified. These are persons whose names have appeared year after year in the PIC and PAC Reports. Those reports have been debated by this House, passed and gone back to the Attorney-General's office, the Controller and Auditor-General's office and the Auditor-General (Corporations's) office. These names have not been whitewashed in any way and, therefore, they remain in these records from 1990 to today, and nothing has been done. All that has happened is that because the former KACA did not have proper investigative powers, or when investigations were done, these people were not brought before the law and, hence were never convicted. They have been going from one office to another, looting public coffers and establishing a culture of "lootocracy" which, indeed, has run down this economy and brought indebtedness and misery to majority of Kenyans.

Mr. Temporary Deputy Speaker, Sir, hon. Sunkuli was saying that if we go back to 1963 and try to net all those who were corrupt, we shall be turning skeletons in graves, cupboards and so on, and that piece will cause an upheaval in this country. It will not! Only 5 per cent of Kenyans have put their hands in the public kitty and ruined this economy. The other 95 per cent are okay. If we net this 5 per cent and bring them before the law and, indeed, under the rule of law they are convicted, this country will become economically very healthy. I am not afraid whatsoever with dealing with this 5 per cent or 2 to 3 per cent of the population who have looted this country. If they have committed economic crimes, and there is no statute of limitation on economic crimes, the law should get hold of all of them and they should be dismissed from public office and this will set a new example.

Mr. Temporary Deputy Speaker, Sir, hon. Sunkuli too talked about amnesty. The Attorney-General has done an excellent job by not including any amnesty clause in this Bill. This Bill has nothing to do with amnesty. Amnesty belongs to a Truth and Reconciliation Bill, and hon. Oloo-Aringo has on several occasions proposed to this House that we should have a Truth and Reconciliation Commission in this country established by this Parliament. That is where the question of amnesty comes in. Amnesty cannot come under a Bill dealing with economic crimes and corruption. It is only truth and reconciliation that can truly deal with amnesty.

Mr. Temporary Deputy Speaker, Sir, in any case, when people begin pleading for amnesty, you must realise that there is something they are trying to hide and run away from. Let the people judge. Let this Parliament judge whether or not we need a Truth and Reconciliation Bill that will then say that if you confess your misdeeds within a six months' period' and so on, you can then be forgiven for your sins.

A Truth and Reconciliation Bill has worked very well in the Republic of South Africa. A good thing about a Truth and Reconciliation Act is that it gives people the opportunity to vent out things in their souls and hearts that had been weighing heavily on them, both those who have committed these crimes and those who have been wronged. I, therefore, hope that when we finish with this Bill on Economic Crimes and Corruption, we will proceed to the second stage that hon. Sunkuli is so worried about and debate a Truth and Reconciliation Bill in this National Assembly.

Mr. Temporary Deputy Speaker, Sir, there is another thing that I would like to add. I do believe that if you read this Bill very carefully, you will find that it is essentially the input from the Parliamentary Select Committee on Economic Crimes and Anti-Corruption.

*(Mr. Biwott consulted loudly
with Mr. Wako)*

Mr. Temporary Deputy Speaker, Sir, could I plead for your protection so that hon. Biwott can allow the Attorney-General to listen to what I am saying, because we are discussing the Economic Crimes Bill and I would like hon. Biwott to honour the House and ensure that he pays attention to an hon. Member making some contribution that may help him today and in the future?

The Temporary Deputy Speaker (Mr. Musila): Proceed, Prof. Anyang'-Nyong'o!

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, essentially, this Bill is the in-put of the Select Committee on Economic Crimes and Corruption, the former Kenya Anti-Corruption Authority and the Attorney-General's Office. These are Kenyans who have worked day and night to ensure that the Attorney-General brings to this House a Bill that is respectable as a product of the National Assembly, and, indeed, can stand the test of time within the law books of the Republic of Kenya. This Bill did not need a penny to be spent on the so-called "experts" from the United Kingdom (UK). I recently met the so-called "experts" from the UK who came here to advise Parliament, the Attorney-General and the Kenya Anti-Corruption Authority on how to produce a Bill. I asked them: "Did you read the Report of the Select Committee on Economic Crimes and Corruption before you came to Kenya?" They said: "No". If you did not read that Report before you boarded the plane to come to Kenya, why are you coming to Kenya and doing work that has already been done?

The World Bank has done a study to show how much African governments spend on the so-called "experts" from aid money. It has been established that Africa loses 75 per cent of aid money on the so-called "technical experts". In 1991, the figure was put at US\$1 billion, lost in Sub-Saharan African alone on the so-called "experts" to give advice, quite often, which is not needed by this country. When I look at the Bill that has been produced by the Attorney-General, these British experts did not need to have set foot on this country to be paid colossal sums of money to masquerade as experts in this City and pollute our air. They did not need to do that to add more to the indebtedness of this country--

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it entirely in order for Prof. Anyang'-Nyong'o to hit hard on experts when, in fact, the Ministry of Finance or the Attorney-General's Office appears to be having one of the experts sitting at the Civil Service Bench? Should he not use, perhaps, a polite language?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Muite! First of all, there is nothing out of order. Prof. Anyang'-Nyong'o, you are quite in order.

Proceed!

Prof. Anyang'-Nyong'o: Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me from my friend, Mr. Muite.

Mr. Temporary Deputy Speaker, Sir, we did not need to do this. I think I am proud of ourselves that Kenya is reputed to be the country with the highest level of development of human resources in Africa. In actual fact, as the Minister in charge of Regional Co-operation, Mr. Biwott should have made sure that we send our experts to this region and sell these resources as our resources for earning foreign exchange. But for us to be in a position to sell experts to

Africa, and then import other idiots from Great Britain to advise us on a Bill that we, ourselves, can make, is completely outrageous!

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Prof. Anyang'-Nyong'o!

The Minister for Trade and Industry (Mr. Biwott): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to use unparliamentary language such as "idiots" in reference to other people? I think Prof. Anyang'-Nyong'o should withdraw that remark.

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Prof. Anyang'-Nyong'o! I did rule earlier, when you made a statement, that you were quite in order. Now, I rule you out of order for using the word "idiots". Would you, therefore, withdraw and apologise?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I sincerely apologise and withdraw.

The Temporary Deputy Speaker (Mr. Musila): Very well!

Mr. Oloo-Aringo: On a point of order, Mr. Temporary Deputy Speaker, Sir. If somebody is an idiot, how would you say it in parliamentary language?

(Laughter)

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Oloo-Aringo! Prof. Anyang'-Nyong'o has already apologised, so we will not go back to that.

Prof. Anyang'-Nyong'o: I apologise, Mr. Temporary Deputy Speaker, Sir. All I was saying is that it is really a travesty of justice for us to spend our meagre foreign exchange this way. I do hope that we will take seriously the resources that we have in this country, particularly human resources. For example, the production of this Bill portrays self-reliance. Indeed, the spirit of self-reliance is what lies behind the New Partnership for African Development. Africa wants to develop by relying on her own resources; her own people, minerals and forests. Africa is the lung of the world, but we in Kenya tend to go against this principle. I hope that when finally the annals of history are written, they will bear witness that a Bill like this one came about through the efforts of Kenyans and not a single word was added by the so-called "experts" because I have read it and I do not see where that expertise was needed at all. I am fully versed in our reports, the conversations we had with KACA and the Attorney-General. Mr. Kombo has been travelling throughout the world in conferences, bringing us documents from other countries and we have faithfully read these documents and tried to make use of them as Members of Parliament. Therefore, I must congratulate the Attorney-General for taking this into account while drafting this Bill.

