

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 29th April, 1998

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

DISTINGUISHED VISITOR FROM PAKISTAN

Mr. Speaker: Order, hon. Members! Hon. Members, it is with great pleasure that I welcome a distinguished visitor, His Excellency Mr. Muhammad Ali, Federal Minister, National Council for Social Welfare from the Government of Pakistan. Mr. Ali is seated in the Speaker's Row and he is on a private visit to Kenya. May I take this opportunity to, on behalf of all hon. Members, wish the visitor a pleasant stay in our country.

Thank you.

NOTICES OF MOTION

MEMBERSHIP OF PENSIONS COMMITTEE

The Minister for Lands and Settlement (Mr. Ngala): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, pursuant to sections 19 and 20 of the Parliamentary Pensions Act, this House:

(a) appoints:-

(i) The hon. Joab H.O. Omino, M.P.,

(ii) The hon. Mathews A. Karauri, M.P., and,

(iii) The hon. John N. Michuki, M.P., to be Member of the Management Committee; and,

(b) appoints the hon. Joseph K. Ombasa, M.P., to be a Member of the Appeals Tribunal.

PAYMENT OF SALARIES IN LOCAL AUTHORITIES

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

THAT, noting with great concern the financial problems that face most of the local authorities in this country; and noting that councillors are elected by the tax payers, this House resolves that:-

(a) the Central Government pays salaries and allowances to councillors and chief officers of local authorities;

(b) revenue from the councils and services charge revenue be strictly used for maintaining services in the councils and payment of salaries for junior staff; and,

(c) the chief officers be transferred to another council after serving three years in one council.

CENSURE OF HON. H. LOTODO

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

THAT, considering the role responsible leadership plays in the nurturing of harmony between the people of our country; conscious of our unique responsibility as people's leaders to heal wounds of past animosity among the peoples of our country; determined to protect the integrity of our calling by resisting forces of hate and division arising among us; knowing the important role the Ministers of Government have in the challenge of fighting ethnic hate, this House censures the hon. Francis Polis Lotodo, M.P., for diverse utterances he has made which have

contributed to the flare-up of ethnic animosity between the Pokot and their neighbours, and have had a negative impact on our sworn duties of nurturing national harmony and integration.

ORAL ANSWERS TO QUESTIONS

Question No.133

ASSAULT BY ASSISTANT CHIEF

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

(a) whether he is aware that the Assistant Chief of Kimatuni Sub-Location of Bumula Location and his four village elders assaulted and injured Messrs. Justus Marango Kong'ani and Kong'ani Lumbasi Wakhungu on 1st November, 1997;

(b) whether he was further aware that P3 forms were issued, filled in by the District Medical Officer on 5th and 6th November, 1997, but no action has been taken against the assistant chief, though the matter was reported at Bungoma Police Station on 2nd November, 1997; and,

(c) when the assistant chief and his four village elders will be taken to court.

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

I am not aware of any such incident happening on the 1st November, 1997, as put by the hon. Member. Therefore, parts (b) and (c) of the Question do not arise.

Mr. Sifuna: Mr. Speaker, Sir, it is very surprising that the hon. Minister is not aware of this incident. I have got the P3 forms with me here. They were filled in by the Medical Officer. Surprisingly, the police officers have confirmed this incident. Would the Minister, therefore, go back and get a proper answer, so that when he comes to this House he can give a proper answer. He should not say that he is not aware of the incident, when all documents are with the police officers in Bungoma District.

(Mr. Sifuna laid the documents on the Table)

Mr. Obwocha: On a point of order, Mr. Speaker, Sir. Is hon. Sifuna in order to table the documents while he is on your right-hand side rather than being on your left-hand side since he is an Opposition Member?

Mr. Speaker: I will think about that. Would you like to respond, Maj. Madoka?

(Laughter)

Maj. Madoka: Mr. Speaker, Sir, I still stand by what I have said in this House. I will look at these P3 forms and come back here with an appropriate answer.

Mr. Sifuna: On a point of order, Mr. Speaker, Sir. Since the hon. Minister has accepted to look at the documents and report back to this House his findings, can he tell us exactly when he is going to come back with a relevant answer now that he is aware?

Maj. Madoka: Mr. Speaker, Sir, I will come back tomorrow in the afternoon to give a proper answer to this Question.

Mr. Speaker: Well, the Question is deferred.

(Question deferred)

Question No.163

DISAPPEARANCE OF MR. KOTHINE

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

(a) whether he is aware that Mr. Kinyuru Maingi of Kothine Village, Igoki Location in South Imenti, disappeared from his home on 5th December, 1997, and has not been seen to date;

(b) what were the circumstances surrounding the disappearance; and,

(c) what steps the Government has taken to confirm whether Mr. Kinyuru Maingi is dead or

alive.

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

I am aware of this incident. Mr. Kinyuru Maingi went to the market to sell a cow and he never returned home. Investigations have been carried out, but so far, we have not been able to establish whether he is still alive or dead. However, investigations are still going on.

Mr. Murungi: Mr. Speaker, Sir, it is quite a long time since February, 1997, when Mr. Kinyuru Maingi disappeared from his home. You can imagine the number of sleepless nights that his wife and family have spent. Even Jesus said that a shepherd should leave 99 sheep to go and look for one lost sheep. What specific measures has the Government taken to look for that lost one person, whom we do not know whether is alive or dead?

Maj. Madoka: Thank you very much, Mr. Speaker, Sir. We are aware of the position of the family and we do sympathise with it. All that I can confirm is that this information has been circulated to all police stations and that we are still pursuing the matter.

Mr. Murungi: Mr. Speaker, Sir, recently, I visited this village and I was informed that Mr. Kinyuru had already sold his cow and he was last seen drinking traditional beer in the company of a woman. In view of the mystery surrounding the case, could the Minister confirm to this House that he will open an inquest file so that the villagers who were drinking around him could give evidence?

Maj. Madoka: Mr. Speaker, Sir, I would like the hon. Member to ask his people to volunteer any useful information they have to the police so that we can pursue the case.

Mr. Speaker: Next Question, Mr. Owino Achola.

Mr. Achola: Thank you, Mr. Speaker, Sir. Before I ask Question No.064, I would like to state that I have not received the written reply.

Question No.064

DELAY IN HARVESTING SUGAR-CANE

Mr. Achola asked the Minister for Agriculture:-

- (a) whether he is aware that SONY Sugar Company in Migori District has failed to harvest contracted farmers' sugar-cane most of which is over 48 months old;
- (b) if the answer to "a" above is in the affirmative, what caused the delay in harvesting; and,
- (c) what action the Ministry is taking to save the sugar-cane farmers in Migori District from incurring further financial losses due to delayed harvesting.

The Minister for Agriculture (Mr. Mudavadi): Thank you, Mr. Speaker, Sir. I will ensure that the hon. Member gets a written reply as soon as I have responded, and I apologise if he did not get it earlier.

Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there is some backlog of mature cane which has not been harvested on time by the SONY Sugar Company. In this regard, an estimated 2,122 tonnes of cane of over 48 months, which is about 0.23 per cent of the total cane in Migori District, is yet to be harvested.

(b) The SONY Sugar Company has not failed to harvest the contracted farmers' cane, but there has been delay in the harvesting because of, one, poor roads and lack of adequate transport to deliver cane to the factory. Two, improved cane yields due to favourable weather conditions which have raised productivity from the estimated 93.2 tonnes per hectare to 113.3 tonnes per hectare and the actual harvest in a year has now risen to about 1 million tonnes per year. Three, there is inadequate factory crushing capacity which currently stands at 3,000 tonnes of crushed cane per day and the factory is, therefore, able to crush only 700,000 tonnes per year.

(c) The Government is presently working on an expansion plan for the SONY Sugar Company in order to raise its crushing capacity from 3,000 tonnes per day to 6,200 tonnes per day. This will enable SONY Sugar Company to crush all the cane available in Migori District. In addition, the Kenya Sugar Authority, through the Sugar Development Levy, has been extending assistance to the SONY Out-growers Company to enable it to enhance its fleet for effective cane transportation to the factory. The SONY Sugar Company is also giving crushing priority to over-mature cane.

Mr. Achola: Mr. Speaker, Sir, could the Minister explain to this House why the company started cane development if it knew that its capacity was insufficient to cater for all the cane in Migori District?

Mr. Mudavadi: Mr. Speaker, Sir, as I said, there are a number of factors that have contributed to increased yields. One is that the weather has been favourable to the cane farmer and at the same time, I have also indicated here that the SONY Sugar Company has realised that there is a problem of crushing capacity and it is

working on an expansion programme to cater for this. I may hasten to add that this is a problem that has been facing a number of our sugar companies.

Dr. Oburu: Mr. Speaker, Sir, the Minister has stated that there were two major problems which caused the delay in harvesting of cane by SONY, one of which was the poor road network and the second one was lack of transportation. He has also told us that lack of transportation is being looked into by the Sugar Development Levy, but he has not told us what the Government is doing to improve the poor state of roads in the SONY sugar area. How is the transport going to assist the farmers if we are not tackling the problem of roads?

Mr. Mudavadi: Mr. Speaker, Sir, we have raised this matter with the Ministry of Public Works and Housing to assist in improving the road network in Migori.

Dr. Omamo: Mr. Speaker, Sir, it is true that once there is a contract between cane growers and the factory, the contract has to be honoured. It is also true that under such contract the cane being grown starts maturing at the age of 16 months and at 20 to 24 months maturity is 100 per cent. Further, it is true that once maturity has been attained after 24 months, the cane begins to lose weight thereby losing its value. A duration of 48 months is double the period of maturity. There is already a recedent that when the farmers' cane has over-matured and cannot be crushed, the factory would compensate the farmer for the loss of the weight. Could the Minister assure this House that this consideration is going to be extended to SONY cane growers because if it is not extended, then there is no need for a contract? Is the factory going to compensate the cane grower for the loss in weight due to over-maturity and lack of harvesting?

Mr. Mudavadi: Mr. Speaker, Sir, I had indicated here that we acknowledge that there is some delay in the harvesting of about 2,000 tonnes of cane, but I do not think it would be possible for the company to compensate the farmers. I would like to urge the company to enhance its efficiency so that this problem does not recur. For the benefit of the hon. Members, the situation in SONY Sugar Company has improved tremendously from what it was before and if we can finally go through with the expansion programme, which is estimated to cost about US\$70 million, we would tremendously improve the livelihood of the sugar-cane farmer in that area. But to talk about compensation, we would be misleading the House.

Mr. Achola: Thank you very much, Mr. Speaker, Sir. I do appreciate the fact that the Government is trying to expand the crushing capacity of SONY Sugar Company, but could the Minister give us a time-frame within which this expansion programme would be completed?

Secondly, the other reason which I think the Minister was dishonest enough not to give the House is the fact that senior employees of the SONY Sugar Company grow cane in the neighbouring Trans Mara District and that is why the contracted sugar-cane farmers cannot have their cane harvested by the factory. For the benefit of the Minister if they did not inform him, that is one of the reasons why they are not crushing all the contracted cane in time. But could he tell the House when this expansion programme will take place?

Mr. Mudavadi: What the Government is doing, in conjunction with the SONY Sugar Company, is to try and mobilise those resources. So, I cannot be very specific on the date when this expansion programme will be complete. On the second aspect, we have received some indication that there could be some employees of the company who are also involved in cane production and are trying to give their cane priority. But the message we have put across is that if adequate evidence is adduced, then there is conflict of interests and those employees will be dealt with accordingly.

Question No.103

PYRETHRUM PRODUCTION IN KISII AND NYAMIRA

Mr. Obwocha asked the Minister for Agriculture:-

(a) how much pyrethrum was produced in Kisii and Nyamira districts during the board years 1993/94, 1994/95, 1995/96 and 1996/97;

(b) what immediate steps he is taking to encourage farmers to increase the production of pyrethrum in the area; and,

(c) which types of pyrethrum clones are propagated at Nyosia Nursery in Kisii and when the Pyrethrum Board will set a propagation centre in Nyamira District.

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

(a) Pyrethrum production in Kisii and Nyamira Districts in the years 1993/94, 1994/95, 1995/96 and 1996/97 was as follows: In 1993/94, Kisii had 1,478 tonnes and Nyamira had 921 tonnes. In 1994/95, Kisii had 639 tonnes while Nyamira had 362 tonnes. In the year 1995/96, Kisii had 480 tonnes while Nyamira had 225

tonnes. In the year 1996/97, Kisii produced 375 tonnes while Nyamira produced 160 tonnes.

(b) My Ministry has taken the following steps to encourage the farmers to increase the production of pyrethrum. The Board now pays farmers directly where union and co-operative societies are known not to pay farmers their right dues. As an incentive to growers, seedlings are now offered on credit. My Ministry has embarked on a campaign programme to educate farmers to plant the new high pyrethrum content clone and varieties since payments rates are based on pyrethrum content. Besides the clonal plant and variety seedlings from the above nurseries, farmers are being encouraged and technically supported by the Ministry's extension officers to establish their own small nurseries by being supplied with seeds of varieties K218 and K235. This is considered as a faster method of increasing the quality of pyrethrum plants in the area and several farmers have taken advantage of this mode of propagation.

(c) The types of clones that are propagated at Nyosia Nursery in Kisii District are KS70/64, KS73/313, and KS76/122. Mr. Speaker, Sir, Mwangori Nursery has been established in Nyamira District as a propagation centre.

Mr. Obwocha: The Assistant Minister should give this House the correct information. I know this corporation very well because I was the chief accountant there. About 15,000 tonnes of pyrethrum are produced worldwide every year and Kenya used to produce 12,000 tonnes. Out of those 12,000 tonnes, Kisii used to produce 9,000 tonnes. The Assistant Minister is saying that production has gone down from 1478 tonnes to, currently in Kisii, 375 tonnes, and in Nyamira from 9,000 tonnes to 160 tonnes. This is because of the bad policies being applied in so far as clonal materials are concerned. The Pyrethrum Board is giving clones K218 and K235 to Kisii farmers instead of trying clones KS70/64 and KS73/313. Could the Assistant Minister tell us whether they have given Mwangori propagation centre enough money to propagate this clone?

Mr. Karauri: Mr. Speaker, Sir, it is not an issue of money. I have indicated that they are now getting seedlings on credit. They used to buy them.

Mr. Anyona: Mr. Speaker, Sir, Kisii used to have three main agricultural industries which were pyrethrum, coffee and passion fruits, before tea. All the three have collapsed and the Ministry is aware of that. Can the Assistant Minister explain the factors that are responsible for the drastic fall in production as indicated in the figures that he gave, and explain what the Government plans to do? I had a meeting with the farmers in my constituency the other day and they said that they have no idea where to get materials. The Assistant Minister here has just said that they are given materials free of charge. Where is this happening?

Mr. Karauri: Mr. Speaker, Sir, when farmers grow a cash crop, they expect to be paid properly in order to continue growing it. There may have been problems with the co-operatives with regard to delayed payments, but I have explained how this has been redressed. Farmers are now being paid directly in areas where the co-operatives have been found not to have paid them promptly.

