

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 7th July, 2005

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### PAPER LAID

The following Paper was laid on the Table:-

The Report of the Departmental Committee on Finance, Trade, Tourism and Planning on the Public Procurement and Disposal Bill.

*(By the Chairman (Mr. Kagwe))*

### QUESTIONS BY PRIVATE NOTICE

#### ASSISTANCE TO KCPE CANDIDATES DISPLACED FROM NAROK

**(Mr. Kimeto)** to ask the Minister for Education, Science and Technology:-

(a) What measures has the Minister taken to assist school going children who have been evicted from schools in Sagamian, Ormegenyo and Sisiyan areas of Narok District?

(b) What specific measures have been put in place for this year's KCPE candidates who have been displaced in the evictions from Chepitet, Losagam, Kitoben, Kebeneti, Koitabai and Olesuhunye primary schools?

(c) Could the Minister further consider including the pupils currently camping at Sogoo Primary School in the school feeding programme?

**Mr. Deputy Speaker:** Mr. Kimeto is not here? His Question is dropped!

*(Question dropped)*

#### MEASURES TO SAVE ALUPE SUB-DISTRICT HOSPITAL FROM COLLAPSE

**Mr. Ojaamong:** Mr. Deputy Speaker, Sir, although I do not have a copy of the written answer, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Is the Minister aware that the delivery of health services at Alupe Sub-District Hospital in Teso District is on the verge of collapse?

(b) If the answer to "a" above is in the affirmative, what are the causes of the decline in the

provision of medical services at the health institution?

(c) What urgent plans does the Minister have to address the myriad of problems affecting the sub-district hospital?

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

(a) I am aware that health services are running well in Alupe Sub-District Hospital, Teso District. The institution is headed by a Medical Superintendent whose responsibility is to ensure quality services are provided. The Ministry is committed to improving the staffing level in the institution and has recently posted two nurses and one clinical officer. Drugs and other supplies have been consistent and no patient has been denied treatment.

The hospital has been able to clear its debts and to date no debt is outstanding. If there is any specific problem the hon. Member would like to be clarified, my Ministry would be very willing to address the issue and ensure that quality services reach all, including the very poor in the society.

(b) As stated in "a" above, therefore, "b" and "c" of the Question are not applicable.

**Mr. Ojaamong:** Mr. Deputy Speaker, Sir, first of all, I want to dispute the answer the Assistant Minister has given this House. Alupe Sub-District Hospital was a referral hospital in East and Central Africa. Today, that hospital does not have a mobile ambulance. It also does not have enough drugs and its suppliers have not been paid. It is unfortunate that the Assistant Minister has said that the institution is running well. What measures has the Ministry taken to ensure that it sends an ambulance to Alupe Sub-District Hospital?

**Dr. Kuti:** Mr. Deputy Speaker, Sir, the hospital has a vehicle whose registration number is GK A355E. The MOH has at his disposal the ambulances stationed at Teso and Busia district hospitals. Therefore, the hospital is well covered in terms of mobility. I was even informed this morning that the debts of the hospital were cleared on 30th June, 2005.

**Mr. Deputy Speaker:** Mr. Assistant Minister, you asked the hon. Member to be specific and he has done that. What is the condition of the ambulance?

**Dr. Kuti:** Mr. Deputy Speaker, Sir, that hospital has an ambulance whose registration number is GK A355E.

**Dr. Khalwale:** Thank you, Mr. Deputy Speaker, Sir. There is no doubt that the vehicle which the Assistant Minister has mentioned is actually in that hospital. However, all health centres, sub-district hospitals, district hospitals and the Provincial General Hospital in Western Province have ambulances and all of them are grounded. Could the Assistant Minister confirm that he will send ambulances which are in good condition to those hospitals and health centres? He should not take us for a ride!

**Dr. Kuti:** Mr. Deputy Speaker, Sir, the vehicle may have a mechanical problem, but it is there. I would like to take this opportunity to say that my Ministry had promised to send a new ambulance to Alupe Sub-District Hospital this financial year.

**Mr. Deputy Speaker:** Order, Mr. Assistant Minister! This House must be treated seriously! The hon. Member is saying that there is no ambulance at Alupe Sub-District Hospital and you are saying that, that hospital has a vehicle, which you have agreed does not move. What is its purpose? It is better to be truthful so that this House can take you seriously. Mr. Assistant Minister, could you be truthful?

**Dr. Kuti:** Mr. Deputy Speaker, Sir, according to the report I have, the hospital has a moving vehicle, whose registration number is GK A355E. However, the Ministry has promised to provide the institution with an ambulance. I got this information when I asked the technicians to call the hospital.

**Mr. Bifwoli:** Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister has said that

Alupe Sub-District Hospital has an ambulance. There are so many ambulances which have stalled in many hospitals. When he says that the sub-district hospital has an ambulance, is it mobile or not? How does a stalled ambulance ferry patients from one place to another?

Secondly, this Ministry is fond of promising to provide ambulances to hospitals, but it does not live up to its promise. Three years ago, the Ministry promised to send an ambulance to Bumula Hospital and it was included in the Budget, but it has not been delivered. When will they be honest?