Further, let me say that it is extremely important in the reporting system, particularly what Mr. Kombo said with regard to the appointment of officers of the new commission, that the word of Parliament is taken as the last word, and that the amendment that Mr. Kombo proposed regarding the one person is taken by the Attorney-General.

I beg to support.

Mr. Ochilo-Ayacko: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this very important debate that is before the House. The issue of corruption in this country has grown to monstrous proportions. It is a known fact that the resources of this country are scarce. It is also a known fact that this country realises revenue shortfalls in terms of collections. It is also a known fact that this country is in dire need of help in terms of pecuniary and material assistance from all over the world. One of the factors that has contributed towards the general state of want that this country finds itself in, is the fact that what rightfully belongs to the public ends up in the pockets of some individuals. If you see some individuals driving bigger cars than Ministries can afford, you start wondering how come they are getting richer than the Government.

The testimony that indicates that this is happening is the fact that these individuals are stealing and getting away with pilfering of public funds and property and pocketing them. Even if you look at the tax records of these individuals, you will find that they are recorded as having paid no tax. If we do not address the laws of public property or revenue to individuals who are within and without the country, then sometime down the road, which will be very soon, we will end up with no country.

The Attorney-General has done something good by bringing the Corruption Control Bill to this House. This Bill has very good wording and intentions of trying to control corruption on paper. This will not solve anything until the general conduct of public affairs is also put in harmony with zero tolerance of corruption.

Mr. Temporary Deputy Speaker, Sir, as we all know, this House's Public Accounts Committee (PAC) and the Public Investments Committee (PIC) have sat for very long hours, trying to find out what was wrong with Government Ministries and Departments on the one hand, and state corporations on the other, in terms of loss of public revenue. I must say that having been a Member of one of these very important Committees, we have identified individuals who have contributed to the loss of public funds. The individuals are well known by the Government. Even without passing

this Bill into law, there are laws under which these individuals can be arrested and prosecuted, but you find them running around the country and being treated like small gods. That is what makes this Bill a tragedy. The passage of this Bill may not necessarily deter these people from the practice.

If today you were to go to the countryside and find some school children and ask them: "Who are your heroes?", they would point at the most corrupt individuals of this country. They would say: "So-and-so is my hero, because the other day he donated Kshs300,000 at a fund raiser; so-and-so is my hero because he drives the most modern Mercedes Benz vehicle in the country; so-and-so is my hero because he lives in the best house in this area." So, if our children, who are very young, and who are the future leaders of this country, are already hero-worshipping people who should be in jail, you can see how deeply-seated this animal called "corruption" is. I may not be here 50 years from now, but I would like to say, that even the passage of this Bill will not solve the corruption problem until we remove corruption from the psychology of our children.

If you go to Alliance High School today and ask a student from a poor background the kind of vehicles his colleagues' parents drive to the school to collect their children on closing day, you will realise that corruption has, indeed, extended very far. In fact, even in our churches and mosques today, we pray to God to bless thieves. We ask Him to reward the thieves for being very generous contributors. I believe that we are going to pass this Bill into law, but until we get some psychological therapy and try to treat corruption in churches, mosques and schools, we will not successfully fight this monster called "corruption".

Mr. Temporary Deputy Speaker, Sir, I believe that the answer to the corruption problem of this country partly lies in the Bible and the Koran. There is a word used by religious people called "atonement". Until the leaders of this country, on both sides of the House, atone for their sins, or admit publicly that they did something wrong and seek forgiveness of both the living and those who are in Heaven, we will not wrestle corruption out of our Ministries, Departments and other public institutions. We will have a very good law in place, but corruption will still carry the day. What makes it even more difficult to deal with corruption is the fact that the future leadership of this country, particularly that which is secured through elections, will not be handed over to the poor; it will always be handed over to the rich.

Since the only route to wealth in this country today is corruption, probably, in future, all those who will be in the Cabinet, presiding over cases at the High Court, sitting in this House, and those who will be teaching at our public universities will be people who ought to be in jail. The people who have corruptly acquired property are the ones who will educate their children well.

So, Mr. Temporary Deputy Speaker, Sir, we will have an elite who are a direct beneficiary of corrupt dealings. That kind of elite will be incapable of fighting corruption, having benefitted from it. They will not do what is said; it would be like biting the hand that feeds you, because they may or would have benefitted directly from corrupt dealings.

The passage of this Bill and work of the Attorney-General is laudable, but I think the war against corruption will not be realised just in this Bill alone. It is something that requires marshalling of all State resources and a retreat that is similar to the one that we had a couple of years ago in Mombasa with the Head of State. At that time, the President declared HIV/AIDS scourge a national disaster. He declared that the HIV/AIDS scourge has invaded all age groups in this country and was about to consume the entire country.

Until we retreat somewhere as leaders of this country, and confess to the living and to those who are in high Heavens that we are corrupt and we want to stop it, I am afraid this Bill is not going to be as useful as we expect it to be. Until we start scrutinising all sectors of this country, we would not eradicate corruption. For instance, in the employment sector, just early this year, there was recruitment in the Kenya Police Force. If you look at how the recruitment was carried out, and who was recruited, I am afraid that you will find that 60 per cent of those who were recruited were people who had induced those who were charged with the exercise. If you gave money in order to be recruited as a police officer, certainly, when you---

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the hon. Member alleging that there was corruption in the recruitment in the Kenya Police Force. Would he be asked to substantiate?

Mr. Angwenyi: Have you come from the heavens?

An hon. Member: And yet they are neighbours!

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Speaker, Sir, well, it is very simple. If I am to ask my colleague even to show me any person from his constituency who was recruited, he would not be able to do so. The fact that none was recruited from there is a testimony that it was not a normal recruitment exercise. In that very recruitment, 60 per cent of those persons who were recruited were those who had induced the people who were charged with supervising the exercise. When such persons are trained and discharged to pursue vices such as corruption, their penchant and need for corrupt activities would even be higher because that is how they got in the first place.

So, the point that I am trying to make here is that corruption is so entrenched that until we are transparent in

our very modest acts and day-to-day activities, we would not be able to eradicate it. Even the way we allocate money for repair of roads in this country leaves a lot to be desired. For instance, if the Government declines to allocate money to be used to repair a road like the Kisii-Chemosit Road, where Mr. Angwenyi comes from, then, you would find that, that is also a form of corruption. You may treat it lightly by saying that other areas also did not get money, but favouritism in dispensation of public responsibility in itself is a form of corruption. So, we do not need just a Bill like the one that we are debating today. We need to be honest about our public positions; fair in the manner in which we conduct the affairs of our offices and to be patriotic. If we are not patriots and we do not do our functions the way they ought to be done, and the way it is sworn by us when we take the oath of office either as hon. Members, or as members of the Front Bench, then, we are not committing ourselves to fighting corruption.