Mr. Obwocha: Mr. Speaker, Sir, the only good thing that the Pyrethrum Board has done is to increase the pyrethrum prices. The other major problem that I was going to talk concerns the Masaba Farmers Co-operative Union. These people took money from farmers and they have not remitted it to the various co-operative societies. Is the Assistant Minister aware that farmers' money to the tune of Kshs1.5 million is still lying with the defunct Masaba Co-operative Farmers Union, and what is he going to do to remit this money to the various pyrethrum growers in various co-operative societies?

Mr. Karauri: Mr. Speaker, Sir, that question should be addressed to the Minister for Co-operative Development.

Question No. 128

EXPANSION OF NZOIA SUGAR FACTORY

Mr. Wafula asked the Minister for Agriculture:-

- (a) whether he is aware that the expansion project of Nzoia Sugar Factory has stalled; and,
- (b) what steps the Ministry has taken to ensure that this project is completed.

The Minister for Agriculture (Mr. Mudavadi): Mr. Speaker, Sir, I beg to reply.

(a) I am aware.

(b) To ensure that the project is completed, the Government is in the process of recruiting technical management to sustain production at Nzoia Sugar Company at its rated crushing capacity of 3,000 tonnes of cane per day. And in the terms of reference for the technical management contract, the successful bidder is required to come up with an attainable restructuring plan including financial restructuring, to enable Nzoia Sugar Company

to reach sustainable production at its current rated capacity and then to proceed to complete Phase II of the expansion programme which will bring its crushing capacity to 7,000 tonnes per day. The contractor technical manager is expected to be in Nzoia in the early part of the next financial year, that is the 1998/99.

Mr. Wafula: Mr. Speaker, Sir, could the Minister tell the House how much money it would have cost the Government to complete this project and how much money had been spent at the time the projects stalled and what happened?

Mr. Mudavadi: Mr. Speaker, Sir, I may not be in a position to give an exact amount of how much money it would have cost. However, what I can say at this point in time is that as a result of the failure of the Arkel Company to implement that project, the Nzoia Sugar Company was put in such a position that it has accumulated debts that range close to over Kshs6 billion.

Mr. Kapten: Mr. Speaker, Sir, we are aware that this project failed because billions and billions of shillings were stolen by several public servants including some Cabinet Ministers and Permanent Secretaries as indicated in the Public Investments Committee Report. It is important for us to know why the project stalled and I have said that

it was because money was stolen.

Mr. Speaker: Mr. Kapten, use the word "misappropriated". I do not like the words "steal" and "stolen".

Mr. Kapten: Mr. Speaker, Sir, yes, I will use the word "misappropriated". What steps is the Minister taking to ensure that this money which was misappropriated by these people is recovered and given to Nzoia Sugar Company?

Mr. Mudavadi: Mr. Speaker, Sir, what I would like to say is that, indeed, the Public Investments Committee has brought up this matter several times. Although we have not been able to recover some of these resources that may have been misappropriated, I think it is important for me to state that there has been, indeed, a lot of confusion regarding Nzoia Sugar Company, to the extent that even some arbitration was put in place to try and settle the disputes between Nzoia Sugar Company and the developers, the Arkel Company, and this matter has not quite been finalised. However, I would clearly recommend that the Government follows up the recommendation of the Public Investments Committee and pursue any individuals who may be directly involved in the loss that Nzoia Sugar Company has suffered.

Mr. Ojode: Mr. Speaker, Sir, could the Minister tell this House where he is intending to get the money for the completion of this project and could he also tell the House why he cannot impose restrictions on the importation of sugar by an individual from this House?

Mr. Mudavadi: Mr. Speaker, Sir, in my reply, I did indicate that the technical management put in place in the Nzoia Sugar Company shall also involve a financial package. We intend to be able to act towards the completion of Phase II by ensuring that there is competent management that would run Nzoia Sugar Company efficiently and to use those resources to complete the expansion programme.

Mr. Speaker, Sir, secondly I just want to say that at the moment the country still has a deficit in sugar production. We consume about 600,000 metric tonnes of sugar annually and our capacity to date is about 380,000 tonnes. So, the import programme will have to continue until our factories are able to meet that shortfall.

Mr. Speaker, Sir, lastly, I would like to say that banning would now be contrary to the international trading regulations.

Mr. Kombo: Mr. Speaker, Sir, while appreciating the Minister's answer about the technical team, is he aware that apart from the stalled project, the factory is not even crushing cane to full capacity and because of that most of the cane in the Nzoia zone is used as firewood. As we wait for this technical team, what is the Minister going to do for the farmers whose cane has turned into firewood?

Mr. Mudavadi: Mr. Speaker, Sir, I must admit that, that is a very difficult question. This is because until the sugar company is able to improve on its crushing capacity, the farmers will have to go through some difficult time during the short term. However, we hope and we want to make sure that by 1st July, the technical management team is in place and with the necessary supporting financial package to try and ease the pressure that the farmers are undergoing.

Mr. Wafula: Mr. Speaker, Sir, the information that the Minister has given us is that the money was misappropriated and one of the former Ministers who was involved was recently installed as the Chairman of the Kenya Bureau of Standards. Why that is so, we do not know. The Public Investments Committee recommended that the group that was involved should not hold any public office. I would like the Minister to assure this House that in future, recommendations of the Public Investments Committee are taken seriously and those who have misappropriated public money are made to repay the money back and they should be sent to jail.

Mr. Mudavadi: Mr. Speaker, Sir, unfortunately, I am not the appointing authority in this regard and so

I cannot comment on the appointment of any particular individual. However, what I would like to say is that there was some slight amendment, if I do recall, in the Public Investments Committee Report which states:

"Until proven guilty in a court of law, you cannot just by the mere recommendation of the Public Investments Committee convict somebody".

That has got to be followed right through until the said person is proven guilty in a court of law and then the necessary action is taken.

Question No.011

GOVERNMENT POSITION ON
FAMILY LIFE EDUCATION

Dr. Kituyi asked the Minister for Education and Human Resource Development:-

- (a) what is the actual position of the Government on the introduction of family life education in schools; and,
- (b) why has the Government prevaricated on the debate of sexuality among the country's youth and students.

The Minister for Education and Human Resource Development (Mr. Musyoka): Mr. Speaker, Sir, I beg to reply.

(a) The Government has no intention of introducing family life education as a subject in our schools. It is, however, recognised that our youths need to appreciate themselves, their social, physical and emotional development. It is towards inculcating self-appreciation in young Kenyans that the Government identified and incorporated child development themes and aspects of family life education into the career school subjects of geography, history, civics, home science, science, religious education, social education and ethics as well as biology.

(b) The Government has not prevaricated on the debate on sexuality among the youth and students. A healthy and topical debate cannot be the preserve of the Government because such debates occur naturally at all levels of society. From the family through peer groups the debate continues at various formal and informal fora including the Floor of this House.

Dr. Kituyi: Mr. Speaker, Sir, from the written reply, you can see the Minister is also reticent with the truth as the Government has been with consistency. This Government, at one time, declared its intention to introduce family life education in schools. When some Catholic priests started burning condoms, the Ministry turned around and denied that it had any such intentions. The youth are the main victims of the Acquired Immune Deficiency Syndrome (AIDS) in this country today. The Government notices that the mechanisms of informal family-based counselling have not worked. If this Government was serious about fighting AIDS, using preventive measures, of course, it would not have voted K£800,000 for AIDS prevention and K£53 million for the Museums of Kenya in the Supplementary Estimates. But be that as it may, what is the reason as to why the Government has announced, at some stages, its intentions to encourage more education and awareness about AIDS and sexuality in schools, but every time some Sheikhs or Catholic priest burnt condoms, the same Government declared that it is putting on hold the planned introduction of such education in our school system?

Mr. Musyoka: Mr. Speaker, Sir, quite obviously, I would not agree with the preamble to that supplementary question. But let me also point out that two pilot projects have actually been undertaken by the Government; one in the 1980s by the Ministry of Planning and National Development, and again by the Ministry of Education and Human Resource Development. It is the latter pilot project which, probably, generated the greatest controversy. As I have said, the Government cannot claim monopoly of ideas on this subject, but it is also important to take into account what our religious leaders say on this matter. I think the hon. Member for Kimilili may just want to bear with us for a little while. As soon as the commission to review the education is put in place, I will certainly want to welcome his ideas in this regard and hear what the religious communities have to say.

Mr. Speaker: Dr. Kituyi, last question.

Dr. Kituyi: Mr. Speaker, Sir, if you look at the answer given by the Minister, he reckons that some elements of family life education are contained in the syllabus for geography and history, among other subjects. Could the Minister be candid and tell us what components of family life education are contained in the syllabus for geography and history?

Mr. Speaker: Can you not find out yourself?

Dr. Kituyi: No! It is the responsibility of the Minister to tell this House.

(Laughter)

Mr. Musyoka: Mr. Speaker, Sir, I must admit that, that is a very smart one. But, generally, the aspects of family life education that are contained in the themes of this career subject, would naturally include matters like school dropout rates, early pregnancies, sexually transmitted diseases, and these are definitely not in history or geography---

(Dr. Kituyi stood up in his place)

Mr. Speaker: What is it, Dr. Kituyi?

Dr. Kituyi: Mr. Speaker, Sir, you studied some elementary geography, at least. The closest you can come to talking about sexuality and sexually transmitted diseases in geography is, first of all, when you are talking about the geography of the body. But, specifically, how can this be part of a syllabus of geography and history?

An hon. Member: Population!

Mr. Musyoka: Mr. Speaker, Sir, I gave a long list. I am sure the hon. Member for Kimilili will agree with me that there is need to be intellectually, honest. You cannot find units on, say, AIDS, in geography, but as I have said, I gave a list which is, perhaps, not even exhaustive. But it is there. I cannot stand on the Floor of this House and say that we teach our young Kenyans to be careful about AIDS through geography. Of course, I cannot, but the debate continues, and I would welcome very valuable contributions by hon. Dr. Mukhisa Kituyi in this matter.

Mr. Speaker: Very well. Next Order, Mr. Ngala!

MOTIONS

MEMBERSHIP OF PENSIONS COMMITTEE

The Minister for Lands and Settlement (Mr. Ngala): Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to sections 19 and 20 of the Parliamentary Pensions Act, this House:

(a) appoints:-

(i) The hon. Joab H.O. Omino, M.P.,

(ii) The hon. Mathews A. Karauri, M.P.,

(iii) The hon. John N. Michuki, M.P., to be members of the Management Committee;

(b) appoints the hon. Joseph K. Ombasa, M.P., to be a member of the Appeals Tribunal.

Mr. Speaker, Sir, I would like to bring to the notice of hon. Members the fact that there is an Act of Parliament establishing a Parliamentary Pensions Scheme. The administration of Parliamentary Pensions Act is put under a management committee, whose current proposed membership I have just read out to this House. The purpose of this Motion is to ensure that there is effective representation of the House, as provided by law, as the Act becomes operational. So, we have the three Members, as provided by the law, to sit in Management Committee.

Mr. Speaker, Sir, the second part is found in section 20, which deals with the Tribunal. Again, the purpose of this Tribunal is to settle any disputes on Members' remunerations. So, it is important that the nominations and approval are done by the House. The Parliamentary Pensions Act is supposed to take care of the welfare of hon. Members who may wish to take advantage of the various benefits after they leave this House.

Members who left the House as a result of death, or when they lost their seats during elections, do have dependants whose welfare should be taken care of by this Act. This is not a very complicated matter, and I would like to appeal to those who have been appointed to the Management Committee and the Appeals Committee to be vigilant when handling matters of Members of Parliament, because this is a very crucial matter for affected Members' families. So, I would like to urge them to be very sensitive about matters relating to Members in the course of their deliberations.

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

Mr. Speaker: Anybody seconding you? You have no Seconder?

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Speaker, Sir, I arise to second this Motion. In seconding the Motion, I would like to inform hon. Members that the intention of retaining

the old hon. Members who were in the Parliamentary Pensions Committee is in order to facilitate quick processing of applications of those who would like to benefit from their accruals. Most of the old hon. Members have left the House and are qualified for their pension benefits. In order to facilitate processing of their application forms we need the service of the sitting hon. Members, who served in that Committee during the last Parliament. Until the Act is amended, we need to have a "bridge" so that the work of the Committee does not stop. Until then, we will not be able to appoint new hon. Members to serve in this Committee. After the amendment, we will appoint new hon. Members to serve in that Committee. Hon. Michuki was in that Committee before and, luckily enough, he has come back to the House.

With those few remarks, Mr. Speaker, Sir, I would like to second the Motion.

(Question proposed)

Mr. Muite: Mr. Speaker, Sir, while supporting this Motion, I am pleased to hear that some amendments are being considered. I would like to appeal to the Government, through the Chair, that those amendments should include an amendment to the Act to the effect that where any hon. Member of this august House is proved to have been involved in the training of people who have been causing clashes in this country, he or she should forfeit his or her pension, so that, that pension can go towards compensating the victims of the clashes.

Mr. Speaker: Order, Mr. Muite! That is irrelevant! Wait for the Bill to come before this House so that you can give those suggestions. I know you are trying to look for an avenue. Mr. Muite, you know that both of us are lawyers!

Mr. Muite: Mr. Speaker, Sir, you will not give me a little leeway to talk about 200 people who are now in a farm belonging to Kiptanui and we know the Minister who has taken them there!

Mr. Obwocha: Mr. Speaker, Sir, I was one of the hon. Members who actually raised the issue of membership of the Parliamentary Pensions Committee. Looking at the composition of this Committee, I would have expected that, since the Speaker of the Kenya National Assembly is the Chairman, one of the Members should not have been Mr. Deputy Speaker. I expected that you would look at the House in general and appoint another hon. Member to this Committee.

Mr. Speaker: Mr. Obwocha, can I tell you why Mr. Omino is there? He is a pensioner. He is there as a pensioner and not as a Deputy Speaker! So, you can understand why he is there.

Mr. Obwocha: Mr. Speaker, Sir, in fact, I did not object to his appointment because of lack of competence or anything else. I know hon. Omino is very competent.

The only other issue I want to bring to the attention of the Committee - I hope that when the amendments to the Act are effected this point will be included - is the fact that I am sure many hon. Members do not know that the amount of pension payable to an hon. Member is 1/600 times the pensionable emoluments of each completed year. As an accountant, I have worked this amount out, and it is so minute that no hon. Member who leaves this House will live comfortably with his family.

An hon. Member: Tell us the exact amount!

Mr. Obwocha: It works out to between Kshs5,000 and Kshs10,000. That is very little money to be paid as pension to an hon. Member who has served the country for more than 10 years. I am asking my colleagues, whose names are now going to be approved by this House, to review the formula for working out the amount to be paid to retired hon. Members. If they are paid a reasonable pension, then I am sure that many of us will not fight to come back to this House. The amount to be paid should be based on total emoluments, but at also a reasonable percentage. I hope hon. Michuki, who is a Member of this Committee, is listening.

I beg to support.

(Question put and agreed to)

Mr. Speaker: Next Order

ADOPTION OF PAC REPORTS

THAT, this House adopts the Public Accounts Reports on the Government of Kenya Accounts for the years 1993/94 and 1994/95 laid on the Table of the House on 15th April, 1998.