**Dr. Kuti:** Mr. Deputy Speaker, Sir, you will realise that the demand for equipment and services is very high and we are strained by funds. Hon. Members should understand that it is not our wish to make health institutions incapable of delivering services. However, everything revolves around availability of funds. We will try our level best to offer the best services with the limited resources we have.

**Prof. Olweny:** Thank you, Mr. Deputy Speaker, Sir. Alupe Sub-District Hospital used to have a famous Leprosy Clinic. I have information that the Government sent away some lepers last year. Could the Assistant Minister tell us the position of the Leprosy Clinic at Alupe Sub-District Hospital? Why did the Government send away those patients?

**Dr. Kuti:** Mr. Deputy Speaker, Sir, some lepers have stayed in that hospital for over ten years. They were voluntarily repatriated to their mother countries with the assistance of the Leprosy Programme four or five years ago. The few who are remaining are accommodated at the premises adjacent to the hospital. They are being treated like any other patient according to the Ministry of Health Integrated Healthcare Policy.

**Mr. Wanjala:** Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister should not take this Question so casually. It was recommended 30 years ago that Alupe Sub-District Hospital would be upgraded to a medical training college. What measures has the Ministry taken to ensure that a medical training college is started in that hospital?

**Dr. Kuti:** Mr. Deputy Speaker, Sir, that is a different question. I do not have the right answer right now. I will provide it at a later date.

**Mr. Deputy Speaker:** You are right, Mr. Assistant Minister. That is a completely different question!

**Mr. Ojaamong:** Mr. Deputy Speaker, Sir, it is unfortunate that the Assistant Minister has answered the Question out of ignorance. I apologise on behalf of the Government and the President because the Assistant Minister has misled the House. The truth of the matter is that the hospital is being run down. What urgent measures will he take to ensure that the hospital offers the medical services it has been offering?

**Dr. Kuti:** Mr. Deputy Speaker, Sir, I agree that this hospital is constrained, but we have posted a few medical staff there. As I said, the issue of the ambulance will be taken care of this financial year. If there are any other issues affecting the hospital, I am willing to sit down with the hon. Member so that we can explore ways of helping the hospital to improve its service delivery.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! Consult in low tones!

EXCLUSION OF MAKUENI DISTRICT FROM  
WATER SERVICES PROGRAMME

**Mr. J.M. Mutiso:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Water and

Irrigation the following Question by Private Notice.

(a) Why was Makueni District excluded from the signing of service provision agreements with Nairobi Water Services Board (NWSB) on 29th June, 2005?

(b) How much funds are available in Makueni District?

(c) What measures is the Ministry taking to ensure Makueni is not left out of water services programme?

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

(a) The NWSB intended to sign a service provision agreement with Kajiado, Thika, Kiambu and Machakos on 29th June, 2005. This did not take place because the necessary preparations were not complete. The four districts had already identified water service providers. The reason why Makueni District was not included in the signing programme was because the process of identifying the water service provider for the district had not been finalised. It is up to the residents of each area to organise themselves into a recognisable water service provider and get into an arrangement with the Water Service Board. It is only then that there can be a signing between the two parties.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! The Minister can hardly be heard. You are requested to consult in low tones!

**The Minister for Water and Irrigation** (Ms. Karua): Mr. Deputy Speaker, Sir, on 19th May, 2005, a consultative workshop was held in Wote Town and the reform process was explained to the residents of Makueni. It is not that Makueni District has been left behind. When they are ready, they can enter into talks with the NWSB.

(b) During this financial year, a total of Kshs43.2 million has been allocated for rehabilitation of water supplies, dams, pans and development of boreholes in Makueni District.

**Mr. J. M. Mutiso:** Mr. Deputy Speaker, Sir, I asked this Question with the knowledge that the Nairobi Water Service Board (NWSB) had already completed its own preparation of signing agreements with the service providers in the five districts which are Kiambu, Machakos, Makueni, Kitui and Thika. This was communicated via a newspaper advertisement in the *Daily Nation* of 28th June. It implied that the NWSB had completed its preparations. Now, the Minister tells us that the preparations were not complete. My first question is: Was the NWSB taking those regions for a ride? Second,---

**Mr. Deputy Speaker:** Order, Mr. Mutiso! Let the Minister answer that question.

**Ms. Karua:** Mr. Deputy Speaker, Sir, no question has arisen from the residents of those areas. They fully understand what processes are going to be completed.

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, could the Minister tell us the composition of the directors of the NWSB because according to the newspaper advertisement, there are no representatives from the respective districts and yet they are the ones who know the problems facing their people?

**Ms. Karua:** Mr. Deputy Speaker, Sir, I understand the hon. Member's question having held discussions with hon. Members from both Makueni and the other side of Mwingi and Kitui. The composition of the NWSB is mainly representatives of the local authorities and we normally name the clerks of each of the county councils. We have three other people representing different interest groups and if you look at that composition, Ministries are also represented like the Ministry of Water and Irrigation, Ministry of Finance and several other stakeholders. It is, therefore, not possible to have individual representatives from all the areas that are covered by the NWSB and we

have no quota system.

**Mr. Abdirahman:** Mr. Deputy Speaker, Sir, I personally support the way the Ministry is moving on. Way back in 1994, the Ministry of Water, thought in the same way to privatise or hand over water management to communities. It did not take off because the strategy was not very clear and there was no good approach in terms of phasing. Coming to the main point, besides holding consultative workshops in provinces and districts, what is the Ministry planning to do to prepare communities and even in the selection of the water service providers?