To come back briefly to this Bill, I have looked at it and found out that there is a clear attempt by the Attorney-General not to include the word "prosecute" in it. In fact, the Commission we are creating is merely to investigate. But this country is big, and has nearly 30 million people. We have the police force, the Criminal Investigations Department (CID) officers and other investigating bodies. The Director of the Commission we intend to create is not going to be in charge of the police force and yet, it is the police force that is spread throughout the country. The CID officers are found in nearly every division of this country. We may create this elitist body and put it here in Nairobi, but if it does not have a national network, then it is going to be idle, and corrupt avenues are going to be created in the periphery, or in other areas where this Commission may not be able to see. So, to make the work of this Commission easy and also for the Government to be able to face corruption head on, there is a general need to re-educate and re-align the police force towards fighting corruption in whatever station they find it. The Commission we are creating will not have enough resources to wage war against corruption.

Mr. Temporary Deputy Speaker, Sir, I had said that there is the absence of the word "prosecute" in this Bill. It appears that what the Commission is going to do is merely to investigate. If the work of the Commission is going to be limited to investigation, then I do not think it will be able to face corruption in the many faces it manifests itself. I know that the Attorney-General has not included the word "prosecute" here because of the fear that the courts had ruled that his powers, under Section 26 of the Constitution, should not be shared with any other person. This is where the problem lies. It does not lie with legislation but with the prosecution aspect. The problem lies with the conduct of the appointing authority in terms of all public offices; that is the Presidency. The problem also lies with the Judiciary.

In this Bill, we are trying to enhance the penalties for corrupt offenses but we are not trying to correct the hiccups that we encountered in respect of the issue of prosecution. So, some busy-body somewhere may go to court and come up with something else that may impede the activities of the Commission body. Until we address the problem that arises from prosecution, and until we are able to strengthen the office of the Attorney-General, and give him enough personnel to prosecute all corrupt persons in this country, then we are still not doing the right thing.

Mr. Temporary Deputy Speaker, Sir, you will also find that the work of the Commission and that of the office of the Attorney-General, as far as this Bill is concerned, is not done in a manner that is harmonious. Again, here is a situation where we may encounter a practical problem and if that problem arises, it is the Kenyans who expect efficient service from the Government who will pay for it.

There is also a general need - although it may not be addressed in this Bill - to have the Judiciary reformed. I do not know what the Judiciary is thinking of, but it has been very hostile to all attempts at fighting corruption. The Judiciary should be at the forefront of fighting and eradicating corruption in this country. So, when you find the Judiciary making judicial pronouncements that allow obvious guilt to escape, it is very discouraging to Kenyans. So, there is need, first, to look at the kind of judicial officers whom we have. There is need to look at competence in terms of the qualifications that they have. There is also need to make their procedure of appointment transparent, so that we have people of substance and proper moral uprightness appointed to those offices. They should be people who are committed to meting out justice and effecting public policies.

Mr. Temporary Deputy Speaker, Sir, it is an open policy of our Government that corruption should not be tolerated. So, when the Judiciary that is charged with the responsibility of sending people to jail, frees those people whom we know are corrupt, we find this strange. There is an urgent need to look at the Judiciary in its entirety, look at its capacity to fight corruption and understand it, and also educate the judicial officers because they suffer from one particular problem; they think that they know, but I do not think that they know anything. Mr. Temporary Deputy Speaker, Sir, so, there is need to educate them and make them know that the greatest enemy of the Kenyan public is any person who takes away public property, be it money or material. You will find that most of the judicial officers have the kind of wealth that they cannot explain about or account for. They are characters whose behaviour is suspect all over the place, yet, they are the people we have charged with the onerous responsibility of casting the first stone, as Jesus put it. They should be clean people before they declare so and so guilty or innocent. So, there is urgent need to address the incompetence that we see among our judicial officers. There is also urgent need to have enough judicial officers, not just competent ones, but enough officers to try all corrupt persons and other wrongdoers.

Mr. Temporary Deputy Speaker, Sir, you will find that certain parts of the country have just one magistrate who is supposed to handle so many matters that even before he goes to court, he has already given up. You will find that there is only one judge covering a whole province. For instance, the entire South Nyanza, that is now composed of five districts, namely, Homa Bay, Migori, Suba, Kuria and Rachuonyo Districts, is being served by a judge who sits in Kisii Town. That judge also serves Kisii, Trans Mara and Kericho Districts. So, you will find that in a particular day, and you know that in matters of high profile there is legal representation, the judge is unable to handle even a single case. So, even if this very beautiful creature that we intend to create in this legislation is put in place, we will still not have enough judicial officers who will try wrongdoers and send them to jail. You will also find that large areas are served by only one State Counsel. So, if we have only one State Counsel serving as many as 10 districts, I believe that it is inadequate in terms of service and personnel. Even if we pass this beautiful piece of legislation, again it will not work because we do not have enough personnel as prosecutors to put it into action. We will also not have enough personnel in terms of judicial officers to put it into action. So, when we pass this Bill - I believe we will do so - the Attorney-General or the Minister concerned should also start thinking on how to increase personnel in areas that are understaffed. He should also start thinking on how to handle the Judiciary, which has been the public's enemy number one, in terms of fighting corruption and legislations that are passed by this House.

In fact, sooner or later, the judicial officers should be discussed by this House, because if they are not discussed by anybody, they are going to think that they are on top of the world, and that they are not answerable to people. The Executive, which is headed by the President, is answerable to the people because after every five years, the President has got to seek votes from the people and he has to do what people expect him to do. The legislator is answerable to the people because, after five years, he or she has to seek mandate from the people and they would generally scrutinise what he or she has been doing as a legislator. So, there is urgent need to make the Judiciary accountable.

Mr. Temporary Deputy Speaker, Sir, in other democracies, judicial officers are elected and when these officers are appointed, their appointments are vetted by the parliamentary committees. So, we need also to look at them because they seem to be the biblical tree behind which corrupt people hide. When I refer to the biblical tree, I am calling upon hon. Members to remember the story of Adam, when he ate the forbidden fruit at the Garden of Eden. When God came to look for him, he was hiding behind some shrubs and he told God that he was naked. I think the Judiciary is like that tree where corrupt people are hiding behind. We, hon. Members, as people who are committed to fighting corruption, cannot get them.

With those very few remarks, I beg to support.

Mr. Ndicho: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. I intend to take about 10 minutes because I know other hon. Members want to contribute to this Bill also.

This is an important piece of legislation which has been brought to this House by the Attorney-General so that he can help this country curb corruption. But I have got a problem with the English used here. The Attorney-General is bringing a Bill to the House, which he calls: "The Corruption Control Bill". Now, when I look at the use of the word "control"--- The Attorney-General tells us that, the enactment of this Bill will replace another law which is called "Prevention of Corruption Act, Cap.65".

Mr. Temporary Deputy Speaker, Sir, here in Kenya we have a law which was brought to the House by the same Attorney-General. This law was supposed to prevent corruption so that it does not happen at all! The Attorney-General wants us to remove that Act that prevents corruption, and he wants now to bring a Bill to the House that controls corruption. Corruption is still there, but under "controlled" parameters! What are we talking about? We replace a law that is preventing corruption and bring a law that is only controlling it!

What we are learning here is that corruption will still exist in this country, but at controlled levels!

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): Mr. Ndicho, would you like to be informed?

Mr. Ndicho: Of course, yes, Mr. Temporary Deputy Speaker, Sir. He is my buddy!