(Mr. Wamalwa on 23.4.98)

(Resumption of Debate interrupted on 28.4.98)

Mr. Speaker: Mr. Ndicho was on the Floor when we adjourned yesterday. Have you forfeited your chance to contribute?

Mr. Ndicho: Mr. Speaker, Sir, I was waiting for you to call me.

I was just caught up by time last evening when I was almost concluding my submission on this Motion. I had just finished talking about the authority of this Parliament in taking action against officers who have misappropriated public funds. The other authority---

Mr. Speaker: Order! Order! I almost forget! I am sorry, Mr. Ndicho, but I will come back to you.

Yesterday, hon. Maore, almost on his knees, pleaded with me to allow him time to go and get documents to come and substantiate an allegation which he made. Where is Mr. Maore?

An hon. Member: He is not in the House!

Mr. Speaker: I am sure the House notices that his absence was not ordered by me. I am sure there is no way that he will avoid this House. He will come.

Proceed, Mr. Ndicho.

Mr. Ndicho: Mr. Speaker, Sir, all that I was saying is that we need the authority of Parliament to protect public funds from misappropriation by Government officers. We can also protect public funds from misappropriation by using the authority of the President.

The three arms of Government namely, the Legislature, the Judiciary and the Executive should work together to make sure that public funds are not misappropriated. We know that the President has enough authority to protect money raised by taxpayers. He also has authority to ensure that officers in senior positions do not misuse them by misappropriating public funds.

Mr. Speaker, Sir, I know there are people who are using the theories of the culture of "eating." They say that when Kenyatta was the President of this country, the Kikuyus "ate." I want to say that I am a Kikuyu but I never "ate" anything. Members of the Kikuyu community have been accused that they "ate" during Kenyatta's time and that now, it is time for other people to "eat." Yet, what is being "eaten" is nothing but public money. Today, a Kalenjin is the President of this country. If one time we accuse the Kalenjins of ever "eating", it will be very unfair, because the bulk of the Kalenjins are not "eating" anything. It is only a small clique up there who are "eating." The time has come when we should blame the right people. It is incumbent upon this House, the Executive and the Judiciary--- You have heard the Minister for Agriculture say here, that the recommendations of the PAC or PIC alone cannot be used to punish a suspect, until he has been proved guilty by a court of law. But then, the question arises whether somebody who is politically correct will ever be punished by the courts, despite him having been discovered to have misappropriated public money.

Mr. Speaker, Sir, the issue of grabbing of public land is prevalent. Sometime last year, especially during the IPPG deliberations, the issue of grabbing public land almost came to an end. But since January, through April this year, we have had several cases of public plots being allocated to individuals. May I tell this House that when this side of the House will be in Government, every public plot allocated to an individual will be repossessed. We shall do what Jerry Rawlings did in Ghana. When he took over and his lieutenants and generals were there with guns, and he discovered they were grabbing public land, he ordered them to return it back to the public. This is exactly what we are going to do.

Mr. Speaker, Sir, many Kenyans today have also been tempted by this culture of "eating" because of poverty. There are those people who believe in living in big money. The question is: "Who controls our economy?" In 1963, our forefathers fought for political Independence, but when the Mzungu handed over to us political Independence, he refused to give us economic Independence. That is why you will hear today that our economy is controlled by Asians and a few other people. This is not true. The people who control our economy are the whites; the British and the Americans. If you look at a list of the gigantic companies that are quoted in the Nairobi Stock Exchange: Kakuzi, Del Monte, Sasini, Standard Chartered Bank, Barclays Bank, East Africa Industries, Brooke Bond, BAT--- All the money they get from these companies as profits is the same money they churn back and claim that they are giving us aid. We are all crying here that Wazungu should give us aid, yet the money which is given to us as aid, soft loans or grants is money earned from our own resources here. So, we must also fight for economic independence. We are calling upon the Government of the day to come up with suggestions on how it is going to empower its people, right from the smallest person to the biggest. Let everybody be empowered

economically, so that this temptation to steal public money will not be there. Let opportunities be open to all, so that nobody is tempted to grab.

Mr. Speaker, Sir, we have the dreaded Provincial Administration, which is so notorious for misappropriating public money in the field, from the locational to the provincial level. These are the people who are in the forefront of grabbing public land. When the DC was made the Chairman of plots allocation committee, this was tantamount to giving him a blank cheque. Consequently, these people have become very rich; they are driving big cars, yet they are civil servants. This world is not coming to an end. Our sons and daughters will come and take over from where we are. But if we cannot protect what belongs to the public and what our children will use, then, history will curse us. It is on this background that we fight so much.

Mr. Speaker, Sir, you have seen a Minister going out as if he is getting out of a *Manyatta*! But it is good that he has come back.

(Laughter)

Mr. Speaker, Sir, we are saying that the current Government is nothing but a continuation of the colonial Government, which was handed over to the late President Kenyatta and then to President Moi. Once we take over the Government of this country, we are going to change all this. One of the things we are going to do is to eradicate the Provincial Administration. In Britain, where the colonialists came from and showed us how to rule and govern and how to be governed, there is no chief or DO or DC. They believe in elections. Leaders are elected to represent the interests of the electorate. It is on this background that we insist that we shall completely phase out the Provincial Administration in this country, because it is the one that has been involved in grabbing public land and looting other public property.

Mr. Speaker, Sir, the Constitution of this country is very important. It is this House that has been vested with the powers to amend our Constitution and make this country a better place to live in. But when Parliament abdicates its role--- That is why you find other pressure groups like the NCEC performing the duties of Parliament on the pretext that we are not doing our duty. I agree it is we, who should wake up and make the authority of this House be felt. It is this Parliament which should also ensure that the rules and laws of the land are followed, so that the people of this country will be left alone to do their businesses.

Mr. Speaker, Sir, I am referring to hawkers in particular. The hawkers are people who are eking out a living from their own sweat, but the Government hates that fellow called the hawker.

Speaker: Order, Mr. Ndicho. Which page of the report are you commenting on? Be relevant, but if you have run out of ideas, just sit down.

Mr. Ndicho: Mr. Speaker, Sir, I am just concluding my contribution. I am questioning why Government officers steal money from the Government. Even the hawkers who are on the streets will be forced to steal, if they learn that officers in the Government are also stealing. It is upon the Government to make sure that there is no stealing of public funds, so that a good example is set for the rest of Kenyans.

Speaker: Order, can you use a more parliamentary word? The word "stealing" is unparliamentary.

Mr. Ndicho: Mr. Speaker, Sir, I mean helping themselves with public money.

(Laughter)

Mr. Speaker, Sir, it is the duty of the incumbent Government to ensure that our children are given good examples to emulate, so that they view stealing of public funds as an anathema. The President should start by punishing all those people named in the PAC Report and remove them from the Government for his own sake. It was stated in this House sometime ago that our President is a prisoner of some people.

Mr. Speaker Sir, in the story of Moses, God sent him to Egypt with a message to the Pharaoh to set his people free, but there arose a lot of complications. But when there was a deluge of problems, the Pharaoh decided to free the people of Israel. Today, Kenyans should be telling a clique of people who have made President Moi their prisoner to let him free, so that he can have authority to punish those individuals who have misappropriated public funds. Our President must operate independently from those people. Somebody told me, while we were in Mombasa with other Members, during the Standing Orders and Economic Governance seminar, that, he was amused when he watched television and saw the President being surrounded by a clique of people who travelled with him all the way from Homa Bay to Kisumu. Those people have ensured that the President does not have time to breathe.

(Laughter)

Mr. Speaker, Sir, I am now appealing to hon. Mark Too, who is popularly known as "Bwana Dawa", not to over-prescribe the medicine to the President. He should give the President an average dose of medicine that would heal him. If someone is too sick and the doctor over-prescribes medicine for him, the patient will not recover. We know the President has the power to punish those culprits mentioned in the PAC Report, but he cannot do so because he is a prisoner.

Mr. Ochuodho: Mr. Speaker, Sir, I happen to represent the people of Homa Bay who are being mentioned. Is the hon. Member in order to mention the people of Homa Bay without explaining what they have done? Is it the co-operation of Homa Bay people with the Government that is a problem, or those who are close to President Moi?

Mr. Ndicho: Mr. Speaker, Sir, I have nothing against the co-operation between NDP and KANU. I am only advising them to be wary of being misused.

With these few remarks, Mr. Speaker, Sir, I beg to support.

Ms. Karua: Mr. Speaker, Sir, one notices from the various reports before the House and accounts of previous years that there are common features in all of them. One of them is the excessive use of money, above what has been budgeted for and authorised by Parliament. It appears that top civil servants in this country, especially the Accounting Officers, either have no respect for the law or Parliament, and they do not adhere to the laws passed by this House. It is time we ask ourselves what needs to be done for this situation to be rectified. The accounting officers are over-spending because they see Parliament as a toothless bulldog. Parliament is not able to implement the resolutions passed by its Members. It is time this Parliament considered giving itself powers to punish errant officers.

Mr. Speaker, Sir, I am suggesting that this House considers giving itself powers to order the Attorney-General to prosecute those culprits within a given time. If the Attorney-General does not do so, then Parliament should appoint a special prosecutor to deal with offenders guilty of economic sabotage. I have in mind amendments to our laws that would provide punishment for economic offences and deal with public officers who misappropriate public money. In my view, this is the only way we can end corruption cases reported in the various Committees Reports and tabled in this House. It should be a criminal offence for a public servant who either utilises money that has not been voted for or overspends money above the vote.

Mr. Speaker, Sir, there are some officers who misuse money and fail to give supporting documents on how the money has been spent when called upon to do so. Money is spent in other ways and it is not accounted for. This is misuse of public funds, which is a criminal offence, and it is actionable. The laws of this country should be utilised to punish those Accounting Officers who fail to account for such money. There is no way we can monitor and ensure that those funds do not go to their pockets, or those of their godfathers, if we do not enforce accounting rules as laid down by the law and the code regulating the Civil Service.

Mr. Speaker, Sir, it is a common feature in the PAC Reports to find that Government houses and land have been allocated to individuals. I do not think that this country has reached a stage when we can say that we have adequately housed all civil servants and start disposing off Government houses. We, in fact, need to continue building more decent houses for civil servants. It is, therefore, criminal for highly placed civil servants to collude with

politicians and their godfathers to dish out Government houses to outsiders. We know of cases where those houses have been dished out at nominal prices. The only remedy to stop this practice is to impose criminal sanctions. Let us have laws which will be utilised to curb economic sabotage by a few individuals. When we misuse Government money and property, we are actually sabotaging the economy of this country. That is why the Government is now admitting that it is broke and we have no doubt about that fact. Civil servants are not paid on time; there is no money for the police to effectively do their work; there is no medicine in the hospitals and the transport system has broken down. All these are being brought about by the misuse of the public funds. For Parliament to have relevance, it is time we gave ourselves the necessary tools to be the true watchdog of the citizens of this country. All the offences of this nature ought to be dealt with by the Attorney-General in the first instance, and if he is reluctant, within a given number of months, then Parliament should intervene and appoint a special prosecutor to deal with the matter. That is the only way public servants will develop fear to indulge in malpractices. We know of countries where, if the accounting officers misuse money or overspend above the budget limit, they are tried in a court of law and most likely would end up in jail.

I have a country like the USA in mind. I think that those are safeguards that will do Kenya a lot of good, if Parliament does consider - as we hope it will consider when the Motion is moved - to give ourselves such powers, to be able to check the excesses of the civil servants.

It is also a common feature in this Report that the accounts of local authorities are not delivered to the

Controller and Auditor-General on time. The question that arises is: Who is at fault? Is it the elected councillors or the chief officers? We all know that the powers in the local authorities are regrettably wielded by the chief officers, rather than the elected councillors. This is a situation that Parliament needs to look into urgently, if we are to save our local authorities from collapse. The councillors are powerless when it comes to ordering the chief officers to do their work. It would appear that our local authorities are run solely by the Minister for Local Authorities with the chief officers. It leaves one wondering why we have councillors. Why should these civic seats not be abolished and leave the Minister to run the show alone? For elected councillors to have a purpose, we have to return powers back to them, so that they can run the local authorities. That way, they will be able to ensure that accounts are presented on time; that money is spent according to their by-laws and the law, and not at the whims of people from the Ministry of Local Authorities, be it the Minister or the Permanent Secretary. This is something that Parliament has to consider, by considering an amendment to the Local Government Act. We should return the powers to the elected councillors in all the county councils countrywide, so as not to have the despotic rule of the Ministry of Local Authorities.

Mr. Speaker, Sir, in the PAC Report, we also noticed incidents of totally unauthorised expenditure. I have in mind the Eldoret Airport and the Nyayo Motor Corporation. Accounts of these two organisations have not been furnished to the Controller and Auditor-General. This means that Parliament is unable to act as a true watchdog over public spending in this country. We are unable to safeguard the economy of this country because we have not given ourselves enough powers. We need to look into this urgently. Never again should there be an incident of public expenditure being committed to such ventures as building of airports and funding of motor corporations without express authorization by this House, and passing of the necessary law. I would like to say that the time has come for serious action to be taken. Otherwise, we shall be shouting ourselves hoarse in this House year after year, and we shall not be in a position to assist the citizens of this country. We shall not be in a position to stop the rape of the economy.

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

Mr. Kibicho: Mr. Speaker, Sir, I rise to support the Public Accounts Committee (PAC) Report.

In this country, we have the Constitution which provides minimum safeguards to public funds. The problem that we have in this country is infringement of such laws. So, until such time that this House will put into place provisions, whereby those infringements will not take place, public money will continue to be misappropriated and mis-allocated, and the PAC Reports shall never be a guide to make public funds accounted for.

Mr. Speaker, Sir, this country got Independence in 1963. The laws which existed before that time continued to apply in this country. Unfortunately for us, we drew a Constitution which gave separation of powers to Parliament, Judiciary and the Executive. Having adopted the laws that were there before Independence, we forgot that in Britain, apart from having a Parliament, that is the House of Commons, there is the House of Lords, which has judicial powers. So, when we started copying this type of Government based on the British system, ours came with inadequacies. It is those inadequacies that make it difficult for us to account for public funds. If you go to Britain, you will find that they have the rule of *sub judice* and the supremacy of Parliament. But they have the House of Lords which sits as a court so that even if the House of Commons does not consider matters that are *sub judice* and are before the courts, they have a chance through another House to take such matters. In this country, we talk of the rule of *sub judice* and supremacy of Parliament, but the two seems incomplete. For Parliament to be a complete watchdog of public funds, the Constitution needs to be reviewed. It must be made very clear that even when matters are before courts, Parliament will not be subjected to the *sub judice* rule. Parliament will not be subject to any other organ except itself, so that it can assert its supremacy.

What we have are issues which were never discussed by the PAC because of the rule of *sub judice*. We just take things as they are until a remedy is found in the constitutional reforms. In this country, everybody knows that money is never spent unless it is voted by this House, or when it is in the Contingency Fund. Money has been used without being voted by this House. So, what do we do? I suggest that when the Constitution of this country is reviewed, we should make provisions whereby if anybody breaches a constitutional provision, this House must be in a position to initiate proceedings. The initiation should primarily start from Parliament without relying on any other authority. We are in a position where we are unable to remedy the situation. The same people who have misappropriated funds are the same people in the Executive, and they are the ones we expect to remedy the situation. As a result, right from 1963 when we got Independence, the Controller and Auditor-General and PAC Reports say the same thing, and there has never been a remedy.