**Ms. Karua:** Mr. Deputy Speaker, Sir, the communities are being prepared through the consultations the hon. Member has mentioned. They are also being prepared by the NWSB approaching the management of the community water projects and taking them through the processes. It is only through a consultative process that the beneficiaries can understand the reforms that are taking place and can then be ready as water service providers.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, I appreciate the good work the Minister is doing but in some districts like Machakos, Makueni, Kajiado, Mwingi and Kitui districts where there is no representation in the NWSB which is not the fault of the Ministry, could the Minister consider amending the Water Act to include a quota system for these areas?

**Ms. Karua:** Mr. Deputy Speaker, Sir, we have no intention of adopting a quota system but we shall ensure that all the sections of interest represented are included in the board. I would like the hon. Members to familiarise themselves with the reforms taking place in the Water Act.

Apart from the Water Service Boards, we also have the Catchment Area Advisory Committees and residents who are not represented in the Water Service Boards may have a chance of having representation in the Catchment Area Advisory Committees and together they will be involved in the management of the water services.

**Mr. J. M. Mutiso:** Mr. Deputy Speaker, Sir, now that we do not have a service provider for Makueni District, could the Minister consider allocating the Kshs43 million to the Department of Water and Irrigation to be used in this financial year?

**Ms. Karua:** Mr. Deputy Speaker, Sir, I think there is a misconception. The money allocated is not going to the water service providers. It is going to the Water Service Boards to implement the projects in the specific areas.

The Kshs43 million will remain in Makueni and will be implemented by the Water Service Board which has taken over the staff that previously belonged to the Ministry.

**Mr. Deputy Speaker:** We now move to Oral Answers to Questions.

## ORAL ANSWERS TO QUESTIONS

### *Question No.476*

#### MANAGEMENT STATUS OF RONDININ COMMUNITY MUSEUM

**Mr. Boit** asked the Minister of State, Office of the Vice-President and Ministry of Home Affairs:-

- (a) whether he could confirm if Rondinin Community Museum is managed by the Ministry or by Baringo County Council;
- (b) how many employees the above museum has; and,
- (c) what the benefits of the museum to the community are.

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

(a) I wish to confirm that Rondinin Community Museum is not managed by this Ministry and the Ministry is not even aware of its existence. In this respect, I cannot confirm whether it is managed by Baringo County Council.

(b) Arising from the answer in (a) above, I am not aware of the number of employees in the said museum.

(c) Since the Ministry is not aware and is not managing it, I, therefore, cannot be able to tell the benefits of the same to the community.

**Mr. Boit:** Mr. Deputy Speaker, Sir, I recall that you deferred this Question and I expected the Minister to carry out extensive research on it. Before I came to the House, I had a meeting with the Minister and I am surprised that he says he does not know what is going on. Could he tell me exactly what he wants me to do?

**Mr. Balala:** Mr. Deputy Speaker, Sir, I read the Question thoroughly and I understand some English. I was asked if my Ministry is managing the Rondinin Community Museum and I said "No".

**Mr. Mwanzia:** Mr. Deputy Speaker, Sir, I want to thank the Minister for the answer he has given. In view of the fact that this might be a very important museum in this country which is holding very important artefacts for the future generations of this country, could the Ministry consider doing research on it and eventually taking it over if it exists?

**Mr. Balala:** Mr. Deputy Speaker, Sir, I totally agree with the hon. Member of Parliament. We have introduced in this House the Heritage Bill which is in the Second Reading. It will give the mandate to the National Museums of Kenya to be able to monitor and register any other museums in the country.

**Mr. Sirma:** Mr. Deputy Speaker, Sir, while I appreciate the efforts of the hon. Minister, he has said that he does not even know of the existence of Rondinin Community Museum. This is not fair because if he is the Minister in charge of museums, then what other duties does he have if he does not do research?

**Mr. Balala:** Mr. Deputy Speaker, Sir, I am mandated to manage the National Museum of Kenya, and not community museums. I do not manage all museums. I am going to be given the new mandate in the new Bill to be able to regulate and register all museums.

**Mr. Boit:** Mr. Deputy Speaker, Sir, the then Minister for Tourism and Wildlife, Mr. Tuju, opened one community museum in Baringo, at Kambi ya Samaki. He was well covered by the media. The Community Museums of Kenya office is actually situated on the 20th Floor of the NSSF House, Eastern Wing. There is a Mr. John M. Maringa, who is a curator. Is he not in Kenya? Is he in Uganda?

**Mr. Deputy Speaker:** Order! Order! Minister, could you respond?

**Mr. Balala:** Mr. Deputy Speaker, Sir, I can see the pain of the hon. Member. However, Mr. Tuju is here, and I have consulted with him. What he opened in Baringo was not a museum. It was a snake park which is privately owned.

*(Laughter)*

The Minister has confirmed to me that whatever he opened has not yet been registered.

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

**Mr. Deputy Speaker:** Order! Order, Mr. Boit! We have spent so much time on this Question. It does not matter whether what was opened by Mr. Tuju was a museum or a snake park.