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir. I just want to inform the hon. Member because, maybe, he was not in the House when I moved the Bill. I informed the House that at the Committee Stage, I will bring an amendment to the name so that it will be called "The Kenya Anti-Corruption Commission".

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, the Attorney-General is right to say that I was not here. He has said that this body will be called "The Kenya Anti-Corruption Commission" This is just a matter of semantics; playing about with words. Even that adds to nothing.

The issue is, and I would like the Attorney-General to prove me right or wrong; does it mean that, today, we do not have laws which prevent corruption in public and private offices? We have these laws in place. Today, if somebody is caught stealing either Government or parastatal money--- If somebody is arrested today for having

engaged in corruption before we enact this Bill into law, does it mean that, that person would be set free and told that he is so lucky because we are trying to enact a law, and if we had enacted it, we could have locked him up? The position in which we are today is that there is a vacuum. If anybody is caught in corrupt deals, he will not be charged in a court of law or arrested because there is no law. When the law-making process is at this stage, it means that if somebody is arrested, no action can be taken against him or her.

Mr. Temporary Deputy Speaker, Sir, as a student of law, I am getting a lot of problems with the kind of Bills that our Attorney-General brings to this House. This is because if the laws which we have in place are adhered to, all these issues would be addressed and we would not have any corrupt person in this country. It is, therefore, important that we are serious about this issue. Who is the author of this Bill? Who came up with the idea that in Kenya there should be an Anti-Corruption Commission? Is it we, Kenyans? Is it the leadership of this country, or is it people from out of this country who say that in order for them to be partners in development, we must have this law in place? If this Bill is not from us, then we are doing absolutely nothing. This is just like salvation. For you to accept salvation, it must come from deep inside your soul. So, if it is the World Bank and the International Monetary Fund (IMF) who are telling Kenyans that they must come up with such a law, I would like to tell them that Kenyans are very smart people. We shall pass this law here, but corruption will not be eradicated. In fact, it will be what President Moi called "high-tech corruption."

Let the Americans, the British and the Europeans not tell us that there is no corruption in their countries. It is there, but at high-tech level. So, this is a vice. This is a problem that has affected everybody in this country. There is nobody who has been spared. As Mr. Ochilo-Ayacko said, we should be the ones to say that from today, we will stop this vice because it has ruined our economy, country and everything.

Mr. Temporary Deputy Speaker, Sir, this afternoon, the Minister for Education informed this House that when some students from Kalawa Secondary School were caught cheating in the exam, the invigilators, supervisors and everybody else was sacked by the Ministry. This is because they assisted the students to cheat in the examination. If you ask yourself why the invigilators and supervisors did this, you will find that, possibly, they were given some money to allow the students to collude and cheat. So, corruption is an evil that is in the system of Kenyans, and it needs divine grace from heaven. That is the reason why we put a lot of effort to pray every Wednesday morning for this country, so that these things can change. Our prisons and police force will not change this vice unless there is divine intervention. The Attorney-General says this authority will be an independent body, but if you look at the appointing authority, it is clear that this Authority will never be an independent body. For example, if I will be appointed a Prime Minister with all the powers in the next Government, and my son is involved in corrupt acts, do you want to tell me that I will allow him to be prosecuted? If the Prime Minister's son is caught stealing, do you think he will be prosecuted? The Prime Minister's power will intimidate the authority. Therefore, this authority will never be independent.

Mr. Temporary Deputy Speaker, Sir, the authority is also supposed to be reporting annually to the National Assembly and to the Minister about its works and activities. The Attorney-General must tell us whether he is ready to arrest the people who engage in corrupt activities or he will wait for this Bill to be enacted into a law. There are permanent roadblocks from Nairobi to Thika, which are a nuisance to motorists. It is a pity that the police officers on these roadblocks have never impounded a car with guns or thieves. In fact, it is very interesting because Kenyans see what those police officers do on those roadblocks everyday. For the information of the Chair, if you are driving a roadworthy vehicle in a good condition, then you are an enemy of those police officers. They want to see an unroadworthy car because the more unroadworthy it is, the bigger the bribe. Today, if you drive a good car along those roadblocks, the police officers will scold you and ask you: "*Kwani unafikiri tunakula nini?*"

Mr. Temporary Deputy Speaker, Sir, I hope when the Attorney-General travels to Western Kenya he sees the number of road blocks I am talking about. I wonder whether he has ever bothered to ask those police officers how many cases they have ever taken to court. He will not be shocked to find that they have never taken a single case to any court. It is sad that those road blocks are there from January to December. May be the Attorney-General and the hon. Ministers cannot notice those road blocks because the moment those police officers see their vehicles, they quickly remove those road blocks. When they know the President is touring those sides, they remove the road blocks and they salute the President and his entourage. What are we really trying to do with this Bill if the Attorney-General cannot prosecute those people who are currently involved in corrupt dealings in this country?

Mr. Temporary Deputy Speaker, Sir, there is a problem between the teachers and the Government on the contentious salary award issue. Teachers in this country are poorly paid. Therefore, they have to start tuition in their schools in order to supplement their meagre salaries. Students are taught extra time so that their parents can pay teachers some money. This practice has been outlawed by the Government, but it is still going on. If this Government pays teachers well, then they will not involve themselves in this tuition. The Government sees tuition in schools as a means of fleecing parents of a lot of money. We, as hon. Members, would like our salaries to be increased because it is

not enough. But I would urge that before this Government increases our salaries, it should first of all increase the teachers' salaries. It will be morally wrong for this Government to increase our salaries without considering the plight of teachers. If we increase our salaries without increasing teachers' salaries, then we cannot convince Kenyans that whatever we are doing for ourselves is not corruption.

Mr. Temporary Deputy Speaker, Sir, all I know is that, if the Attorney-General is serious, then he can use the existing laws and arrest all these people.

Finally, Part 3 of this Bill provides for investigation of matters by the Authority. It states:-

"The Director or a person authorized by the Director may conduct investigation on behalf of the Authority".

How sure are we that these investigators are not going to be corrupt? It could turn out to be a vicious cycle. It also states that, the powers of this Authority, alongside other issues, will be to arrest and charge suspects. This would be a duplication of another set of laws; the Police Act, which empowers the police to arrest and to charge suspects. How is the Attorney-General going to synchronise this provision? There would be two sets of people who can arrest and charge; the police on the one hand, and the investigators, as stated in this Bill. We may have another KACA where somebody could go to court and declare this Act unconstitutional and render all the time that has been spent in this House useless, as it happened last time. The Attorney-General should not have external influence or pressure, because this pressure has in previous instances made him draft Bills hurriedly, so that even his professionalism is not put into the Bill.

Mr. Temporary Deputy Speaker, Sir, Part IV 44 of this Bill lays down the judgement. It states that:-

"A person convicted of an offence under this Part shall be liable to a fine not exceeding Kshs1 million, or to imprisonment for a term not exceeding ten years, or both".

We should not have the word "or" in the Bill, because it means a lot in law. If, for example, somebody has made Kshs100 million out of corruption and then he is taken to court and fined Kshs1 million, he will simply pay and go home smiling.