Mr. Deputy Speaker, Sir, I suggest that this House puts in place provisions whereby its authority can be binding. These breaches are causing a lot of retardation in development in this country. There are some Votes which are overspent and there are others which are misallocated. However, there are also some development

projects for which money has been allocated but the money has been returned to the Treasury. I have in mind the road from Kagio-Baricho-Kerugoya to Kibirigwi in my constituency. That road has always been allocated some funds. Even during the 1997/98 Budget, there was K£100,000 allocated but that has now been slashed to K£25,000 in the Supplementary Estimates. But when one goes to the site, one finds no contractor. That money will be returned to the Treasury. I suggest that when the time comes, perhaps, it may be prudent to consider impeachment proceedings so that whatever we pass here in Parliament is implemented by the authorities concerned.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, earlier on, in my contribution, I did allude to the Order-in-Council of 1963. This House was first constituted in 1907. That Order-in-Council of 1907 did provide that the doctrine of equity, the Common Law of England, shall apply. Those laws used to apply to the settlers through the British Council to the House of Lords. That provision is not here and there are no checks and balances because whatever we copied from the British is not complete.

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

Mr. Wamae: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to the Motion before the House.

Mr. Temporary Deputy Speaker, Sir, one thing which is clear is that year after year, we come to this House to debate the Report of the Public Accounts Committee (PAC). We hear the same old song of unapproved expenditure, misuse of public funds, pending bills and so on. Nothing seems to happen. I really wonder whether we are doing anything to rectify the situation.

Mr. Temporary Deputy Speaker, Sir, when we look at the PAC Report for 1993/94, we have pending bills of K£189 million. This means that the Government has given contracts to people in this country and it has refused to pay them. That means they have given contracts to professional people; they have taken their goods; eaten their food and others have put up buildings but the Government has refused to pay them for no reason whatsoever! This is because they say Kenya is a sovereign State and even taking the Government to court may take a long time before a judgement can be made. This is not a proper way to do things. Many of our businessmen have gone bankrupt because of the Government. The Government has caused many Kenyans to be bankrupt. Many professional persons in this country have closed their offices because of the Government.

If the Government does not have money for a particular project in the Estimates, why should it give out contracts? Why not leave those contracts until the money is available? The reason is that Government officers are corrupt and they must give contracts to get a kick-back. They normally take the kick-back before the money is paid to the contractor. This is the real problem! Why should we have a lot of pending bills? If we do not have the money in

the Estimates, why should the Accounting Officers sign contracts? This is one of the most worrying things. I think the Minister for Finance must clear these pending bills from our books once and for all, so that we can start on a clean slate and pay our people. This is money which is owed to Kenyans. This money is not owed to the "Big Boys" who are politically correct. Those ones are paid in advance. It is the small men who supplied food to our hospitals, a contractor of a school somewhere or a contractor re-carpeting a road, who have not been paid. This is a more serious matter than people realise; that the Government should owe wananchi Kshs3.7 billion and it is carried forward year after year. This is being reckless! We must send a warning to our Accounting Officers that this must stop and the Minister for Finance must ask this House to approve funds to clear these pending bills. We do not have to start new projects. We already know that there are 1,226 projects which cannot be completed. They have been partly done, and instead of completing them, they have another 400 new ones which they want to start in a year. That is the only way they can take bribes. This is a very serious matter and I hope that those who have the authority will correct it. If the KANU Government cannot do it, I think they should come to this side and let those who can do it go to the other side. Wananchi are listening to these contributions very carefully these days.

Mr. Temporary Deputy Speaker, Sir, there is also the issue where the PAC could not tour two military barracks to inspect buildings and projects whose contracts were suspect. No Member of this House is a threat to the security of this country. There is nothing much to hide in our barracks! But because the Government wanted to embarrass the PAC, they were refused entry due to the fact that they could not inspect protected areas. One

cannot understand! The contractors go there with all sorts of people. They could have even gone there with spies from anywhere when the project was on-going. But a Member of the PAC, who has been elected by wananchi to come to this House, cannot go there and inspect those projects and see what was done. This is very serious! We are tempted to believe that, maybe, those projects were not implemented and, therefore, one way of hiding them from the PAC was to close the gate. What is there to hide about a project which had been built by 500 workers under an Indian contractor and there was nothing hidden from them? But the Government can dare to say that an inspection tour of the projects by a Member of this House is a security risk. One can be a Member of the PAC today and tomorrow he is appointed Minister for Defence and he will go everywhere. It does not make any sense for hon. Members of this House to be told that there are protected areas in this country where they cannot visit. There should be no law to prevent hon. Members of this House. We have taken an oath to protect the Constitution of this country and that is enough. What more oath shall we take to be known to be loyal to this country, so that we can go everywhere without hindrance?

Mr. Gatabaki: On a point of information, Mr. Temporary Deputy Speaker, Sir. The reason why the Government prevented the PAC Members from visiting those barracks was to hide the fact that goods which were supposed to have been imported into this country were not actually imported at all.

Mr. Wamae: Thank you, hon. Gatabaki. I had said the same thing; that there was something to hide and, therefore, you close the gate and put military personnel there to make sure that Members of the Public Accounts Committee do not go there to see the goods that were supposed to be supplied but were not supplied. Some of the military equipment, as we know, was supposed to be supplied by Somaia but he did not supply it. He had an open LPO to supply goods for the military but they were never delivered. That is the reason why the PAC was not allowed to go to those barracks. Until they are allowed to go, we shall continue to say that the Government has something to hide and suspicion will continue.

Mr. Temporary Deputy Speaker, Sir, by 30th June, 1994, this Government had incurred a deficit of K£1.6 billion, equivalent to Kshs32 billion. By 30th June, 1995, this figure had risen to Kshs52 billion, according to the PAC Reports. This deficit is what is killing this country and this is what has been spoken about in many other fora by a lot of people. I am glad that, for the first time, the truth is coming out and the Minister for Finance, who happens to be in this House now, has come out clearly and stated the problems we are facing. This is because many people, particularly Ministers, have always been hiding information from this House and the public, thinking that, they are Government secrets. There are no Government secrets when you are going broke! There is nothing secret when you cannot pay your debts. You should come out and say so. I would urge other Ministers to be as frank as hon. Nyachae and come to this House and admit mistakes if they have been done.

(Applause)

If we have failed, we are human. Say so, do not go on covering, like some are covering on airwaves and every other issue. You can see their eyes. Come out clearly and say so.

Mr. Ojode: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to say that hon. Nyachae is so frank and yet hon. Nyachae is having sleepless nights?

(Laughter)

*(Mr. Nyachae removed his spectacles
and went to the Dispatch Box)*

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Speaker, Sir, I will remove my spectacles to show that I slept well.

Mr. Wamae: Mr. Temporary Deputy Speaker, Sir, before hon. Nyachae intervened, I was wondering how hon. Ojode managed to be in hon. Nyachae's house to see that he did not sleep well. Maybe this is the new alliance! But, taking the matter more seriously, let the other Ministers be as frank as the Minister for Finance. If mistakes have been done, if money has been "eaten" by civil servants, come here and say that, "the money has been "eaten," I am sorry, and we are going to take action" and we shall excuse you. But to continue hiding things always as if you are playing with people's psychology and telling lies openly, when your eyes are open, because you are one of them--

The Minister for Information and Broadcasting (Mr. J. Nyagah): Why are you looking at me?

Mr. Wamae: I do not know why, hon. J. Nyagah thinks that I am looking at him because of something.

I think he has a lot of questions to answer on airwaves. But that is not the issue for this House now.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Wamae, you have been advised that the word "lie" is unparliamentary.

Mr. Wamae: Did I use the word "lie"?

The Minister for Information and Broadcasting (Mr. J. Nyagah): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is trying to say that I am a liar when he knows that I am a very distinguished gentleman who does not know how to tell lies. Could the distinguished hon. Member for Mathira, where I will be on Saturday, confirm to this House that I am not a straightforward and clean gentleman who has been telling nothing but the truth on the subject of airwaves?

Hon. Members: Shame! Shame! Sit down!

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order!

Mr. Wamae: Mr. Temporary Deputy Speaker, Sir, I do not think I used the word "lie" and if I did, I would like to withdraw it because it was not my intention. All I am saying is that the hon. Member is known not to tell the whole story. He tells half-truths. These are known facts and everybody knows him, we do not need any explanation. But the point I was making is that, let us be honest with ourselves. Let us build integrity into our public service and in the Members of this House and the with the Ministers of the Government so that we can clear this mess here. If we speak one language, things can be done.

Mr. Temporary Deputy Speaker, Sir, the worrying thing is that, if we are going to buy executive jets for the President of this country from an unauthorised fund; from illegal funds--- If you take money from the Consolidated Fund without permission to purchase a jet and the President takes it, how are we going to control expenses, if it starts from the top? The expenditure on the jet was not authorised. It is in the PAC Reports, on page 3, 1994/95. The overdraft includes this irregular and unconstitutional expenditure.

Mr. Sankori: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Matu Wamae to say that the Presidential jet is a personal one whereas that is a Kenya Air Force jet?

Hon. Members: Sit down; that is an unauthorised Presidential jet!

Mr. Wamae: Mr. Temporary Deputy Speaker, Sir, I hope he understands the language we are speaking.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Mr. Wamae, you can read the page and the paragraph you are referring to the hon. Member.

Mr. Wamae: Mr. Temporary Deputy Speaker, Sir, I think I will take your advice. I am talking about page three of the 1994/95 PAC Report. On that page, a review of the position---

Mr. N. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for an hon. Member to refer to substances on record when any other Member can actually look through and see what is written?

Mr. Wamae: Mr. Temporary Deputy Speaker, Sir, I do not have to refer to him.

Again, on the same page, Kshs2.6 billion was used for the Eldoret International Airport. Also, that is irregular and unconstitutional expenditure. Then it goes on and on. Some of those issues are so close to the powers that be in this country. If an unauthorised and unconstitutional expenditure is going to be incurred at that level, then who is going to control the other small fellows below? Who is going to control the Ministers, Permanent Secretaries, DCs, DOs, Chiefs and everybody else who is spending money on behalf of this Government? If there has to be discipline, it has to start from the top downwards. The buck must stop somewhere; it must stop at the desk of the His Excellency the President of this country. It is from that Office that we must start correcting these mistakes, not from anywhere else. This is because anything else that you do is not going to hold water if it is not going to be supported by the highest authority in this country. We are wasting our time, if we say that we are going to discipline the small people and the top people are not disciplined. Let us start by showing, from the top downwards, that we are disciplined. We are following the law.

We should spend the money according to the law which has been made by this Parliament. We are breaking the law by spending money directly from the Consolidated Fund without passing through this Parliament. If we can break the law at that level, then what future do we hold for this country? Everything is at a standstill. There is no way! There is no rhetoric and no number of papers which will serve any useful purpose until we decide to be serious. I think this matter of control of Government expenditure must start with His Excellency the President of Kenya, for the time being hon. Daniel arap Moi, and come down to everybody else; Minister for Finance, Vice-President and everybody.

Mr. Obwocha: There is no Vice-President!

Mr. Wamae: Whenever he is appointed. If we can do that, we can control this matter. It can never be controlled from the bottom.

Mr. Temporary Deputy Speaker, Sir, secondly, as for these people mentioned here, there must be some punishment for breaking the law. If you break the law, you are supposed to be punished. But these people are never punished. They go on doing the same thing the following year. Some were mentioned, particularly in the PIC Report, two or three years ago, and they are now Members of this House and they have been rewarded. They were mentioned in those Reports. When we come to the PIC, their names will be there. Now, they are legislating here. They will be Members of the Public Accounts Committee to judge themselves.

Mr. Gatabaki: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform the hon. Member for Mathira that some of the people who were mentioned four years ago are not only here, but are in the Cabinet of President Moi.

Mr. Wamae: Mr. Temporary Deputy Speaker, Sir, the hon. Member who is trying to give me information should know that he has to substantiate whatever he says. Is it in order for me to ask him to substantiate? He wants to leave me hanging in the air, and that means that I will be talking without substantiation.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Messrs Wamae and Gatabaki, I need not remind you of the provisions of Standing Order No. 73(4) which says:

"No Member shall impute improper motive to any other Member except upon a specific substantive Motion calling in question the conduct of that Member."

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

The Temporary Deputy Speaker (Mr. Imanyara): Overruled! Continue, Mr. Wamae.

Mr. Wamae: Mr. Temporary Deputy Speaker, Sir, if that can happen and the people who have been mentioned in those reports are again rewarded with high positions in the Government, naturally, nobody is going to be scared of doing the same thing again.

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

Mr. Wamae: Mr. Temporary Deputy Speaker, Sir, can I have some peace by being allowed to continue?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ndicho, please, sit down.

Mr. Wamae: Mr. Temporary Deputy Speaker, Sir, one other area that I would like to mention is the question of the local authorities. I am glad that the Minister for Local Authorities is here. Either we are serious with the local authorities or we are not. If we are serious with the Local authorities, the councillors should be given power to run their councils. They should be empowered to run the councils which they are responsibly elected to manage. So much power has been given to the chief officers, that the councillors have become almost ineffective. We would like this House to make amendments which will make the elected leaders who represent the interests of their electorate to have more say. I think that a lot of corruption in the Ministry of Local Authorities must be because the chief officers have been vested with too much power. The policy decisions must be made by the councillors and the execution of those policies should be carried out by the chief officers. But it seems to be the other way round. The chief officers can do anything without consulting the councillors. I know that the present Minister for Local Authorities is doing a lot of good work. He is working very hard to clean up Nairobi and put the roads in order. We have seen him all around the country doing that.

Mr. Obwocha: On a point of information Mr. Temporary Deputy Speaker, Sir. I wish to inform the Member for Mathira that one of the most notorious Local Authorities which started as a Town Council and is now a Municipality, is Nyahuru Town Council which has never submitted its accounts to the Controller and Auditor General since 1963. That is how bad things are.

Mr. Wamae: Mr. Temporary Deputy Speaker, Sir, I am glad that Mr. Obwocha has given us that information. I hope that the Minister for Local Authorities is listening. If those chief officers cannot produce those accounts, why not get rid of them? There are so many Kenyans who are looking for jobs and they are qualified to do them. Sack those officers and bring people who are willing to work. That sort of situation should not be allowed to exist. I am sure that the Minister for Local Authorities will clean up this mess which has been going on for a long time. We should have proper officers at the Ministry of Local Authorities who can account for the money which they receive. We should also find ways of enhancing the revenue for the Ministry of Local Authorities. We need more resources to do the groundwork. They are closer to the people; they are at the grassroots level. They must be given the means with which to operate. This is an issue which we are all willing to support in this House, if the Government can increase the resources available to the Ministry of Local Authorities. They are more favoured by the local people in the village. They will do a lot of good work. I think we should not centralise all the powers in the Central Government where the money is being stolen.