We have spent a lot of time on this Question.

Next Question, Dr. Manduku!

*Question No.410*

INHUMANE TREATMENT OF VISA  
APPLICANTS BY USA EMBASSY

**Dr. Manduku** asked the Minister for Foreign Affairs:-

(a) whether he is aware that Kenyans applying for visa to travel to the USA are treated inhumanely at the US Embassy in Nairobi; and,

(b) whether he could undertake to lodge a formal complaint with the US Government and ensure that Kenyans are treated humanely and with respect during the visa application process.

**The Minister for Foreign Affairs** (Mr. Mwakwere): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that some Kenyans who apply for visa at the US Embassy have complained of inhumane treatment. However, concerted efforts have been made to address the problem through meetings between officials of our Government and the USA Government. On 27th September, 2004, His Excellency the Vice-President and Minister for Home Affairs held discussions with Ambassador Maura Harty, the US Assistant Secretary of State for Consular Affairs. The Assistant Secretary of State visited Kenya specifically to discuss problems relating to visa issuance and also held discussions with the Principal Immigration Officer and myself. Among other questions, we raised the concerns of mistreatment of Kenyans who apply for visa to travel to the USA.

(b) I confirm that the Ministry has lodged a complaint with the US Embassy demanding that Kenyans be accorded fair treatment. This prompted several meetings and the most recent one was held on 17th May, 2005, between the US Embassy and Ministry officials, and also attended by the Principal Immigration Officer.

**Dr. Manduku:** Mr. Deputy Speaker, Sir, I would like to thank the Minister for the answer. He has put a lot of effort in trying to ensure that Kenyans are properly treated when they go to some foreign embassies for visa. Kenyans travel to other countries for different reasons. However, when our people go to the American Embassy to apply for visa, they are treated like refugees and slaves. Despite the efforts by the Minister, nothing has changed. I would like to cite an example at the American Embassy, where there is a young American lady at window III, who has no regard for any Kenyan. Could we ask the Minister to ask the American Government to post to the Embassy mature people who can give respect to Kenyans?

*(Applause)*

**Mr. Mwakwere:** Mr. Deputy Speaker, Sir, I fully agree with the hon. Member's concerns. I would like to assure him that the Ministry of Foreign Affairs, in conjunction with the Ministry in charge of immigration, are working very closely with the US Embassy officials to ensure that Kenyans receive fair treatment. For instance, we have a standing invitation to everyone in the country to visit and see for themselves the visa issuance procedures at the American Embassy.

**Maj-Gen. Nkaiserry:** Mr. Deputy Speaker, Sir, it is not only the American Embassy which mistreats Kenyan visa applicants. There are several foreign missions which do the same. What is the Ministry doing to ensure that Kenyans are treated with dignity whenever they apply for

travel visas?

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Order! The Chair is being disrupted by the hon. Members on the second bench on my left. Could you, please, if you wish, go and hold your meeting outside, so that we can continue with our business?

Proceed, Minister!

**Mr. Mwakwere:** Mr. Deputy Speaker, Sir, I will be very pleased to receive a list of the countries that are mistreating Kenyans when they apply for travel visas. We are allowed by the Geneva Convention to work on reciprocal basis, such that if Kenyan visa applicants are not given fair treatment or the procedure is unnecessarily lengthy, we are at liberty, and have the right to do likewise to their nationals. So, I will be very pleased to receive the list, and we will do just that.

**Mr. Arungah:** Mr. Deputy Speaker, Sir, I would like to cite, as an example, the British High Commission, where there is a requirement that any visa applicant, including hon. Members of Parliament, have to collect the same in person. Given the nature of our work, I would like to request the Minister to ask the British High Commission to waive this requirement since it is not possible for us to always find time to go and collect our visas personally.

**Mr. Mwakwere:** Mr. Deputy Speaker, Sir, I know that when hon. Members of Parliament travel abroad on official duties, there are Parliamentary Officers who collect their forms and complete the administration for the issuance of visas. If one applies for a visa as an individual, even if he is an hon. Member of Parliament on private visit or other purposes, one has to appear in person. That is the practice all over the world.

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

**Mr. Deputy Speaker:** What is it? It had better be a point of order.

**Mr. Omingo:** Mr. Deputy Speaker, Sir, is the Minister in order to mislead this House, when, in fact, he knows that in the first place, you must go there and have your fingerprints taken? Even if a Parliamentary Officer goes to the High Commission to collect the visa for an hon. Member, he is not allowed to collect it. I have been a victim of this treatment. Is he in order?

**Mr. Deputy Speaker:** Order! Order! Hon. Members, this Question is not necessarily for hon. Members of Parliament. Let us not make it look like it is us who are complaining. This was a genuine concern regarding Kenyans, generally, but we are now narrowing it to hon. Members of Parliament. I refuse to let that happen.

The Shadow Minister for Foreign Affairs!

*(Maj. Madoka and Mr. Cheboi  
stood up in their places)*

*(Laughter)*

**Maj. Madoka:** Mr. Deputy Speaker, Sir, there can be only one shadow Minister for Foreign Affairs.

**The Minister of State, Office of the Vice-President and Ministry of Home Affairs (Mr. Balala):** On a point of order, Mr. Speaker, Sir. Can you give us direction as to who is the actual shadow Minister for Foreign Affairs?