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir, I agree with the sentiments of the hon. Member. In fact, when I was moving the Bill, I indicated that, that section is going to be amended to include, in addition, the person would pay twice the value of the loss, advantage or benefit. For example, if somebody has stolen Kshs20 million, he would have to pay Kshs40 million, and in addition pay up to Kshs1 million or imprisonment.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, the Attorney-General is agreeing with me that he wrote this Bill hurriedly. He should have noticed these mistakes before we reached this stage.

Mr. Temporary Deputy Speaker, Sir, in the Bill, it is also stated that, the court convicting any person of an offence under Part 4, may order restitution of property to its rightful owner.

I am sure the Attorney-General knows the difference between the words "may" and "shall" in law. So, there is a loophole here because the courts are being given the freedom to either retribute or not. There should be an amendment to state that, the court convicting such person of an offence under Part 4, "shall" order restitution of property.

Otherwise, this is a good Bill, and we all support the efforts of the Attorney-General. I would also like to thank our foreign masters, because had they not put pressure on this Government, this Bill could not have been brought to the House.

Mr. Omingo: What?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, protect me from the hon. Member for South Mugarango. He will have his time and say what I have not said. If I have made a mistake he could correct it.

The Temporary Deputy Speaker (Mr. Musila): Ignore him and continue!

Mr. Ndicho: I cannot ignore him because he is my buddy! So, all I was saying is that those are good efforts and we know that if they are entrenched in the Constitution and made law, it is going to add to the other laws that we have. We expect to see the first person who will be arrested. That way, we shall know that the Attorney-General is serious.

Before I sit down, there is something that I wanted to say. If you look at the things that the Attorney-General has said have been done and ask: "Who has done these things in this country?" It is people from the Government side. Look at Part IV which sets out a range of offenses involving bribery. Now, who is bribed? It is people who have got authority and are in the Government who are bribed to give way. They are given bribes as inducement for advice and, therefore, those are improper benefits. The Attorney-General has put down all the things that have been done in this country. He has put improper benefits, abuse of office--- You know, the Opposition have no office! It is your guys there who have Government offices.

I am very happy that today, the Government has suspended two District Commissioners. There is one called Mr. John Litunda, and another one. They have been suspended for abuse of office. That man was in my district. He

came to start it. I know how he can abuse his office. I am surprised that the Government has taken many years since 1994 when he was made a District Commissioner, to realise that he is an abuser of Government office.

With those many remarks, I beg to support.

Mr. Khamasi: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute on this Bill. First of all, I want to start by saying that, if you look at the manner in which the Bill has been brought to the House, it speaks volumes for itself because there is a Supplementary Order Paper. That means that the House Business Committee did not agree on this order. The original Order Paper that we have has got something else. It has the Sugar (Amendment) Bill and the Domestic Violence (Family Protection) Bill which are very important to us. You can see that this is an inducement. The Attorney-General has been forced to bring this Bill here! He knows who has forced him to bring this Bill. He should be bold enough to tell us who forced him to bring this Bill this afternoon. This is not the order of the House Business Committee.

Mr. Ochilo-Ayacko: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the very able Member to claim that the Attorney-General is under pressure to bring this Bill, when the Constitution says that when discharging his functions, he shall not be under the direction of any authority? Could he substantiate those allegations?

Mr. Khamasi: I do not know what my colleague is talking about because I am talking about what I am holding in my hands. I know that there is an Order Paper for today, and then we got a Supplementary Order Paper. Therefore, I have got my own reasons, unless he can tell me that my reasoning is completely out of order!

The Temporary Deputy Speaker (Mr. Musila): Continue and make your point!

Mr. Khamasi: Mr. Temporary Deputy Speaker, Sir, I would like to make a few points. Having said that, I do believe, and I would like to agree with my colleague, Mr. Ndicho, that this is one of the Bills that he wants to enact into law to appease certain people and then put it on the shelves. It will be of no value to us. If there was a stranger here who does not live in Kenya and listened to the Attorney-General because I was here for more than one hour when he was moving this Bill, he or she would think that this Government has woken up and is going to do wonders as far as elimination, reduction or control of corruption is concerned. He said: "Kenya has declared war on corruption." That is one of his statements. He further said: "We are going to have zero tolerance for corruption." Those words came from the Attorney-General who lives in this country and he knows very well that there is no war on corruption. He knows that this Government does not have zero tolerance for corruption.

Mr. Temporary Deputy Speaker, Sir, corruption has done havoc in this country and everybody knows that. As rightly said by hon. Prof. Anyang'-Nyong'o, the people who have done havoc as far as corruption is concerned, form a very small fraction of the population of this country. It has permeated into virtually every sector of our lives. If you go to the Government Public Service, there are problems. Corruption is virtually everywhere, from the gate to the highest office. The NGOs are permeated with corruption. Religious societies, as my colleague said here, are worshipping the most corrupt individuals because they are contributing the biggest amounts of money to churches. Professional bodies like the Law Society of Kenya (LSK) are completely corrupt. The same applies to the Judiciary, Police and what-have-you. There is no institution that has been spared and I wish the Government was sincere that they, indeed, want this Bill to be an Act of Parliament, and they will apply it but I am very doubtful about that.

Mr. Temporary Deputy Speaker, Sir, because hon. Members have contributed quite a bit on this Bill, I would like to ask one question which I would like the Attorney-General, when he is replying, to tell Kenyans, so that they are sure that he is serious, or the Government is serious in bringing this Bill here to be enacted into a law. The KACA was very strong and it was doing a good job, but its work was curtailed in a mysterious manner. People complained all over the country about what the Judiciary had done to bring KACA to an end. People from all walks and sectors of life asked this Attorney-General to appeal against that decision. This Attorney-General deliberately refused to appeal against a decision made by one judge. He refused and he did not explain the reasons why he refused to appeal against that judgment, and yet the original Bill on KACA was exactly doing what this Bill is proposing to do. Could this Attorney-General explain, when replying, why he did not appeal against that decision?

Mr. Temporary Deputy Speaker, Sir, I agree with the Attorney-General that, if we are supposed to succeed in this Bill, we must strengthen our institutions. He is very right that our institutions must be strengthened. He started where he is very well known and where he operates on a daily basis; the Judiciary. It must be strengthened. We wonder what he is doing to strengthen the Judiciary when people who are supposed to dispense justice can set free a man who has defiled a four-year girl, to go and walk in the streets, and we are talking about strengthening it. We should be strengthening all the institutions we have. Parliament, for a long time, has been a rubber stamp of the Executive in this country. We have been working very hard to relinquish ourselves from the strong hands of the Executive, and more often than not, we have had a lot of problems doing that. Parliament must be strengthened and it must be independent of the Executive, if we are going to be zero-tolerant on corruption.

Mr. Temporary Deputy Speaker, Sir, there is a sector which we have talked about here several times. The

Kenya Broadcasting Corporation (KBC) in itself is corrupt because it only talks about what goes on, on that side of the House. It reports on what the Attorney-General has done, and what Mr. Mudavadi and Mr. Raila did the other time in Chavakali, while discrediting the National Alliance for Change (NAC). It also reports what Mr. Nassir said; that if Mr. Nyachae goes to the Coast Province, he will be crucified and so forth, and yet, they cannot liberalise the airwaves. This is corruption. Now, they are coming here with a Bill pretending that they want to control, or reduce or regulate corruption. We must be sincere with ourselves. I do not think we are sincere by bringing this Bill here at this point in time. I know there is a reason why this Bill is being brought here to be made into law which will be put on the shelves, and that will be it.