Secondly, there is the issue of undertaking of water. There is controversy today already, about water in Eldoret being taken over by a few people and the council. While I support privatisation, there are certain essential services which we should be very careful about privatising. One of them is water. Water is a very sensitive issue

and people can make a lot of money from wananchi only by over-charging on water sales.

The Minister for Local Authorities (Prof. Onger): On a point of information, Mr. Temporary Deputy Speaker, Sir. Would the hon. Wamae differentiate between privatisation and commercialisation? The latter is the one in place and not privatisation.

Mr. Wamae: Mr. Temporary Deputy Speaker, Sir, I hope that in due course I shall know the difference between privatisation and commercialisation. But I think that the Ministry of local authorities can commercialise without having to bring in private undertakers in the water issue. In cases where the Local Authorities are not undertakers of water, they can take over because according to this report, the National Water Conservation and Pipeline corporation is very inefficient. In Mathira, this Corporation collects the money but it has not done anything so far. I have already advised the Minister for Water Resources that I will see him on this matter because, if this Corporation which falls under his Ministry is collecting revenue, they should repair the pipes when they fail. They should justify the revenue they are collecting. Even in cases where correction is needed on the pipes that have been blocked by soil, nothing is done about it. In the lower part of Mathira Constituency no water comes out of the pipes, they contain only air. At every end of the month, a bill is sent to the people to pay for the non-existent water.

I think that this is unfair. It is exploitation. I am sure that the Minister for Water Resources will look into this because it is a serious complaint.

There is one other serious matter which I found in this report. There is an illegal account which has been established by the Government, referred to as Special Account No.2 or Paymaster General Account No.2. There is only one Paymaster General Account but somebody illegally opened Account No.2. It had a credit balance of K£4 billion, while the main No. 1 Paymaster General Account was overdrawn. I do not understand how this happened. If we had one account and we deposited all this money in it instead of having one account in credit and another in debit, we would end up with a credit balance and we would not have to pay interest to the Central Bank of Kenya. According to the report, it is supposed to be an illegal account. I do not know how people can open an account illegally and deposit a lot of Government money in it. It is a very serious matter.

The problems that we have faced with the Goldenberg scandal and other issues is because of the Central Bank of Kenya accepting instructions from the Permanent Secretary in the Treasury, to directly pay expenditures of the Government. The function of the Central Bank of Kenya is to be a banker to the Government. It is not supposed to be making payments directly to individuals. It is not a commercial bank. The money is supposed to be in the account of the Accounting Officer of each Ministry. That is where it should be withdrawn from. The money held in the Consolidated Fund should not be spent directly. This, again, is contrary to all laws and regulations. That is why we have these problems today.

Mr. Temporary Deputy Speaker, Sir, these shortcuts are the ones which have put Kenya where it is today. They have brought problems to our country; we are bankrupt, and have a lot of domestic debts with high interest rates to the tune of Kshs40 billion, which we cannot be able to service and still run other Government operations. All our economic problems have been highlighted in this Report. But all the years, we have come here, sang the same song and done nothing. This has increased beyond imaginable limits. We should look back and be serious with matters raised by the Controller and Auditor-General. If I were the Controller and Auditor-General, I would resign, because, year after year, I report the same issues and nobody takes any action. He should resign because he no longer serves the country. Although he brings these issues to the House, no action is taken.

Mr. Obwocha: We do not want him to resign!

Mr. Wamae: I know nobody would like him to resign, because he has done a very good job. But he cannot keep on being frustrated like this. He is a human being. It is not fair to do your work well and nobody gives you credit or even acts on what you recommend. They just stare at you and the following day, make the same mistakes.

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Controller and Auditor-General, Mr. Njoroge, hails from Githunguri Constituency. As a Member of Parliament for Githunguri, I must defend his integrity, honour and job in submitting the accounts to Parliament.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Gatabaki! Proceed, Mr. Wamae!

Mr. Wamae: Mr. Gatabaki, that is not a point of order. In any case, I did not criticise the Controller and Auditor-General. I only said, that his reports are not acted upon. In fact, he is doing a very good job. So, I do not think you need to defend him.

Mr. Temporary Deputy Speaker, Sir, if we take these matters seriously and implement what is here, we can correct a lot of ills facing this country so that it can get back on track as it was, a few years ago. We should run this country as a business entity for the sake of our children and everybody else. We were brought to this

House by our constituents to safeguard their interests, by looking at what happens to their taxes. Very soon, we are going to refuse to pay taxes when there are no services rendered. We are also going to advise our constituents not to pay taxes. Mathira people, for example, pay a 2 per cent presumptive tax on coffee, tea and other agricultural products and yet, there are no roads being done; it is not fair. I am glad that when employees of banks went on strike because of the same reason, their taxes were waived. So, let us protest when justice is not being done to us.

I support the Motion.

The Assistant Minister for Lands and Settlement (Mr. Leting'): Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to restrict myself mainly to over-expenditure. I think, when we are touching on a subject like this, we have to break the issues into several headings. There is over-expenditure, unauthorised expenditure, misappropriation of expenditure and many others.

Mr. Temporary Deputy Speaker, Sir, many hon. Members who have contributed to this Motion from the opposite side of the House are giving the public the impression that civil servants are simply "eaters" and do not do anything else. I am sure the majority of civil servants are doing a very good job. As we make our comments on this Report, we should not over-exaggerate and generalise so much that, it appears there is no civil servant who is doing a good job. Those who might have misappropriated or over spent are few, and should be isolated from the majority of civil servants.

Mr. Temporary Deputy Speaker, Sir, as Parliamentarians, we must know that most of the ministries in recent years have been operating with very minimal expenditure. In other words, most ministries in the recent years have been given less money than they actually require. For example, I was a Chairman in one of the universities and because of the economic problems in the previous years, at one time, the recurrent expenditure of universities was reduced by a certain percentage. You know what it means to reduce recurrent expenditure, because from there, we pay salaries and allowances. If the Ministry of Finance is forced to reduce its recurrent expenditure because of reasons beyond its control, this means that correspondingly, that institution is supposed to reduce staff. In this case, do we sack employees because the budget has been reduced? This is an area where there would be over-expenditure, because salaries and allowances must be paid. Therefore, that is an area where we must look with sympathy, rather than generalising it along with expenditure incurred without authority.

Mr. Temporary Deputy Speaker, Sir, I am very sure that most of the ministries ran short of money by the end of December last year. Now, suppose it was a police vote and the money has been exhausted by January because of insecurity in the country, somehow the police have to operate before the Supplementary Estimates are brought to the House. This is an area that is likely to result into over-expenditure and possibly lead to what we described as unauthorised expenditure. So, are we looking at all these factors before we pass general judgement against all civil servants?

Mr. Temporary Deputy Speaker, Sir, most hon. Members have complained that there are many projects that have not been completed. Hon. Wamae has eloquently elaborated that there are many contractors and other people who have rendered services to the Kenya Government and they have not been paid. But, then, most of these projects were commissioned between 1988 and 1990 when the economy was fairly good. Unfortunately, as we approached 1992/93, our income became less, therefore, it affected these other projects. So, I do not think most of these projects which have not been completed or paid for were started recently. Most of the expenditure problems are coinciding with the time we had economic problems. That is from 1993 to 1995.

Mr. Wamae: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to say that, these expenses were for the years 1991, 1992, 1993 and 1994, when he knows very well that anybody who was not paid that magnitude of money has already gone bankrupt and is under receivership.

The Assistant Minister for Lands and Settlement (Mr. Leting): Mr. Temporary Deputy Speaker, Sir, I have no comment to make on that issue, because I do not know what had happened at that time. However, I wanted to confirm that most of these projects were not started yesterday. I am aware that some of the projects were started in 1990 but, shockingly, it was alleged that these projects were started so that civil servants could "eat" money allocated to the projects. How can you "eat" money before it is paid out? In fact, the question of "eating" money does not arise in this particular case.

Mr. Temporary Deputy Speaker, Sir, most of the hon. Members who have spoken in this House have said that we should give ourselves more powers to discipline those who mismanage public funds. I would like to inform them that we already have enough powers as per the Constitution of Kenya to deal with such culprits. I do not know why some hon. Members want to give us more powers when we already have them. In fact, what we ought to do is implement the regulations we have at the moment. Therefore, we do not need to give ourselves any extra powers.

On the other hand, many hon. Members have talked about unauthorised expenditure of public funds like the construction of the Eldoret International Airport and the buying of the Presidential jet. I would like to tell this

House that some of these expenditures are not unique. They were rather essential expenditures that had to be incurred. I can prove that even in the past, such expenditures were incurred. For example, there were projects which were started and not completed in 1971, but continued to 1985/1986 when they were completed. These projects cost over K£4 million which was not authorised by Parliament. Therefore, the impression that this kind of expenditure started yesterday is not true. In fact, this habit has been there before.

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to tell us that for essential expenditure, you can spend public money without Parliamentary authority? Can he show us the legal section that provides for that?

Mr. Leting: Mr. Temporary Deputy Speaker, Sir, I did not say that money can be spent without Parliamentary approval: I said that funds went to essential services like the buying of the Presidential jet. Those are public institutions which will benefit this country as time goes by.

In conclusion, we should not generalise on the civil servants' activities when they carry out their duties. Those of you who have been civil servants - and I am glad that nearly 50 per cent of hon. Members have been civil servants before - know that most of the civil servants work under difficult conditions. Therefore, it will be better if we solve our problems according to their nature.

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

[Mr. Deputy Speaker took the Chair]

Dr. Oburu: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion. We are talking about public expenditure and this Report has been tabled in this House, year in, year out. We always get the same recommendations and exposures, but no action is taken against the culprits. In the Public Accounts Committee Report, it is stated that Ministries do not submit their accounts on time. It is the duty of every Accounting Officer to ensure that the accounts are submitted to the Controller and Auditor-General in time. But in most cases, this is not done and the culprits are mentioned in the Public Accounts Committee Reports. For example, the Ministry of Agriculture, Ministry of Transport and Communications and Ministry of Public Works and Housing did not submit their accounts on time. We are not told the action that has been taken against the Accounting Officers who fail to submit their reports to the Controller and Auditor-General on time.

Mr. Deputy Speaker, Sir, in the Report, we are also told that the Government is initiating development projects when we cannot maintain the little facilities that we already have in place. In this country, very little money is allocated for the Recurrent Expenditure. It is the Recurrent Expenditure which would allow this Government to fully utilise the capacity of the facilities at their disposal. In this country, most of the health facilities have no medicine and roads are not maintained. Even the few water systems which are there are not functioning, either because of corruption or lack of sufficient funds to run them. Yet, year in, year out, this Parliament allocates a lot of money for new development projects when actually - I know this because I was working in the Ministry of Planning and National Development - priority should be given to capacity utilisation. The Government should first of all utilise the few facilities that are there in health, road network, water system and all the facilities which have been put up using a lot of public funds, before embarking on new projects. But instead of completing the on-going projects, the Government still allocates money for new projects.

I would like to urge the Government to stop initiating new development projects and ensure that those facilities which were put up with public funds are properly utilised and allocated sufficient funds. Then, the Government can complete all the projects which were started and are now "white elephants." I quite agree with hon. Wamae that those who are in a hurry to start new development projects are doing so for a purpose because we cannot start new projects before completing the on-going ones. I think it is rational that we would first of all devote our efforts and resources into completing what is already at hand before starting new projects. I think hon. Wamae gave his own reasons on why this is not happening, but even if his reasons were wrong, there must be other reasons which are correct; but there could not be a clean motive to start these new projects.

Mr. Gatabaki: On a point of information, Mr. Deputy Speaker, Sir. The Kisumu Molasses Plant is a clear case and I am appealing to my colleagues in NDP to insist that this project should be completed before other projects are initiated. This should be part of the co-operation.

Mr. Deputy Speaker: Order! Order! Hon. Gatabaki, you are treading very dangerously and if it is time for information, give that information instead of arguing.

Dr. Oburu: Well, hon. Gatabaki is appealing for the completion of the Kisumu Molasses Plant and I

concur with him. This is one of the programmes of rationalisation and the Government has in place what they call "Budget Rationalisation Programme". They do not need to introduce new policies because they are already in place, but it appears as if some of the policies into which a lot of work had been done, are being kept in the shelves and nobody is looking at them or implementing them. They have been completely ignored at the expense of Kenyans. This Budget Rationalisation Programme was a very good programme or policy document which, if strictly followed, will go a long way in solving some of the problems which are putting this country into an economic quagmire.

As I have mentioned, in my constituency, there are projects which were started more than five years ago. For example, The Bondo Sub-District Hospital was started about four to five years ago and the Government continues to allocate peanuts every year to this institution, which is insufficient to mobilise the contractor to go back to the site to resume construction. That is just an example of very many projects which are underfunded by the Government, which is still initiating new projects.

Mr. Deputy Speaker, Sir, in the Report of the Public Accounts Committee (PAC), the item of excess expenditure continues to recur year in, year out. This excess expenditure is very specific to specific Ministries and the culprits who keep on overspending are well-known people. The PAC Report has recommended that the Government should take stern action against officers who deliberately overspend. We would like to know whether any action has been taken against those officers because as far as I know, no action has been taken. It might be good for those who do not take action, but this gives a very bad image to our country because it shows that we are condoning corruption. Some of the over-expenditure is not incurred for genuine reasons and when the PAC recommends that action should be taken, we would like to see action taken. When the Minister will be responding, we would like him to tell us exactly what has been done to the officers. Some of the officers accused of corruption come from the Ministries of Foreign Affairs, Home Affairs, National Heritage, Culture and Social Services, Local Authorities, Public Works and Housing, Agriculture, Health, Water Resources and the Department of Defence. It is very sad that these officers are still serving in these Ministries and no action has been taken against them. We would like this Parliament to be a House where action is taken. If we have an important watchdog committee like the PAC, their recommendations must be taken seriously and we must see some action taken. Perhaps, next year we will again debate the item on excess expenditure if the Government does not take action against the particular officers who have been mentioned in these Reports.

Mr. Deputy Speaker, Sir, we also have the problem of pending bills. The PAC has clearly recommended that we should clear them. Let us clear all these pending bills because they definitely affect the Budget. Once the Budget is passed, this money is consumed by the pending bills, because they have to be cleared first. So, we keep on postponing a problem. Why do we not deal with this problem of pending bills once and for all?

Mr. Deputy Speaker, Sir, there is another area that I want to talk about and this is about land grabbing in this country. In this country, there is a very funny habit. When you expose land grabbers, the appetite of the grabbers increases. This is the time they even grab more land. When you are a little quiet, they do not grab as much, but when you talk about it, they grab more land. I do not know how we are going to cure this disease called "grabbiosis". It is very painful when a Government officer, who has stayed in a Government house for 15 to 20 years, is evicted by askaris and he is not even aware that, that house has been sold. That house is being sold under the pretext that it is being condemned. It is being condemned because it is uninhabitable, yet, that man has been staying there comfortably with his family for 20 years. This man is a citizen of this country and he is not given an opportunity to also bid for that house. He is forcefully evicted and the Government has nowhere to take him. He has to look for a house to rent.