**Mr. Deputy Speaker:** Well, the Chair only recognizes the list that was submitted yesterday and in that list, Maj. Madoka is the real shadow Minister for Foreign Affairs.



*(Applause)*

**Maj. Madoka:** Thank you, Mr. Deputy Speaker, Sir. I am, indeed, the shadow Minister for Foreign Affairs. The Minister has agreed that the Geneva Convention allows him to reciprocate and I think he should start doing that now until they sort out this matter, because Kenyans have to go to that embassy at 3.00 a.m. when they start queuing for visas. I think you should start doing the same in Washington, New York and in all those places.

**Mr. Deputy Speaker:** But that is a statement and not a question, Maj. Madoka.

**Maj. Madoka:** No, Mr. Deputy Speaker, Sir. Could he, please, ensure that the same thing happens to those people in America?

**Mr. Mwakwere:** Mr. Deputy Speaker, Sir, that was useful as a statement, but as a question, I would like to inform the House that Kenyans go to the British High Commission, I understand, as early as midnight, not because that is a regulation or condition, but because they want to beat the queues and be served as early as possible the following day. Now, we cannot do that on reciprocal basis because there are usually no queues at our embassies or where we issue visas. However, if they make it a condition in writing, we shall do likewise.

**Mr. Deputy Speaker:** Last question, Dr. Manduku!

**Dr. Manduku:** Thank you, Mr. Deputy Speaker, Sir. I appreciate the effort being made by the Ministry, but Kenyans are still facing a lot of problems at that place. Previously, we were getting five-year visas for students, but these days, we are getting six months or one-year visas. It is so expensive to apply for a visa from the American Embassy because you pay about Kshs16,000 every time you apply, and they deliberately refuse to give you a visa so that you can continue going there once, twice or even three times, and many people cannot afford that.

*(Applause)*

Could the Minister talk to the embassy so that once an application has been made, let them take all the consideration so that it is passed, rather than asking the applicants to go back and apply afresh.

**Mr. Mwakwere:** Mr. Deputy Speaker, Sir, negotiations have reached advanced stages between the American and Kenyan governments to issue five-year visas on reciprocal basis. However, we are discussing many issues with them and, indeed, with other countries. The question of visas touches on security and other areas that have direct concerns for the countries concerned. But we are negotiating to ensure that Kenyans are not inconvenienced at whatever embassies they apply for visas to enable them travel to those countries.

**Mr. Deputy Speaker:** Next Question, Ms. Mwau!

**Mr. Sungu:** On a point of order, Mr. Deputy Speaker, Sir. Even as the Minister was answering that question, I wish to draw your attention to the fact that as we are now talking in this House, there have been bomb blasts in London and my daughter was there. Several people have been injured, several are dead---

**Mr. Deputy Speaker:** Order! Order! Order, Mr. Sungu! Yesterday, you persisted and I had to expel you from the House. Surely, that question you are asking about the bomb blast is irrelevant to the Question at hand. You are an experienced Member of the House, so, do not try to interrupt the Business of the House!

Next Question, Ms. Mwau!

MEASURES TO CHECK DEMEANING  
MEDIA ADVERTISEMENTS

**Ms. Mwau** asked the Minister for Information and Communications:-

- (a) whether he is aware that most commercial advertisements in both print and electronic media are based on stereotypes that demean women; and,
- (b) what steps he is taking to ensure that media advertisements do not offend social values or vilify either gender?

**The Minister for Information and Communications** (Mr. Tuju):

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

(a) I am aware that there are many commercial advertisements in both print and electronic media that are in bad taste and are based on stereotypes that demean women.

(b) The House may wish to note that the Government has liberalized the media sector and is, therefore, encouraging them to self-regulate through adherence to the code of ethics developed by the Media Council of Kenya (MCK). In addition, the Government is in the process of finalizing the Information Communication Technology (ICT) Policy that will also incorporate a programme code to standardize programme broadcasts. It is expected that the media will adhere to such set standards. I am also aware that a Private Member's Motion is in the pipeline to address this type of problem and my Ministry will render any technical assistance that may be required. We will also ensure that we do not stifle the freedom of commercial speech.

**Ms. Mwau:** Mr. Deputy Speaker, Sir, I would like to thank the Minister for that answer. The ICT Policy will go a long way to regulate media advertisements because the media is an important tool for socialization; it shapes attitudes and minds. What is the Minister doing to actually discontinue advertisements like the one you find for Kimbo cooking fat, where girls are being taught to be the best cooks; advertisements like the one for Ketepa tea, where women are castigated by the family and many more media advertisements? What are you doing to actually discontinue those media advertisements that stereotype women?

**Mr. Tuju:** Mr. Deputy Speaker, Sir, I appreciate the sentiments of the hon. Member. But just as I stated earlier, as a Government, we would wish to see the self-regulation of the media by the MCK and the media practitioners themselves, rather than having the Government interfering with them. I wish to add that the media should not be blamed entirely for the stereotypes that you see in the media because the media is, in many ways, a reflection of the society we live in.