Mr. Temporary Deputy Speaker, Sir, let me just pick a few items in the Bill which I would like to comment on. As I said, I want to give credit to the Attorney-General, because despite having been forced to do what he has done, he has tried very hard. We must commend him for that. I am happy because under Clause 13 on page 443, the Attorney-General has agreed that he will include section (xii); Kenya Medical Association of Kenya, because the Bill has only reached section (xi). That is where there is the biggest corruption that you can ever think of, where all sorts of stealing takes place day in, day out. I am happy that he is going to include that. That is an area whereby people are dying daily for lack of medicine. Medicine which is procured by the Government goes to the private hospitals and dispensaries.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think Mr. Munyasia is not properly dressed to be in this House.

The Temporary Deputy Speaker (Mr. Musila): How is Mr. Munyasia dressed?

Mr. Khamasi: Can you stand up?

(Laughter)

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, I am dressed in the official Philippine dress. It is called *Barong*. Under it, there is a vest.

(Laughter)

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Munyasia, I would have liked us to go on, but you are now introducing the Philippino National dress. We are not in the Philippines, you know! Therefore, I think you are not properly dressed and you should withdraw from the Chamber.

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Munyasia): Order! Mr. Munyasia, there should be no arguments.

Mr. Munyasia: I am not challenging your ruling, Mr. Temporary Deputy Speaker, Sir. It was only a few weeks ago that we allowed Nigerian and Ghanaian dressing here and I thought the Philippine national dress would also be allowed here.

The Temporary Deputy Speaker (Mr. Musila): For the moment, I have made a ruling. You will withdraw from the Chamber with your Philippine national dress.

(Mr. Munyasia withdrew from the Chamber)

Mr. Khamasi: Mr. Temporary Deputy Speaker, Sir, it is good that, at least, somebody who was dressed improperly had to go out.

I also want to comment on Clause 32 which says that this House shall be getting quarterly reports from the advisory board. I would like to know from the Attorney-General, when he is replying to the Bill, what happens when these reports are not submitted quarterly as required by this particular clause. It is necessary to know what the Attorney-General wants to do. I am very impressed about Clause 60 on protection of informers. I think this is very necessary, but only if this Bill will work. More often than not, informers' lives are at risk, particularly in drug trafficking, where a majority of senior police officers are involved. There are people who engage in drug trafficking and yet when informers give information about this, nothing happens. If the informers do give that information, more often than not, the informers land into real problems. The identity of the informers should not be disclosed so that they can be encouraged to come forward and give the information.

One thing I am interested in regarding this particular Bill is the issue of unexplained wealth. I do hope that we will enact this Bill and implement it to the letter. We see with astonishment what happens to very junior civil servants in this country regarding the amount of wealth they own. It is impossible to explain how a clerk in a DC's office or the

Kenya Revenue Authority can own flats and houses in this city in upmarket places, but he cannot explain to you where he got the loan to put up those flats. We must follow up and find out how such persons got their wealth. Civil servants in this country are very poorly paid, not because of their own mistakes, but rather because we have structured our salaries in the wrong way. It encourages civil servants to be corrupt. So, you find a very junior civil servant with so much wealth in the form of property. If this Bill becomes law, therefore, we must investigate and find out how these people acquired their wealth.

Mr. Temporary Deputy Speaker, Sir, I am glad that the Attorney-General said that the investigations will not be carried out on just a million shillings. In fact, that came as an after-thought, which is good. I think this is the first time the Attorney-General has been given advice which he has acceded to. Some people in this House have stolen millions of shillings from public coffers, while others have stolen billions of shillings from corporate bodies. Some of the thieves of public funds walk freely in the streets, while others are sitting Members of this House. We would like all of them to explain how they got their wealth. If any, they should tell us the banks from which they borrowed money and generated their wealth out of it.

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Mr. Khamasi has said that some of the people who have stolen public funds are seated in this House. Could he name them?

Mr. Khamasi: Mr. Temporary Deputy Speaker, Sir, the hon. Member knows very well that it is against our Standing Orders to discuss the conduct of an hon. Member without moving a substantive Motion. So, with those few words, I would like to commend the Attorney-General for doing very well a job which he has been forced to do.

I support the Bill.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I thank you very much for giving me the opportunity to contribute to this debate. I would like to reiterate what has been said earlier in support of this Bill, that it is a good initiative, but it needs strengthening before it can be capable of being used, to carry out the task that it is intended for.

I would like to join the Members of this House's Select Committee on Corruption in saying that the experts hired from the United Kingdom did not bring any expertise; they just reiterated what is in the Kombo Report, and which had already been adopted by this House. So, we did spend money corruptly by paying people for work not done. We hope that, that mistake will not be repeated. I want to remind the Attorney-General that this House did accept the Kombo Report. The only amendment to that Report was the deletion of the names from the "List of Shame". So, as we speak, there is a resolution of this House, adopting the Select Committee's Report, with the Bill annexed. What better place is there for us to look for amendments to strengthen this Bill than the Kombo Report, which was adopted by this House?

Mr. Temporary Deputy Speaker, Sir, I want to begin by saying that the title of the Bill does suggest that corruption is now officially accepted, and that all we intend to do is to control it. In other words, the title gives the wrong message. If we intend to have zero tolerance for corruption, let even the heading of the Bill speak about it. Let it be an "Anti-Corruption Bill" and not a "Corruption Control Bill". That way, it will appear as if we want to determine through which channels corruption should flow. I think that needs some work, and I am sure that there are already suggestions.

I have looked at Clause 4 of the Bill, which is about the functions of the authority being sought. Sub-clause 2 of this clause provides that a matter may be investigated by the authority at the request of the National Assembly, or the Attorney-General, on receipt of a complaint, or it may do so on its own initiative. I very much appreciate this clause because Parliament, as a watchdog, had in successive reports called for prosecution of people who have embezzled public funds or misused office. This has come to nought. This clause will enable Parliament to follow to the logical conclusion recommendations regarding persons holding public office and who abuse office.

Mr. Temporary Deputy Speaker, Sir, clause 5 which talks about the Director and staff of the Authority is suggesting that the Director and Assistant Directors be appointed by the President on the recommendation of the Advisory Board, with the approval of the National Assembly. I have no quarrel with that, but we need to safeguard against certain issues of patronage which would make the Director and Assistant Directors feel like that they are answerable to the Executive. But I note that since the National Assembly will be involved, the clause should be strengthened to be quite clear; that, once the Board makes recommendations and the National Assembly approves, the President will only perform the ceremonial role of naming the person as duly appointed.

Under clause 6, the Director is given powers to appoint his deputy and fire him. This should not be the case. We do not want to create a despot out of the Director. Let the appointments of the Director and his deputy - which are senior appointments - be made by the Advisory Board. Let the Director not have the powers to fire his deputy. Let that power be vested in the Advisory Board, to which the Director can recommend the removal of his Deputy, and this Board will investigate. Otherwise, we shall be creating a despot, which is not the best way to fight corruption.