Mr. Deputy Speaker, Sir, you know that rental houses in this country are very expensive and the house allowance given to civil servants is so meagre that they are unable to pay for private rental houses. These people who are working hard for this country are forced to go and rent houses in the slums. Some of them are very senior Government officers and they are forced to go and rent houses in the slums. To make it worse, these grabbers do not have the intention of developing the land. Some of them just want to sell the houses to Asians at exorbitant prices and become millionaires overnight. When you use public land to become a millionaire overnight and then you come up and say, "Dr. Oburu, you are a poor man because you are not a hard-working man", that is not correct. That man worked hard just because he is politically more correct than you. I think this is a serious situation which we need to correct and deal with once and for all. This grabbing is more rampant in Nairobi, Kisumu and Mombasa. I know that other towns are also affected, but the Ministry of Lands and Settlement and the Ministry of Local Authorities should take upon themselves to make sure that these illegal land allocations are stopped, so that the public can benefit. I was happy to hear that the Minister for Local Authorities called his officers yesterday and decided to stop further land grabbing in the local authorities. Let this not just be a public relations exercise, but a serious matter meant to help our people.

If there are people who grab land and are not able to develop it, instead of making a few individuals rich, why can the Government not put the land in an open tender, so that those rich people, including the Asians who are buying these plots, can have an opportunity to bid for the land? Let them pay money to the Government instead of enriching individuals. Once this money is collected, the Government can use it to put up cheap houses for the wananchi, instead of giving prime land illegally to few individuals to enrich themselves at the expense of the wananchi.

Mr. Deputy Speaker, Sir, I am also quite happy to note that in the Public Accounts Report of 1994/95, the land which was about to be grabbed at the Kasarani Sports Complex has now been given to the Ministry of Home Affairs, National Heritage, Culture and Social Services and that the title deed has been issued. That is a good example for Ministries which do not want to be asked whether action demanded in the Public Accounts Committee Report was taken. At least, there was action demanded in the Financial Years 1993/94 and 1994/95. We read that action has been taken and a title deed has been issued to the Ministry of Home Affairs, National Heritage, Culture and Social Services.

Mr. Deputy Speaker, Sir, however, the Ministry of Home Affairs, National Heritage, Culture and Social Services should jealously guard this land. They should not start again like when hon. Lotodo told us that he is dishing out land reserved for forests. He has been given land and he should hold it as a custodian of public interest. The Ministry of National Heritage, Culture and Social Services should not start again, to be tempted to part with this land which it has been given to protect for the good of our public.

Mr. Deputy Speaker, Sir, I know there is a case here in the Public Accounts Committee about the rule of *sub judice* on the Goldenberg issue. I do not know whether it is possible for this House to remove this rule of *sub judice*, so that we can discuss once and for all and know the actual people who received money in these banks namely, Delphis Bank; Transnational Bank; Postbank Credit; National Bank of Kenya and Exchange Bank. For how long shall this issue linger over the heads of Kenyans before they know the truth? Why are we being prevented from debating these crucial issues because of the *sub judice* rule?

Dr. Ochuodho: On a point of information, Mr. Deputy Speaker, Sir. We are made to understand that the Goldenberg affair involves a loss of Kshs19 billion. I understand further that out of that amount, only Kshs5 billion is an issue before the court. Would you allow us to discuss the other Kshs14 billion that is not in court?

Mr. Deputy Speaker: Hon. Dr. Ochuodho, we are discussing the Report of the Public Accounts Committee on the Kenya Government accounts for the financial years 1993/94 and 1994/95 and no other matter.

Proceed, hon. Dr. Oburu.

Dr. Oburu: Mr. Deputy Speaker, Sir, I hope, when the Minister is responding, he will be able to delve into this matter and tell us the truth so that he can clear the air, so that the public of this country can get to know exactly what happened with this money that is referred to here in the Public Accounts Committee Report. The amount in question stands at K£289,132,755, which is equivalent to roughly Kshs5.8 billion.

Mr. Deputy Speaker, Sir, it is pathetic that the Treasury still continues to allow illegal expenditure and I am surprised that my friend, hon. arap Leting, says that two wrongs make a right. That is reverse logic. He is revealing to us that there were earlier illegal expenditures from the Consolidated Fund and he is saying that, that justifies the others that came later.

(Mr. arap Leting stood up)

Mr. Deputy Speaker: Order! Mr. arap Leting, you must say: "On a point of order", if you want to be heard.

Proceed, Dr. Oburu!

Dr. Oburu: Mr. Deputy Speaker, Sir, I have never heard that logic. It is the first time today that I am hearing a justification of a wrong with another wrong. Whether it is wrong or right, I also have not heard where he said that merely because something is necessary, you should steal money to go and finance it, because it is a very good thing.

Mr. Deputy Speaker: Withdraw the word "steal".

Dr. Oburu: Mr. Deputy Speaker, Sir, I withdraw the word "steal" and apologise. I will use the word "misappropriate".

Mr. Deputy Speaker, Sir, I hope that this habit of withdrawing money from the Consolidated Fund is not going to continue. We should agree on that and say that, we are not going to make further mistakes. But when we try to justify the mistakes, then it means that we are not serious. We are not serious with the recommendations of this Public Accounts Committee report. We are not serious with the laws of this country. This

is because the laws are there for us to follow and that is why they are enacted. That is why the Government decides that before it spends even a single cent, it should come to this House to ask for a Vote on Account, so that they are able to move or, at least, spend even half of the money before the Parliament gives them full authorization. I do not know which law allows money to be withdrawn from the Consolidated Fund without the approval of this august Assembly.

Mr. Deputy Speaker, Sir, I hope that with the dynamism that is coming from Treasury, something will be done to make sure that there is no illegal issuance of instructions to Central Bank. Central Bank should be independent. They should not be just getting instructions to withdraw money illegally and they just comply. This is because when you are a public officer and you are given instructions to kill, you should not just kill because your boss has told you to kill. You must also see whether that is rational, legal or right. You should not be blind just because you have got a letter from Treasury unless you are also a conspirator. If you are a conspirator, then you are right to do that, but I do not think it is justifiable for any officer in Central Bank to say: "We received instructions. We complied with instructions and we are innocent". That should not be done because these people cannot be innocent by allowing such expenditure to be incurred, even if it was done with instructions from above. I am stressing on the need to have independence of the Central Bank and I hope that Central Bank operates under certain regulations. It should also be rational and independent in making its decisions.

Mr. Deputy Speaker, Sir, there is also one thing which is mentioned in this Public Accounts Committee Report and this is the irregular payment of K£5,119,229 from the Pension Compensation Fund, to some individuals in this country who served with the East African Community, and this money was supposed to be refunded to this Government by one of the former East African countries. This amount is equivalent to more than Kshs100 million and it was discovered and revealed in the Public Accounts Committee Report that the officers who authorised this payment were the Financial Secretary and the Permanent Secretary for National Planning. These are their own officers and their names have been mentioned and the foreign Government has refused to refund this money because these people authorised these payments without any proper document, and they are unable to substantiate why they made these irregular payments. Now, the Kenyan public is being asked to absorb this Kshs100 million and the officers are still working and obviously here in Kenya. Why should the Kenyan public pay Kshs100 million with a lot of interest on it? Why can action not be taken against these particular officers? Let them even be declared bankrupt. This is because this is a serious issue. I do not believe that you can just issue a cheque of Kshs100 million if there is no "cut" for you. These people must have had their "cut" because these individuals do not have documents to substantiate or support the payments; why were they paid and then, why is the Kenyan public now being asked to absorb this huge sum of expenditure just because the foreign Government has refused to pay? So, what is the public going to do? Is the public just going to lose that money like that?

Mr. Deputy Speaker, Sir, this is a matter which should be looked into. We would like to hear from the Minister, when he replies to this Motion, what actions he is going to take against these officers. There are several of such items in the accounts. One of them is the computerisation of the Customs and Excise Department where no step has been taken, despite numerous recommendations made year in, year out, to recover more than Kshs10.7 million which was paid as deposit to some computer firms for services which were never rendered, and the Government withdrew the service. What is the Ministry of Finance going to do about this particular issue? Those who are involved in these deals are known and, to make it even worse, the same firm which failed to perform was, again, given some contracts by the same Ministry. This to me is very clear: That the people who award contracts to the same fellows who failed to perform in the first contract, must be knowing something more than what meets the eye. They must be knowing more than what we in this House do. Therefore, the Ministry must find a way of recovering the money given out, from the officers involved.

Mr. Deputy Speaker, Sir, the Kenyatta International Conference Centre has been discussed in this House several times, and I think the matter is under arbitration. The KICC was given to the ruling party, KANU. If KANU is receiving rent, why is the Government, again, incurring expenditure in maintaining the same building which is generating income in rent which should go into meeting the building's maintenance costs? To be fair, the money spent on maintaining this building should be refunded back to the Government. If KANU owns the building, they should also maintain it at their own cost.

Mr. Deputy Speaker, Sir, allow me to say something about the accounts of local authorities. Some of them are not able to pay salaries. I know of a few who are able to pay but most of them, particularly county councils, do not generate enough funds to meet their financial obligations. However, it is not always true that these councils do not have enough revenue sources to enable them foot their bills. A lot of money which is supposed to go into the councils to provide services is being squandered by individuals. There is a lot of fraud in the field, and that is why some of the officers managing these authorities do not even want to produce accounts, because of the irregularities

involved. Rather than just controlling the appointment of senior officers in the local authorities, the Ministry of Local Authorities should also go into assisting local authorities to generate sufficient funds to meet the costs of rendering services and the payment of salaries to their staff. They should also be strict in accounts so that they can submit their accounts for auditing. The deadline was given in the Public Accounts Committee Report, that they should have started submitting their reports to the Controller and Auditor-General in the 1995/96 financial year. We would like to hear, when the Minister answers, whether this is actually being done. We would like to know whether accounts of local authorities are now being audited. We would also like to see some improvements in the services provided by these authorities. The Ministry should be more diligent in ensuring that local authorities are able to collect enough funds to meet their expenses rather than just concentrating on transferring officers, left and right.

Mr. Deputy Speaker, Sir, it was also suggested in the 1993/94 and 1994/95 Public Accounts Committee Reports that the Committee's hearings should be public but up to now, this has not happened, and yet the rationale behind that suggestion is quite plausible, because this is an important watchdog committee for the public and, therefore, the public has a right to know what the Committee deliberates on. There should be no secret about these deliberations.

Thank you, Mr. Deputy Speaker, Sir.

The Assistant Minister for Foreign Affairs (Mr. Muchilwa): Mr. Deputy Speaker, Sir, I would like to take this opportunity to congratulate Mr. Speaker, hon. Kaparo, for having been elected as the Speaker of the Eighth Parliament. It was a very fitting appreciation of the competent manner in which he guided the deliberations of the Seventh Parliament. I would also like to congratulate you, Mr. Deputy Speaker, for having been elected as the Deputy Speaker of this Parliament in the spirit of the Inter-Party Parliamentary Group (IPPG). Those of us who know you, know that you are a man with a sense of fair-play. I am sure that, with the co-operation of hon. Members, you are bound to deliver.

Mr. Deputy Speaker, Sir, before I move to the main substance of the Motion, let me also congratulate the Member for Ganze, hon. Ngala, for being appointed as the Leader of Government Business. He has taken his job very seriously. He is always here, listening and taking notes. He is setting a very good example for all of us, including Shadow Ministers on the other side of the House. I wish him well.

Before, I touch on a few points which I want to raise on this Motion, I would like to defend the Ministry of Foreign Affairs against the accusations of incurring Excess Vote. The Excess Vote in the Ministry of Foreign Affairs arose as a result of currency conversion rates. Once our currency loses value, and we have ambassadors and other staff in our embassies, we cannot let them starve. We have to make sure that they survive and also that the embassies are run. In that particular case, the money voted did not suffice and, therefore, it was inevitable that there was to be an Excess Vote. So the Excess Vote in the Ministry of Foreign Affairs arose out of circumstances beyond our control.

Mr. Kihara: On a point of Order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to misinform the House that the Excess Vote in the Ministry of Foreign Affairs was incurred as a result of currency exchange rate fluctuations when, in fact, it is true that they paid lobby groups to lobby for this country because of poor governance in this country?

The Assistant Minister for Foreign Affairs (Mr. Muchilwa): Mr. Deputy Speaker, Sir, that is his opinion. But if a lobby group was paid before the currency exchange fluctuation, then the Budget was bound to go haywire.

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. It is our understanding that when the Public Accounts Committee (PAC) is deliberating upon the Report of the Controller and Auditor-General, hon. Ministers of Government are given an ample opportunity to justify or explain their budgetary overrun. Is it in order that after the Committee's Report is released, this former Assistant Minister for Foreign Affairs and International Co-operation is now trying to justify before the House the excess Vote? Now he is discussing the final Report but he had the chance to appear before the PAC and explain himself!

The Assistant Minister for Home Affairs (Mr. Muchilwa): Mr. Deputy Speaker, Sir, they were given that information, but they ignored it. I am trying to correct the impression created in this particular paragraph.

Mr. Deputy Speaker: Hon. Muchilwa, the Controller and Auditor-General gave you ample opportunity in the Ministry to explain queries raised in each paragraph. You cannot come here and start explaining the queries in the paragraphs now.

(Applause)

The Assistant Minister for Foreign Affairs (Mr. Muchilwa): Thank you, Mr. Deputy Speaker, Sir. Let me move on to the substance of the Motion. In this Report, a lot of things stand out like sore thumbs. One of them is incomplete projects. The former Head of the Civil Service, hon. Leting, has touched on some reasons why there were so many incomplete projects.

Having said that, and given that the country needs money very badly, I think it is only fair that projects, which were almost complete - and they are many according to the Report - should be completed when funds are available. One of these projects is the Government Security Printing Press. The building for that Press was supposed to be completed in 1987. It was not completed at that time, but it was projected to be completed in 1989. The initial cost was Kshs70 million but it was upgraded to Kshs80 million. That project was intended to print the new generation identity cards, which were to expire in 1988. If that project were completed, then three-quarters of the huge sum of money of Kshs2 billion mentioned in the Report, which was used to purchase the new generation identity cards, would have been saved.

That project was also intended to save a big amount of money which this country is spending on printing examination papers. This country spends more than Kshs40 million per year on printing examination papers in the United Kingdom (UK). Most of that money is just wasted because it goes to air freight fare. If we gave the Government Press less than a quarter of that money, we would save the balance.

Mr. Muithia: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Assistant Minister in order to mention about the incompleteness of the project, while he knows very well that it was the lack of Exchequer Issues from the Treasury that delayed the project?

The Assistant Minister for Foreign Affairs: (Mr. Muchilwa): Mr. Deputy Speaker, Sir, I will just continue. I know it is the lack of the Exchequer Issues, but what I am trying to say is that, if we have little money, we should spend it where it will generate more. You do not spread resources in a way that will end up with a lot of incomplete projects, some of which could have been completed to help you. For instance, this particular one would have helped us. About Kshs430 million was spent on machinery; the interest on that money is a large sum, and yet we are borrowing money here at very high interest rates when we should be making money; when we should be printing these examination papers; when we should be employing people to do all these things. So, I am appealing to the President--- And we have very good people there; a very dynamic Minister, dynamic Permanent Secretary and dynamic Financial Secretary. I am appealing to the President to ensure that when there is little money to spend, it be applied to the implementation of projects that are almost complete, so that they can assist the Government to make money.