**Ms. Ndung'u:** Thank you, Mr. Deputy Speaker, Sir. The issue of advertising is not actually about negative stereotypes of women as much as it is about negative stereotyping of men. What can we do, so that advertising can also actually show that men also use lotion, soap, cooking oil and Omo detergent? If you are to believe those advertisements, men use none of these products. What can you do so that we also get to know that men also use these products?

*(Laughter)*

**Mr. Tuju:** I can see that the hon. Member feels for this matter passionately. But as I said earlier, the media should not be blamed for what you see in the media because the media is a reflection of reality of the society. So, whatever we complain about, we should seek to correct those problems in the society and then the media will reflect that.

**Mr. Deputy Speaker:** Last question, Ms. Mwau!

**Ms. Mwau:** Thank you, Mr. Deputy Speaker, Sir. There is this ICT Policy which is in the

process of being finalized. What is the Ministry doing to put in place measures to sensitize the media regarding gender-sensitive contents and advertisements?

**Mr. Tuju:** Mr. Deputy Speaker, Sir, by and large the mass media in this country are private enterprises, and we do not control the kind of fodder they give to the Kenyan public. We can only interfere, and very rarely do we want to do that, if we feel that they have contravened issues of public decency or security. Otherwise, we would like to see the media operate independently, and most of them are operating within the context of commercial principles. So, we cannot dictate to them exactly how to present their programmes.

**Mr. Deputy Speaker:** Thank you, Mr. Minister. The next Question by Dr. Ali will be deferred. He is out of Nairobi on official duty.

*Question No.269*

TELEPHONE/POSTAL SERVICES FOR  
WAJIR NORTH CONSTITUENCY

*(Question deferred)*

Next Question by Mr. O.K. Mwangi.

*Question No.453*

MEASURES TO SAVE MR. KARIUKI'S  
PROPERTY FROM AUCTIONEERS

**Mr. O.K. Mwangi** asked the Minister for Trade and Industry:-

- (a) whether he is aware that Mr. Francis Gathungu Kariuki of Magumu Market in Nyandarua District borrowed Kshs300,000 from the Industrial and Commercial Development Corporation (ICDC);
- (b) whether he is further aware that Mr. Kariuki has paid Kshs1.8 million and is required to pay a further sum of Kshs5,160,485.75;
- (c) whether he is also aware that the ICDC have instructed auctioneers, M/s Clear Real Traders, to sell Mr. Kariuki's property by public auction to recover the said amount plus costs; and,
- (d) whether he could waive the balance and save Mr. Kariuki's property from being sold by auction.

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Francis Gathungu Kariuki of Magumu Market, Nyandarua District, borrowed Kshs300,000 from the Industrial and Commercial Development Corporation (ICDC).

(b) I am also aware that Mr. Kariuki has paid Kshs1.8 million and he is required to pay a further sum of Kshs5.16 million.

(c) Yes, I am aware that ICDC have instructed auctioneers, M/s Clear Real Traders, to sell Mr. Kariuki's property by public auction to recover the said amount plus costs.

(d) I am satisfied that Mr. Francis Gathungu Kariuki owes the sum of money as demanded. It would not be prudent to write off the amount as this would set a negative precedent for other borrowers. However, I have instructed the ICDC to negotiate with Mr. Kariuki and agree on a

reasonable amount which he should pay to save his property from being sold through an auction.

**Mr. O.K. Mwangi:** Mr. Deputy Speaker, Sir, I think the answer from the Assistant Minister is absurd. This is because I would want to understand how and on what basis and principle somebody can borrow Kshs300,000, pay Kshs1.8 million and be still required to pay over Kshs5 million. I do not understand what accounting principles were used in this matter. If the Assistant Minister is aware of all these financial malpractices I think there were malpractices could he tell the House how these figures were arrived at and what policy was used? Could he also table the calculations of the figures, so as to show the House how they were arrived at?

**Mr. Deputy Speaker:** Even the Chair would like to hear this.

**Mr. Miriti:** Mr. Deputy Speaker, Sir, this loan of Kshs328,000 was issued on 11th March, 1980. The loanee was supposed to clear the payment in 1986. After he took the loan, he stayed for sometime without servicing it. The servicing was all along irregular. That was why it attracted a lot of interest. I can table the figures which show how he was servicing the loan, so that the hon. Member can see them.

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

**Mr. Kagwe:** Mr. Deputy Speaker, Sir, this House introduced, a while back, in the Banking (Amendment) Act the *In duplum* Rule, to address these immoral, unreasonable, retrogressive, unpalatable, anti-development practices. The reason why we did this was to prevent this kind of injustice. I recall that in London there was a case where the law itself allowed accumulation of interest, but a judge actually held that it was immoral for this kind of thing to happen. Could the Assistant Minister, therefore, request the ICDC to hold this issue in abeyance until the *In duplum* Rule comes into effect very soon, hopefully when the Banking (Amendment) Bill is returned to this House?

*(Applause)*

**Mr. Miriti:** Mr. Deputy Speaker, Sir, indeed, we also find this immoral. We are awaiting the *In duplum* Rule to become effective and then we start acting. In the meantime, we have asked the ICDC to talk to the loanee and see how they can assist him.