Mr. Temporary Deputy Speaker, Sir, under Section 10, or is it yet to be clause 10 subsection 4? They are yet to become sections. It is said that the Director shall cause estimates of the revenue and expenditure of the Authority to

be prepared and submitted to the Minister and Treasury for approval. I have a quarrel with this. We do not want an anti-corruption body that is controlled by the Executive. The Executive can control this body through the budgetary measures. This clause ought to be amended and submitted to the Minister for approval, in consultations with the relevant Committee of Parliament. That provides checks and balances so that this body is not strangled through denial of resources because it is not heeding to the whims from the Executive.

Regarding clause 12 of the Bill, subsection 2, it says that the Director shall submit the annual report to the Advisory Board and the Minister within four months at the end of the year which it relates to. Then, it says that the Minister will give the report to Parliament within a month. Why should this body not be answerable to Parliament and also to the Minister? Let the annual report be simultaneously handed over to Parliament and the Minister. It means that the Minister would have no opportunity to sit on the report and delay its transmission to Parliament. It also means that the Executive cannot influence the Minister to cause tampering of the report and deletion of names, like it happened during the debate of the Report of the Anti-Corruption Select Committee, before it comes to Parliament.

We know that the problem of corruption is real, because there are people who are in the Government - in the Civil Service and all walks of life - who have positions to protect because they have engaged in corrupt practices. We, therefore, need to ensure that this Report gets both to Parliament and, by extension, to the public unadulterated. I am suggesting amendments to that section. I have looked at Clause 32 which calls for quarterly reports to be delivered to Parliament. Similarly, the annual reports should also be delivered to Parliament. Clause 13, which talks about the establishment of the Advisory Board--- I like the composition of the bodies that are going to nominate members of the Advisory Board. But it has one serious deficiency. That clause does not give the term of office of the Advisory Board. I am proposing that the term of office for the members of the Advisory Board be two years, and members should retire on rotation, so that during the first year, half the members should retire and in the second year, the next lot to be first appointed should retire.

Mr. Temporary Deputy Speaker, Sir, I have seen that security of tenure is introduced under Clause 17(3), where it states: "The chairman and vice-chairman of the Advisory Board which is there currently, will come as a baggage to the new Board until enough members of the new Board are appointed." This clause is ambiguous and can be mischievous. Left as it is, it will introduce the mischief that the current chair and vice-chair, together with the Board, can remain in office for a long time. But the term of office is not spelt out and the answer we will be getting in this Parliament is that the other Board has not finished its term. Why do we want to introduce security of tenure for the current chairman and vice-chairman? If we are introducing a new method of appointing them, which includes consultation with various bodies, why do we want to retain people who were not nominated through a good process? Let us propose that they should remain in office for not more than a month after the passage of this Bill. This Bill has a mechanism of appointing a new Board within a month. So, let them remain in office for an extra one month. If they are lucky enough to be proposed by the nominating body, they can come back. But now, it looks like someone has vested interest in the chair and the vice-chair of the current Board. That may be an act of corruption!

Mr. Temporary Deputy Speaker, Sir, I have also looked at Clause 17(2) where we are saying that "the members so nominated shall be appointed to their respective offices by the President." That is the Members of the Advisory Board. I have no quarrel with that, so long as we are explicit enough to state that after nomination, the role of the President shall remain merely ceremonial, because we are trying to democratise the nomination of the members of the Advisory Board.

Under Clause 27, I am worried about the power to obtain *ex parte* orders without a saving clause where anybody aggrieved by those orders can request the court for an *inter parte* hearing within one month, so that we do not encourage oppressive conduct by the Director or any other person. Let the details come out as to why a certain person must be investigated. After all, our system of justice is such that nobody can be condemned unheard. Let what is happening be in the public domain. If the failure will be in our courts, we shall know.

Clause 31 states: "Following the investigations of the Commission, they shall report to the Attorney-General on the results of the investigation and the report may include recommendations the Commission may have, that a person be prosecuted." I notice that this has been put here because the last anti-corruption authority was disbanded by the courts on the allegation that it was unconstitutional, and that we could not have two parallel prosecuting authorities. This is an undesirable situation. Let the Attorney-General propose constitutional amendments so that, eventually, we can underpin the anti-corruption body in the Constitution to ensure that it is unassailable and can prosecute directly. If all was well with the prosecution section of the Attorney-General's Chambers, we would not need this authority. We have a structural problem because the Attorney-General is part of the Executive by virtue of being a Minister. Where we have a Minister of Justice and an Attorney-General who is not part of the Executive, this kind of arrangement can work. But in the Kenyan context, we need an anti-corruption authority that is underpinned in the Constitution to avoid its being given directives by the Executive.

Finally, I am proposing that there be a new offence created by this Bill. This should be the offence of

deliberate failure to perform duty and reckless performance of duty. What should happen to an engineer who inspects a road and says that it is up to standard while it has been shoddily done, or has not been done at all, and then causes the Government to pay the contractor? What if another professional is not doing his work properly? The law now provides that the Kenya Broadcasting Corporation (KBC) should report in a balanced and fair manner. What can we do to the news editor who continually allows only the ruling party and its cronies to air their views? We need to be able to pin down somebody who fails to obey the law. This should be a person with a name and not a corporation. So, we need a new offence. It is an act of corruption to continue to use KBC as a propaganda tool for the ruling party. We want to be able to catch somebody. If we, as leaders, do or fail to do something, we need also to be caught by this proposed law. I will bring an amendment to the Bill if the Attorney-General does not do it, but I am proposing that there should be a new offence.

Clause 58 has proposed that when a public officer has been convicted of an act of corruption, he should be removed from his job. I am opposing this. That will be too late. Somebody should be suspended from his job the moment he is arraigned before a court of law. That is the way it should be.

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir. I just want to inform the hon. Member that, in fact, when I was moving the Bill, I said that we shall amend it so that as soon as somebody is charged in a court of law, he is suspended from his job at half-salary.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I am just reinforcing the fact that, that is the way forward.

Finally, Clause 59(2), in my view, should be deleted. We do not need this subclause at all. This is the subclause that is dealing with disqualification of a person if he is convicted of a corruption offence. Clause 59(2) reads: "This section does not apply with respect to an elected office if the Constitution sets out the qualifications for office".

If a person has been convicted of a corruption offence, does it mean that we will let him rely on the Constitution, vie for an elected office and come here to continue voting against Bills that will be intended to outlaw corruption? I am calling upon the Attorney-General that instead of saying that Clause 59(2) does not apply to an elected constitutional office, he should propose an amendment to the Constitution which will not only give the proposed body the right to prosecute directly, but which will also make elected offices be just like any other public office. The law must set the standards for Kenyans. We should not allow even elected offices to be occupied by convicted felons.

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

The Minister for Trade and Industry (Mr. Biwott): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill. In supporting the Bill, I will only dwell on one or two aspects of it, since I have been associated with the Bill in its earlier stages. I think it is a very good Bill.