Mr. Deputy Speaker, Sir, having talked about that one, let me talk about the accounting system, because you cannot spend what you do not have. You have got to have the money. The money-collecting mechanisms of the Government are very faulty. Apart from Customs and Excise Department and the rest of the Kenya Revenue Authority departments, most Government agencies still use the old receipt book printed in duplicate, triplicate, *et cetera*. A clerk inserts a carbon paper and writes that he has received from, for example, hon. Ita, Kshs50,000, being court fine for whatever. Of course, the hon. Member will not be fined, but I am just giving an example. First of all, those who have gone to the courts know that files are always disappearing. I can see hon. Muithia looking at me. Files in the law courts are always in a mess and disappearing. So, where a magistrate wrote or judged so-and-so be fined such-and-such amount of money, or forfeit something, first of all, if he is generous enough, he will insert two carbon papers, one facing down and the other facing up, so that they do not transfer---

An hon. Member: You are talking like an expert!

The Assistant Minister for Foreign Affairs (Mr. Muchilwa): Yes, I am an expert. That is why I am saying it. We want expertise in matters like that. That is done, so that the figure of Kshs50,000 does not appear in the duplicate. After the wananchi has left happily with his receipt, the accountant writes Kshs5,000 and he pockets the rest. This is happening everywhere. In the Forests Department, people have sold forests country-wide, district treasuries, and everywhere. So, here is a Government pretending to be collecting money, but the money ends up in individuals' pockets. Even the nature of the receipts themselves--- They are being made in River Road, or anywhere, because there is no security. So, even if you were to collect the carbon paper and it is there, you would have two sets of receipt books and collect the money. It is time those responsible for collecting money revisited this issue and introduced a proper accounting system with documents that will ensure that what is Caesar's goes to Caesar.

Mr. Deputy Speaker, Sir, I congratulate the Government for having created the Kenya Revenue Authority (KRA). Since the KRA was created, revenue collection has gone up.

Mr. Michuki: By how much?

The Assistant Minister for Foreign Affairs (Mr. Muchilwa): I cannot tell you the figure off-head, but

the hon. Michuki is very well informed because he was in charge of the Treasury. He is following up the trends and he is the most informed person about those figures.

When people handle money, you should pay them well, and I think one of the reasons why those people are working very hard is because they are well paid. I would recommend that other people in the Government who also handle big amounts of money, be similarly treated. A case in point is the Immigration Department. They collect about K£45 million annually, inclusive of both internal and external collections. That is a lot of money. If an ordinary civil servant in a department that a Ministry clung to is collecting such huge amounts of money--- I am talking about Ministries clinging to them because there is something called Appropriations-in-Aid, and the Ministry does not want to release a department that will give it Appropriations-in-Aid. For example, the Immigration Department is under the Office of the President. So, they would like to hang on to it. We have had problems with the Registrar of Motor Vehicles; there is a tug-of-war, just because of that animal called Appropriations-in-Aid.

Now, if a fellow collecting money in the KRA is earning four times the salary of this other one and they are doing the same job, you are setting a dangerous precedent. I salute the Immigration Department because it has a very senior man who is still one of the few principled ones, and that is why they are collecting that amount of money, using some useless documents. If we had an unpatriotic Kenyan there, they would be stamping those passports and just "eating" that money. But my argument is that officers in those departments be treated and paid like those in the KRA. If they cannot do that, then money collection for the Government, which is revenue anyway, be put in the KRA, so that these people are properly compensated. Otherwise, you cannot avoid the temptation when a cashier in the district treasury is earning a quarter or one-tenth of the salary of the cashier in Customs and Excise Department or some other department.

Mr. Deputy Speaker, Sir, one area that I should have touched on, but which I left, is that of incomplete projects. This is because they are really hurting the Government. All the money sunk in there is producing nothing. For instance, in Kisumu, the Government is still renting accommodation for the provincial headquarters. In a case where a project cannot be completed and there is no sign in the offing that it is likely to be completed, and it has swallowed so much; why not sell it? If you can sell a Government plot with an old house, why not advertise an office block and sell it? Why not advertise those National Youth Service flats? I think they are 95 per cent complete and they have been like that for over six years. I am sure, if the Government advertised those flats, it would get money which would reduce these high interest rates which the Government is paying. These incomplete projects make the Government take so much money from the system, while the citizen ends up with nothing.

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

The Member for Tharaka (Mr. Mwenda): Mr. Deputy Speaker, Sir, my names are Cecilio Mulango Mwenda, Member of Parliament for Tharaka Constituency. I have listened very attentively to hon. Members' contributions to this debate. One clear thing that has come out is that those civil servants who are charged with the responsibility of implementing various projects have been extremely unfair to this country. There are so many cases of embezzlement which have been set out by the PAC Report. Recommendations have been made year in, year out, but apparently, nothing is ever done to visit those officers responsible with any punishment of any kind. You find that all these acts of commissions and omissions by the officers, come about as a result of two things. The first one is corruption. Those who start projects will always negotiate for a percentage "cutting" to be in their favour from the contractor. It has become common knowledge that at the commencement of these projects, these "cuts" are paid to the officers in charge. Once that is done, the officer loses interest in the project. It is no longer lucrative and beneficial to him. So, he goes ahead and looks for another project so that he can negotiate for another percentage at the commencement of the project. So, all these commissions and omissions tend to centre on the question of corruption.

For instance, in 1993, according to this Report, the National Youth Service (NYS) wanted to procure certain Mercedes Benz lorries. They had negotiated with a local firm to supply those lorries. However, someone in the Office of the President, without consulting the user department, proceeded to contact a foreign firm and had those lorries supplied at three times the cost at which they would have been supplied to the NYS by the local firm.

The question that arises immediately is this: Why would an officer in the Office of the President negotiate a won tender with a foreign contractor to supply motor vehicles at three times of what had been negotiated with a local firm, unless he is a beneficiary to a certain percentage in the form of a bribe? All this centres on the question of corruption.

The other reason is nepotism. Politically-right officers who are not qualified and disciplined are promoted to offices in high places because of political patronage. You find that an officer is given a duty to perform and yet he is not qualified. He will either not do it properly, or he will completely refuse to do it. Eventually, he becomes "untouchable" because you cannot discipline him. The question of nepotism is

permeating nearly every sector of this country. It is happening in the police force, Military and everywhere. You will find an officer being interviewed for a promotion being asked: "Where do you come from?" When such officers appear before the promotion panel, they would want to know whether he is a Mkamba, Mkalenjin, Mtharaka and where he comes from. Then, if he comes from the favoured community, he will get a promotion. We are in the process of encouraging and promoting inefficiency in our own system of operation. It is not helpful to come here and cry that a certain accounting officer has been unable to perform a certain task. The most difficult thing to do is once we have a system or a syndicate operating from the top to the bottom, where the top-most officers are as corrupt as their juniors, it is not possible to have an efficient system. It is not possible to have officers who have committed certain omissions, visited with any disciplinary action, leave alone being taken to court. So, unless the Executive arm of the Government changes its attitude and demonstrates that it is willing to root out these ills that have pervaded this country, this debate will continue appearing year after year. It will become a ritual. I am saying that this is something that must be borne squarely by the Executive arm of the Government without buck-passing.

Mr. Deputy Speaker, Sir, I want to say something about the *sub judice* rule, which in my opinion, was wrongly invoked in relation to the Goldenberg scandal. The *sub judice* rule is based on the concept and principle of separation of powers of the three arms of the Government. It is intended to avoid one arm of the Government interfering with the affairs of the other. When it was invoked in this particular case, it was intended to show that Parliament, through the PAC, should not interfere with the functions of the courts. But I am saying that the way it was invoked in this particular case was wrong. This is because this Parliament has the constitutional duty to debate and deliberate on every issue that touches on public policy. We are talking about a sum of Kshs18 billion. That is a matter of serious concern to the public. It is irrational and unfair to embargo or put encumbrances on Parliament by invoking the rule of *sub judice*, so that an issue of that magnitude goes undebated. Our courts are manned by highly trained personnel. We have judges and magistrates who are qualified people. They will make decisions, give verdicts on the basis of the evidence that is adduced before them. They will not make their judgements on the deliberations taking place in Parliament. So, by invoking the rule of *sub judice* to stop Parliament from deliberating on an issue of that magnitude---

Mr. Deputy Speaker: Order, hon. Mwenda! There is a Standing Order which states specifically that if a matter is before a court of law, it should not be discussed here. Nobody else imposed that rule on us. We imposed it on ourselves and it is in our Standing Orders.

Mr. Mwenda: Most obliged, Mr. Deputy Speaker, Sir. But because it appears in the Report, I was saying that the way it was invoked was improper. But I will comply with your ruling. I would perhaps make a call to this House to look afresh at the Standing Orders, plus the legislation that bars this House from discussing matters of that magnitude.

With those few remarks, I beg to support.

Mr. Keriri: Mr. Deputy Speaker, Sir, thank you for giving me this opportunity to contribute to this serious Motion. I would like to avoid repetition because most of what is contained here has been said. I will try to look at a few things.

Mr. Deputy Speaker, Sir, for as long as I have known, the PAC has drawn our attention to the inappropriateness of Government actions. This is done after the Controller and Auditor-General produces his Report, which gives us no peace, either in our sleep, or in our jobs. He has continued to call our attention to misappropriation of public funds.

Mr. Deputy Speaker, Sir, I know that the Controller and Auditor-General means well in his Report. He appears to be one person who is so concerned about the welfare of this country, that he has consistently been very frank, fair and brave. I have known him since the time we were in school together. But his efforts have come to naught because he seems to be speaking to people who have no ears to hear.

Mr. Deputy Speaker, Sir, in this Report, there are certain fair recommendations which ought to be implemented. There is one recommendation which is repeated several times and I would like to refer to it. It states: "The Permanent Secretary to the Treasury should take action against Accounting Officers." The Permanent Secretary to the Treasury does not have the powers to take action against Accounting Officers. He has powers to refuse them unauthorised expenditure. He has powers to call their attention to misappropriation of funds but he cannot take them to court or sack them. He has no power to sack any Accounting Officer. But his case is a *fait accompli* because, first, a Permanent Secretary is appointed by His Excellency the President, and then the Permanent Secretary to the Treasury appoints him the Accounting Officer.

(Mr. Keah nodded his head in agreement)

I am happy that hon. Keah agrees with what I am saying. The Permanent Secretary to the Treasury does not even have the power to prevent any Accounting Officer from authorising expenditure because that Accounting Officer was appointed by someone more powerful than the Permanent Secretary to the Treasury. I think what is lacking, which could help the Permanent Secretary to the Treasury, is knowledge. Many people are appointed---

*(Mr. Mwenda crossed to the KANU side
without bowing to the Chair)*

Mr. Deputy Speaker: Order, hon. Mwenda! You cannot just cross like that! Proceed to the bar and bow to the Chair and then do what you want to do.

(Mr. Mwenda bowed to the Chair)

Mr. Keriri: Mr. Deputy Speaker, Sir, I thought I was seeing a ghost because I saw someone walking straight in front of me towards the other side of the House.

Mr. Deputy Speaker, Sir, I think what we lack are people of merit, who know what they should be doing. Officers holding very powerful and vital offices are appointed on the basis of political patronage; for example, Permanent Secretaries, directors, managing directors, departmental heads. We should stop that patronage. We must go back to the days when people were appointed on merit. If one is appointed a Permanent Secretary or a departmental head on merit, he will have the courage because he knows that it is difficult to sack him since he was not put there by someone. Unless we go back to that system, we cannot expect the Permanent Secretary to the Treasury, who is a very qualified person, to do anything.

Mr. Deputy Speaker, Sir, the other thing which we must do is to train people. At this stage of our development, we have forgotten the usefulness of training. I am sure hon. Leting will agree with me that he was given a lot of training before he became an Under Secretary and later, a Permanent Secretary. If he followed that kind of training properly, he would have no cause to fear that he would be sacked. In the olden days, when officers were appointed, they underwent very intensive training. DOs had to go around the country, for example. They were trained to be brave by being made to climb Mount Kilimanjaro, that is, the Outward Bound Course. They were made to go to the most remote areas of this country in order to know how poor people in this country live and when they came to Nairobi, they would realise that they would have to do a job to help the poor of this country.

Mr. Deputy Speaker, Sir, we had the Kenya Institute of Administration (KIA) which has been made a university campus. In my view, I think it is absolutely wrong to turn an institute like the KIA into a university campus. We are training so many graduates who have no jobs. They are unemployed as of today. Those looking for jobs are more than those who are employed because they have no specific training. We are involved in a mere production of graduates. Instead of engaging in this futile exercise, we should have given a place like the KIA the mandate to train support staff for Accounting Officers. We used to train them there as personnel officers, accountants and others. It was a wonderful production of personnel for the Government, and people did a good job. We used to train people to advise Accounting Officers on what to do and what not to do. Today, an Accounting Officer is so busy-- Unfortunately, some of them are too busy stealing. But he is so busy in one way or the other that he may not be able to read the details of regulations. He needs someone to call his attention to those details.

Today, there is no trained person. Officers are recruited right from school and they climb up the ranks within a very short time to the position of Permanent Secretary without even getting to know the duties of an Under Secretary. I am not talking about the KIA only. There are very many other places which were closed or turned into university campuses.

We know that for one graduate engineer, we need several polytechnic technicians. We even need more artisans, but today, we are producing more graduates than artisans. What are these for? Just to be on the tarmac? I think the Government should revise its priorities and get back to training. We had a training institute at Parklands which has been turned into a university campus to produce graduates who are of no use because they are not working for anybody. They are unemployed and frustrated. Instead of training our middle-level staff in those colleges, we have closed them and every day, we hear expressions like: "In 1964 or 1970, we had only one university and we could produce so many graduates, but today, we are producing over 400,000." Why should we be proud of producing people who cannot be employed, when we should be employing people to support the Permanent Secretaries?

Mr. Deputy Speaker, Sir, it is wrong, and, I think we should go back to our old practice of producing

trained manpower. We have some systems in the Government; there is the Code of Regulations and there are the Financial Orders and all these procedures are supposed to be obeyed, but today, they are not obeyed. One of the reasons why they are not being obeyed is because officers are ordered not to do so. They are told: "Do this; spend this money." Not one single Accounting Officer is prepared to stand up and say: "Sir, this is wrong." This is because that particular officer has been appointed on the basis of patronage and he does not want to disappoint his patron. He wants to protect his own job. If that officer cannot stand to tell, for example, a Minister; "This is wrong---" He does not have to tell him; "No, Sir, I am not going to do it." All he needs to tell him is: "This is wrong and the regulations say the following: If we do this, we are in breach of regulations." "Sir, this is what we should do." If that Minister was fair, he would listen and he would then run back to State House and tell the President: "Sir, what you asked me to do, I am told is wrong according to the regulations." The President is not an unreasonable man; he has experience in this country and he will listen to someone who gives him the right advice.