**Mr. Kimeto:** Mr. Deputy Speaker, Sir, Kshs300,000 was borrowed and now over Kshs6 million is supposed to be repaid. The hon. Members are the eyes of this country. We should not pretend to be blind about what is happening. This is clear theft or day light robbery without violence. The Kshs1.8 million the loanee has already repaid and it should be refunded to him. Could the Assistant Minister instruct the bank to refund the money? There is no way you will understand--

*(Laughter)*

**Mr. Deputy Speaker:** Order, Mr. Kimeto! That is enough!

**Mr. Kimeto:** This is very bad! It is serious!

**Mr. Deputy Speaker:** Order, Mr. Kimeto! Could someone restrain him? I do understand what Mr. Kimeto is feeling. Mr. Assistant Minister, could you, please, respond to his question?

*(Laughter)*

**Mr. Miriti:** Mr. Deputy Speaker, Sir, I am sorry for Mr. Kimeto. It is true that most Kenyans have gone through similar experiences. They have paid a lot for asking for very little. Indeed, the House approved the *In duplum* Rule, so that the interest amounts can be restricted to not more than the amount one has borrowed. We are waiting for this law to be implemented. In the meantime, it is very difficult for the Minister for Trade and Industry to give directives to private banks not to charge interest as they deem fit.

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

**Mr. Deputy Speaker:** Hon. Members, I have noted your concern. Everyone wants to ask a question. But, really, I think the Assistant Minister has tried his best to answer this Question. I do not think we are going very far. I will allow Mr. Mwenje and one more hon. Member to ask a question.

Proceed, Mr. Mwenje!

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, you realise that the whole House is in support of this Question by Mr. O.K. Mwangi. This is a situation that exists in the banks. I own shares in the ICDC, which is a public company. The Assistant Minister has power to even instruct the ICDC to apply the rule which we are trying to have applied in the commercial banks even before it becomes law. The banks are already willing to negotiate, even before the law is enacted.

Mr. Deputy Speaker, Sir, could the Assistant Minister now instruct the ICDC not only to negotiate, but to ensure that the interest amount does not exceed the principal amount?

**Mr. Miriti:** Mr. Deputy Speaker, Sir, I realise that the hon. Member is one of the owners of Industrial and Commercial Development Corporation (ICDC). He knows very well that the Minister cannot instruct ICDC on how to conduct its affairs. We have requested ICDC to be sympathetic to the loanee and see how they can assist him, bearing in mind that he has paid three or four times more than---

**Hon. Members:** Six times! Six times!

**Mr. Miriti:** Six times of what he borrowed.

**Mr. Deputy Speaker:** Is the Shadow Minister for Finance here?

Last question, Mr. O.K. Mwangi!

**Mr. O.K. Mwangi:** Mr. Deputy Speaker, Sir, I thought the shadow of the Shadow Minister could have asked a question.

**Mr. Deputy Speaker:** I think we have done justice to the Question.

**Mr. O.K. Mwangi:** Mr. Deputy Speaker, Sir, the Assistant Minister has admitted that what ICDC has done is immoral. He is encouraging ICDC to continue with its immoral activities. I believe in the Almighty God and I wonder---

**Hon. Members:** *Ashindwe! Ashindwe!*

*(Laughter)*

**Mr. O.K. Mwangi:** I wonder whether the Assistant Minister does not fear the living God. He has instructed the ICDC to negotiate with Mr. Kariuki on a reasonable figure. I wonder whether there is a more reasonable figure than the Kshs1.8 million that has been paid? How will the ICDC agree to a reasonable figure that has not been mentioned? Could the Assistant Minister tell us the reasonable figure that Mr. Kariuki should negotiate for?

*(Applause)*

**Mr. Miriti:** Mr. Deputy Speaker, Sir, if I were Mr. Kariuki, I would ask for a waiver of the loan. But we cannot order a private organisation. It is very difficult. There is rule of law in this country. There are regulations under which the banks operate. We have accepted and admitted that, that is immoral. It is for that reason that this House introduced the *In duplum* Rule. Until that Bill is implemented, loanees will find it very difficult to repay their loans.

Mr. Deputy Speaker, Sir, it is not only ICDC that is involved in such practices, but all the banks in this country. There are so many victims in the process.

**Mr. Deputy Speaker:** It is very sad, indeed!

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

Order, hon. Members! We have dealt with that Question!  
Next Question by Mr. Wamwere!

*(Mr. Kimeto stood up in his place)*

Hon. Members, we cannot go on with one Question indefinitely!

Mr. Kimeto, will you sit down?

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

**Mr. Deputy Speaker:** Mr. Kimeto, you are disorderly!

**Hon. Members:** Out! Out!

**Mr. Deputy Speaker:** Next Question by Mr. Wamwere!

*Question No.527*

PAYMENT OF HOUSE ALLOWANCES  
TO MILITARY OFFICERS

**Mr. Wamwere** alimuuliza Waziri Katika Ofisi ya Rais:-

(a) ikiwa angeeleza ni kwa nini tangu 1996, baada ya mabadiliko ya kuruhusu malipo ya nyumba kutolewa kwa maofisa wa jeshi kama vile makoplo na masajini, wengine wanapata na wengine hawapati, jambo linalowafanya maofisa wanaopata malipo hayo kupata mapato makubwa kuliko maofisa wa cheo chao na wengine wanaowapita cheo ambao hawapati pesa hizo; na,

(b) anafanya nini kuhakikisha kwamba maofisa wote wanaostahili wanapata malipo ya nyumba.