Mr. Temporary Deputy Speaker, Sir, mention has been made of experts, and there was also a suggestion that we, in the East African Community, should look for avenues where our many experts can be deployed and utilised. I do agree entirely that Kenyans are well educated, have got a lot of experience and can actually contribute to the reduction of corruption. However, there are, in fact, experts who are available somewhere else. But that is not to say that we cannot access other experts from other places; even if it is not for any other purpose, except to cross-fertilize. This is because it is always better to have somebody else's opinion to come and reinforce the one which you have. I believe that what the Attorney-General did in bringing those high-level and highly respected persons from the United Kingdom, who are known for integrity and who had been associated with a similar endeavour in Hong Kong, is excellent. So, the mere fact that they came and endorsed ours should be a source of encouragement to us that, at least, our experts are as high as the rest in the world. This is because if they had come here and found us wanting, then that again would have given us the impression that, maybe, we need to do more. But I think we are doing more and it will also elevate our own position.

Mr. Temporary Deputy Speaker, Sir, there is no law in the world that can stop corruption or any malpractice. If the agent himself is not integrated; if the culture of the person himself does not include the need for such integrity. Therefore, I do agree entirely that in Section 4(2)(G) of the Act, there is a provision for educating people and emphasis has been put on education. We need to educate our people so that they can see corruption as evil, unbecoming and anti-social, so that our people can conduct themselves in an upright manner. If, in fact, our culture had an in-built mechanism to lock out corruption, and to ensure the existence of zero-tolerance of corruption, there would not be any need for a law, because the culture alone will automatically administer that. Nothing can be more efficient to deal with corruption than culture. So, I think there is need for moral re-armament in all Kenyans, to ensure that we really become a nation of integrity through our culture.

Therefore, in the implementation of this Act, we should put more resources to education so that the people will be able to know what is right and what is wrong, and what is the best way to do it. This can be done through institutions. We should strengthen all the institutions that are in existence, and the new ones to ensure that those who are employed in those institutions have got the necessary culture and integrity to undertake the responsibilities which

are assigned to them through that employment, in order to ensure that there is zero-tolerance of corruption.

Mr. Temporary Deputy Speaker, Sir, one of the biggest problems which we have today in industry and commerce is the cost of doing business, because corruption hurts business. The problem which Mr. Donde has been trying to correct through the Central Bank (Amendment) Bill, which may not be necessarily the right thing to do, is because of the high cost of starting business; which actually has made many people bankrupt. This is why everybody is interested in the Central Bank (Amendment) Bill. But, perhaps, Mr. Donde, might also reconsider a mechanism whereby he and the Minister for Finance can assist--

Mr. Ochilo-Ayacko: On a point of order, Mr. Temporary Deputy Speaker, Sir. I hate to interrupt my Organising Secretary, but is he in order to discuss a Bill that is yet to be debated?

The Temporary Deputy Speaker (Mr. Musila): Certainly, he is not! I believe that there is a Bill on that matter, Mr. Minister!

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, I did not intend to discuss that matter. I just mentioned it, but I did not go into the merits of the business. This law is required because we would like to reduce the cost of operating business in order to compete internationally. I would like to congratulate the Attorney-General for ensuring that we separate investigation from prosecution and judgement. This is because in order to get fairness, I think it is proper that those functions should be undertaken by different people. In order to do away with witch-hunt, I think it is very important that we ensure that whenever somebody gives his opinion at judgement, the mechanism involved is such that it cannot allow for witch-hunt, reclamation or other things.

I also agree with Ms. Karua on Section 27(1) on the *ex parte* agreement, because if this is not taken care of, it could be an abuse of the process.

Mr. Temporary Deputy Speaker, Sir, I can see that there are many hon. Members who would like to contribute. Therefore, I would like to limit my contribution.

With these few remarks, I beg to support the Bill.

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

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Obwocha! Mr. Donde is right to say what he wants to say.

Proceed, Mr. Donde!

Mr. Donde: Mr. Temporary Deputy Speaker, Sir, may the Mover be called to reply.

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

Hon. Members: But Mr. Donde is on a point of order!

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members! Mr. Obwocha is on the Floor!

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, before you make your ruling as the Chair, we appreciate what the hon. Members are saying. They are in a hurry, but this is a very important Bill. Some of us would like to contribute to this Bill, if the Chair can allow us before the Mover is called upon to reply.

The Temporary Deputy Speaker (Mr. Musila): I think I will simply put the Question so that I can hear what the House wants to do!

(Question, that the Mover be now called upon to reply, put and agreed to)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

First of all, I thank all the Members of Parliament who have contributed very positively to this Bill.

Very briefly, let me state again that although---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members! The Attorney-General is replying! Could you listen?

The Attorney-General (Mr. Wako): Thank you, Mr. Temporary Deputy Speaker, Sir.

First of all, let me say that this Bill has been brought to this House as part of a genuine commitment on the part of the Government in its war against corruption. The fact that it is one of the conditionalities cannot be denied, but the motivating force is not the conditionalities, but to ensure that we eliminate corruption in this country.

Somebody has talked about the experts. Let me state that as far as the expert in the House is concerned, he is one of the best legislative drafters that we have. As the Chair knows, my Chambers have had an acute shortage of

professional staff, and in particular, in legislative drafting. These experts have come and are working together with the local experts in drafting this Bill. So, I have no apologies whatsoever to make on that.

On the experts who were hired by the Government, I would like to agree with Mr. Biwott that they endorsed what we had done, but went further to enrich in a number of areas what can be part of the strategy in our war against corruption. If you read the report, you will find, for example, the issue of amnesty is not in this Bill. I agree that amnesty is a matter which has to be discussed and brought to this House for enactment. If you read this report, you will find that if we were to prosecute people from 1963 to date, the new Anti-Corruption Authority would take 20 years plus, just dealing with past cases and not current ones. They also tell you that the Hong Kong experience without the amnesty clause took off after three years. It never took off because there was no amnesty clause. In fact, the police invaded the offices and destroyed all the documents. It is only when the limited amnesty was enacted that the commission took off. Consequently, that commission is one of the leading examples in the world on the war against corruption.

Mr. Temporary Deputy Speaker, Sir, the constitutional provision is very clear, that you cannot create a new offence under any Act and make it act retroactively. This Bill does, in a number of cases, create new offenses because current offenses under the Prevention of Corruption Act and under the Penal Code are not adequate to deal with these issues. So, if you read Part VI of the Bill very carefully, we have expanded the area of corruption and economic crimes to be able to deal with these issues effectively.

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Attorney-General in order to mislead this House that there are offenses which are provided for under the Penal Code, Cap.65, which he now wants to include in this Bill? Would I be in order to ask him to name one of those offenses?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, for example, in this Bill, we have new offenses relating to the area of procurement, bidding process and so on. These are new offenses. We have new offenses of failure to pay your income tax and so on. Whereas before it was civil liability, now these are offenses. We have strengthened offenses which relate to corruption and economic crimes in this Bill. But in as much as it creates new offenses, those new offenses cannot be made to act retrospectively. That is the whole purpose of this Bill. For example, the Bill popularly known as the "Donde Bill" was struck out by the court because it had the effect of creating new offenses which were to be acted upon retrospectively.

Mr. Temporary Deputy Speaker, Sir, a number of comments have been made. Those comments will be studied very carefully. Some will be taken on board and they will be reflected in the amendments that will be tabled at the Committee Stage.

Once again, let me thank all the hon. Members for their contributions. I beg to move.

(Question put and agreed)

*(The Bill was read a Second Time and committed
to a Committee of the whole House tomorrow)*

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 8th May, 2002, at 9.00 a.m.

The House arose at 8.30 p.m.