Mr. Deputy Speaker, Sir, in the old days when you were a DA or DO, we used to have a system where, if a Minister came and told you as the Accounting Officer; or as the officer standing in for the Accounting Officer, "the Government wants to spend this money on this item;" and you knew that, that was against the regulations, or that was not provided for in your estimates under that subhead; you would tell him: "We do not have the money for that because it is not provided for, or it is against financial regulations to do it that way." If he still tells you that, "I want you to spend it." What do you do? In the old days, we used to say: "Okay, Sir, you have said it." But you had your memo and the pen. You could write back to him telling him; "Sir, I am now going to implement your instructions as follows, although I am implementing this on the understanding that we have no money, we are against the regulations, and we are in breach of the financial regulations." You would not have disobeyed him; all you would have told him is that, you have put it on a record that you know it is wrong. You may not win the game, but you will have done something. When it comes to investigating on who made the mistake, you have kept record to help those who come to investigate to decide who made that mistake.

In any case, you have informed posterity that someone made a mistake. You may think that he will have died; he will be in hell, and his bones will be in the soil. That is all right. If he is in hell, he will be burning more, the fire will be increased even more because he made a mistake. Even his bones may be able to listen; we do not know where they go, but you will have told posterity what that person did.

Mr. Deputy Speaker, Sir, we have got a lot of complaints from the Government side; people telling us that, "we are not all thieves. We are not all mafia." Yes, all those people cannot be thieves, I agree. There are some who are much better than some of us on this side, I agree. But the problem is, none of them has the courage to admit mistakes and provide a mechanism for correcting those mistakes.

Mr. Deputy Speaker, Sir, we all went to Mombasa; at the Mombasa Inter-Continental Hotel. I agree with you, Mr. Minister, I shouted at you. I was not saying that you were not there. I agree you were there. We all went there to do a good job. But when we were there, there must have been a few human beings who were protecting, not the interest of this country, but their personal interests.

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member on the Floor in order to say that, none of the Members on the other side have the courage to say what has gone wrong when, honestly, we have seen hon. Nyachae and hon. Kirwa coming out and saying the truth about---

Mr. Deputy Speaker: Hon. Mwenje, the hon. Member on the Floor has the right to say whatever he likes. He has to be heard---

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

Mr. Deputy Speaker: Order! Order! Hon. Mwenje, you argue with the Chair at your own risk. Continue, hon. Keriri.

Mr. Keriri: Thank you, Mr. Deputy Speaker, Sir, for protecting me from hon. Mwenje who is just standing so that I can hear that he is sitting behind me. I said very clearly that all those people cannot be thieves. I said clearly that some of them are even better than the Mwenjes and others on this side.

Mr. Deputy Speaker: Hon. Mwenje!

Mr. Keriri: Hon. Mwenje! Thank your, Mr. Deputy Speaker, Sir. I am not blacklisting everyone, I know what I am saying.

Now, I was saying that some fellows somewhere, when we were doing a wonderful job in Mombasa, must have gone somewhere to say that we were committing crimes. Those fellows, somewhere, must have misled His Excellency the President to make an unfortunate statement about what we were doing to save this country; to remove this country and the economy from the intensive care unit (ICU).

Mr. Deputy Speaker, Sir, did that fellow, or fellows, have the interest of this country at heart? No!

An hon. Member: Who is that fellow?

Mr. Keriri: Whoever it is, I do not know him, but there must have been someone somewhere. If you know him, I will be very interested to know who he is. The President is very intelligent.

Mr. Deputy Speaker, Sir, we are saying that, someone must have the courage to say what is wrong and say it openly, and let others say that, "You are not right." But we must all of us agree to speak out, when we know that something wrong is being committed.

Mr. Deputy Speaker, Sir, instead of doing that, we are only talking so as to protect jobs, mistakes and the filth we have committed over the years. We always want to pass the buck to the President. We know that the final buck stops at the President, but for goodness sake, let us be honest and have the courage to say the correct things at the right time. Let us point out mistakes. If officers in the Government had the training to tell their bosses what is wrong, I do not think most of the mistakes which are taking place here would be happening. It is lack of training, dishonesty and fear of being sacked because they know they are not qualified on their jobs.

Mr. Deputy Speaker, Sir, we are not blaming Members on the Government side, but those who have committed sins by misappropriating public funds. When we talk about misappropriation of public funds and you feel that we are implying Members on the KANU side, then, please, take care, because you are putting yourself in very dirty shoes. Members on the opposite side of the House must have also gone through this Report. They should be speaking exactly the way we are speaking because nobody has stood to refute this. So, everything that has been reported here, happened.

Mr. Deputy Speaker, Sir, we highlight these issues here because we want them corrected by those who are in the Eighth Parliament on the Government side. Another reason is, we want to tell wananchi that things are going wrong so that in their own way, they can also speak out about them. In doing so, we have one problem; that, not everything we say here is heard. The only people who know about what we say here are those who are literate and capable of buying newspapers. The most effective media in this country is the electronic media which only reports the views of one side of the House. We have been waiting for the recommendations of the task force on television and radio licensing. Every time we talk about licences, we are told that the report of that task force is being awaited. We are waiting for the media to tell us what is happening.

The Kenya Broadcasting Corporation, financed by taxpayers' money, has become the mouthpiece of one party. We are told that it is propagating Government policy. I am sure what we say is part of that Government policy. For example, when I say that we should not misappropriate public funds, is it Government policy to misappropriate public funds? No! So, we want people to be told through the radio and television, that it is wrong to misappropriate public funds. If our local radio and television stations do not tell our people what we say and what we want done, then the Government must be prepared to give other people licences to do so. We are always told that they are waiting for the task force to tell them how to do it. If members of the task force are wiser than the Government, they would have made a report. Now, what are they going to tell you that you do not know?

An hon. Member: Tell them you are also a Minister!

Mr. Keriri: I happen to be a shadow Minister; I am in the shadow of my colleagues on that side. I am telling them if they are tired, they should come to this side, sail in my shadow, and I will do better on that side. They even know it as a fact.

Mr. Deputy Speaker, Sir, we ought to give people freedom to report what is right and what is wrong. I thought the Minister for Information and Broadcasting was still here; unfortunately, he is gone away. I saw him becoming very sensitive to that issue when he was here I would like to request Members on the Government side to appeal to him to convince his colleagues that people need radio and television licences. If he is waiting for the task force report, what has led him to take over a radio and television licence which he had given the other day to an individual who sold his interests?

(Mr. Obure interjected)

Mr. Keriri: If hon. Obure, cared to listen, he would know that the Minister cancelled the licence because someone who had not gone through the task force and who was expected to keep it till a rainy day for someone who is protected, sold his interests. There was no other reason whatsoever. After all, why does an argument between hon. Obure and I cause hon. Obure's trading licence to be cancelled? What trouble is our quarrel causing the Government?

Mr. Deputy Speaker, Sir, we should have licences for radio and television issued liberally so that people can know what we are saying. Even some Ministers' contributions are not reported. Some of my friends on the opposite side of the House say some very courageous things and they are not even reported on the radio, because they have not said what that radio station has been told to report. Members of the Opposition are not the only ones who are saying the right things. Even some Members on the Government side are saying the right things. Today, I

read in the newspapers about a Minister who had the courage to say that we were doing the right and good job in Mombasa. That Minister knows that he is trained to do the job he is qualified for in his country, and that being a Minister is not the only job. He knows that if he says the right thing that helps Kenyans and he is sacked, he can still go back to his job. It is only those who have no qualifications and have nothing to lay their hands on who are scared of saying the truth. I would like to thank that Minister. I know him and I am not going to mention him. But, keep it up. There are a few others like the Minister for Local Authorities, who has started a very courageous scheme of improving things.

Mr. Deputy Speaker, Sir, we all know that the Minister for Finance is doing a very wonderful job of reviving the economy of our country, and he knows what he is going to present in his Budget Speech. I am sure he is going to take care of most of the things we are talking about. Also, the Minister for Research and Technology is improving the technological know-how of this country and he has the courage to do so. I thank them for that. If we had only 10 out of the 28 Cabinet Ministers with that courage, our economy would have started to pick up. We want to avoid coming here every year to discuss mistakes which can be avoided. Let us avoid these mistakes and have the courage to explain to our boss that some things cannot be done because they are unprocedural. After all, the President is a human being and he can listen to you if you tell him the truth. We should also avoid sycophancy when discharging our duties. I am sure, if we do that, he will like us for our boldness. He will not sack you. I know some of you are scared of being sacked. What were you before you were appointed Ministers?

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

Mr. Achola: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to also contribute to this very important Motion. First of all, I would like to mention at the onset that I was privileged to be a Member of this important Committee for two years running. I must admit that we had quite a number of difficulties in the process of preparing these Reports. Many hon. Members have talked about the usefulness of the PAC Report, and I do agree with them.

I would like to mention that to produce each year's Report, it costs the National Assembly a minimum of Kshs5 million. We had 71 sittings in each year and we were paid Kshs5 million, excluding printing costs and other logistic expenses. It is very unfortunate that we continue spending money to produce these PAC Reports and no action is taken on our recommendations. Every hon. Member who has spoken here has voiced his concern on what should be done since no action is taken on the PAC Reports which are produced annually. I would suggest that when we are reviewing the Constitution, we enact a law to ensure that action is taken on the recommendations of the PAC Report, otherwise, it would be just a waste of time.

Mr. Deputy Speaker, Sir, there is no reason for spending Kshs5 million to produce these Reports if we are not going to implement the recommendations. I submit that if we are not going to introduce a law into our legal system that would enforce the implementation of these recommendations, then we might as well do without the PAC at all.

Mr. Deputy Speaker, Sir, I would like, first of all, to congratulate Mr. D.G. Njoroge, who is the Controller and Auditor-General. I think, he has been in that position for over 30 years. I must admit that he is a very frustrated person. His job is extremely boring because this gentlemen has been producing these Reports for the past 30 years, every time telling us the various mistakes. Each paragraph in this Report represents a misdeed somewhere in the public accounts. In the 1993/94 Report, we had close to 657 paragraphs and each paragraph is talking about a mistake somewhere that occurred, and the Controller and Auditor-General did not get a satisfactory explanation as to why this happened and that is why they are appearing here.

(Loud consultations)

Mr. Deputy Speaker: Order! Order!

Mr. Achola: Thank you, very much, Mr. Deputy Speaker, Sir. It is not surprising that Ministers continue to discuss other issues because they do not see this as important. So far as I might agree with them, it is not important to them because they will not implement it anyway.

Mr. Deputy Speaker, Sir, I want to look at about 21 items. I hope I will get the time to mention them briefly and give some of the insights as to how we arrived at the recommendations. I am happy at the way the debate is going on. We look like we are going to support the Motion. We tried our best in compiling this Report. Many of us have already mentioned the fact that virtually every Ministry has had problems with over-expenditure which is coming out as excess votes. It is surprising that even the Ministry of Finance, which should actually be controlling the expenditure of all Government Ministries, is one of those notorious for incurring Excess Votes. For example, in the 1993/94 financial year, it spent Kshs1.4 billion without authority as excess expenditure. One would have expected them to improve on this, but that was not to be because in the following year, they even spent

more without being authorised.

Mr. Deputy Speaker, Sir, if you re going to improve on the economic situation of this country, there is no way we are going to achieve that when people who are charged with the responsibility of making sure that our financial controls are put in place are the same people who are flouting the same rules. I was particularly disappointed that the chief culprits in these deals are actually the Ministry of Finance and the Treasury. On pending bills, I was very impressed with what hon. Matu Wamae mentioned here. In fact, he talked like he was a member of the Committee when he talked about so many pending bills. I remember during the cross-examination, when we were having the Public Accounts Committee meetings, some of the Accounting Officers actually admitted that the Kenya Government was not credit worthy. Many companies have refused to give credit to the Government because if you provide services to the Government, they do not pay you.

Mr. Deputy Speaker, Sir, we have known of private companies which have gone bankrupt because they could not pay their bills in time and that was as a result of the Government failing to pay them. In the 1993/94 Public Accounts Committee Report, we had an excess pending bill of Kshs3.8 billion. Now, that is a lot of money being carried forward to the following year. There is a standing rule which has been issued by the Treasury to say that pending bills will form a first charge in the succeeding year. However, you find Accounting Officers very comfortably ignoring that and continuing to spend money under the new Recurrent Expenditure or on the Development Expenditure. So, we have continued to carry over pending bills from one year to the other, and this has given the Government a very bad name as a trading partner even for the private firms. I am particularly upset because I know a few local entrepreneurs who have had their businesses wound up because they did work for the Government and were not able to pay because the Government did not pay them and some of them had borrowed heavily to be able to set up these businesses.

Mr. Deputy Speaker, Sir, so we are not really helping our own small people. As hon. Wamae said this afternoon, it is wananchi who are suffering and not the big shots, who actually get paid in advance. All this Kshs3.8 billion represents payments which should have gone to the settling of pending bills. If the Ministry of Finance will accept this Report, I will suggest that we do a one-off payment of all pending bills so that we start on a new slate. In 1994, pending bills even increased. There is an outstanding amount of Kshs4.9 billion of pending bills. I was just looking at the latest PAC Report which shows that the pending bills figure has even gone higher. We need to do something in order to be in control of our finances.

One can break this Report down into virtually nine headings. In every Ministry we find pending bills, Excess Vote, under-collection of Appropriations-in-Aid (A-in-A) under-collection and so on. The problem with A-in-A, and the reason why it appears in every Ministry, is that at the Budget planning stage, Ministries project that they are to get finances from various sources. This is done in a such crude manner that when it comes to the actual time, we find that they do not actually receive money. This is giving a terrible impression in our books of accounts namely, that we are not able to spend money. But we are not able to spend it because we do not get it. The Accounting Officer may say to the Committee: "We were told that the Government was to be given aid in that particular year, but when it came to the time of doing so, the donors refused to give the aid." We should ask ourselves, for example, why aid was suspended sometime back. We know that the World Bank and the IMF stopped giving aid to this country and they had reasons for stopping aid to this country. If the Accounting Officers were doing a proper job, they would be able to anticipate that they were not going to get those funds in time, and so would not include them in the Budget. By so doing, the books would not give a reflection of what really was not the case. I would appeal to the Minister for Finance to improve on the budgetary cycle, or on his mechanism for estimating and planning.

Many hon. Members have talked about stalled projects. We did some calculation which showed that on average, we have over 200 stalled projects. Some of these stalled projects cost quite a bit of money. I have a paper here showing that there was in excess of Kshs100 billion in projects which have stalled since the 1980/81 financial year. The Kenya Government has already spent in excess of Kshs100 billion which is now idle, yet the Government has the audacity to say that it is broke! Why are we broke? We are broke because we have invested stupidly. We are broke because we invested in certain areas where we had our own personal interest. In fact, during the years when, regrettably, late Hezekiah Oyugi was the Accounting Officer in the Office of the President, there were 1001 projects started at the same time, but none was completed. In fact, the Office of the President is the worst culprit. Officers in that Office were just starting projects, getting their cuts and then forgetting about them.

ADJOURNMENT

Mr. Deputy Speaker: Order! Hon. Members, it is now time for us to interrupt our business. The

House is, therefore, adjourned until tomorrow, Thursday, 30th April, 1998, at 2.30 p.m.

The House rose at 6.30 p.m.