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

**Mr. Deputy Speaker:** Reply in Kiswahili! The Question has been asked in Kiswahili. *Kwa hivyo, jibu kwa Kiswahili!*

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Bw. Naibu Spika, nitajaribu kutafsiri jibu la Swali hili, hata ingawa limeandikwa kwa lugha ya Kiingereza.

*(Mr. Obwocha stood up in his place)*

**Mr. Deputy Speaker:** Order, Mr. Obwocha! Are you presiding over the House or it is me who is presiding?

**The Assistant Minister for Finance** (Mr. Obwocha): On a point of order, Mr. Deputy Speaker, Sir. Our Standing Orders provide that one can either choose to answer a Question in English or Kiswahili.

**Mr. Deputy Speaker:** That is correct, Mr. Obwocha. But there is a ruling from the Chair that, when a Question is asked in Kiswahili, it should be answered in Kiswahili.

**The Assistant Minister for Finance** (Mr. Obwocha): No! Mr. Deputy Speaker, Sir! The Chair is violating the Standing Orders!

**Mr. Deputy Speaker:** Order, Mr. Obwocha! The Assistant Minister will proceed to answer the Question!

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

Could the Assistant Minister comply first?

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Bw. Naibu Spika, naomba kujibu.

(a) Kulingana na usimamizi wa malipo ya nyumba ya wanajeshi, kuna mwongozo na masharti yanayosimamia uajiri wao. Malipo ya nyumba hulipwa kwa *warrant officers* na wale ambao wako katika kiwango cha juu kuwaliko. Lakini, wale wako chini ya kiwango hicho hawalipwi malipo hayo.

(b) Wale ambao wameolewa au wameoa katika jeshi wametengewa sehemu zao. Walioko na mamlaka chini ya *warrant officer* hawapati malipo ya nyumba. Hata hivyo, inategemea hali yao. Wakiwa katika hali isiyo ya kawaida, wanaweza kuomba walipwe malipo ya nyumba. Sababu ambazo zinafikiriwa sana ni za kiafya au shida yoyote isiyo ya kawaida.

**Mr. Deputy Speaker:** Well done. *Waziri Msaidizi, umefanya vyema sana!*

**Mr. Wamwere:** Bw. Naibu Spika, mpango wa mishahara jeshini unawaruhusu maofisa wengine kupata pesa nyingi kuliko wakubwa wao, na hata kusababisha tofauti ya Kshs10,000 kati ya maofisa wa cheo kimoja. Serikali inafanya nini kuhakikisha kwamba maofisa wa jeshi wenye cheo kimoja wanalipwa pesa sawa? Hakuna mahali maofisa wadogo hupata pesa zaidi kuliko wakubwa wao.

**Mr. M. Kariuki:** Bw. Naibu wa Spika, kwa wale ambao wana bahati ya kupata malipo ya nyumba wakiwa kiwango cha koplo au sajini, inategemea ni sehemu gani ya nchi wanafanyia kazi. Ikiwa wamekubaliwa kuishi nje ya kambi ya jeshi, na wanaishi katika Mji wa Nairobi, malipo ya nyumba yako juu kuliko yule anayeishi nje ya kambi ya jeshi kule Mombasa au Nakuru. Kwa hivyo, kiwango hakiwezi kuwa sawa kwa sababu gharama za maisha ni tofauti katika miji mbali mbali.

**Mr. Wamwere:** Bw. Naibu Spika---

**Mr. Deputy Speaker:** Bw. Wamwere, wacha usaidiwe na Bw. Marende!

**Mr. Wamwere:** Sawa!

**Mr. Marende:** Mr. Deputy Speaker, Sir, during the last Session of Parliament, I asked a Question pertaining to salary disparities in the various cadres of officers in the armed forces. The Minister undertook to ensure that there was harmonisation by July last year. But up to this day, that harmonisation has not seen the light of day. Mr. Deputy Speaker, Sir could the Assistant Minister

confirm whether there is any hope of salary harmonisation soon?

**Mr. M. Kariuki:** Bw. Naibu Spika, juhudi hizo zinaendelea kwa wale ambao wanafanya kazi katika idara ya umma, kuhakikisha kwamba viwango vya mishahara na malipo ya nyumba vinasawashwa vilivyo.

**Mr. Kombe:** Bw. Naibu Spika, je, Waziri Msaidizi anafahamu kwamba hata hapa Nairobi pia, kuna nyumba ambazo ziko katika kiwango sawa na zile za Mombasa, na ni kwa nini maofisa wasilipwe sawa?

**Mr. M. Kariuki:** Bw. Naibu Spika, sio gharama ya nyumba peke yake, lakini pia pamoja na gharama ya kuishi, ambayo katika mji wa Nairobi iko juu kuliko miji mingine. Pia, katika mji wa Mombasa, bila shaka, hali ya kuishi iko juu kuliko miji mingine kama vile Nanyuki au Nakuru.

**Mr. Kombe:** Jambo la nidhamu, Bw. Naibu Spika!

**Mr. Deputy Speaker:** Order! Tafadhali, umepewa nafasi, na badala ya kumpa mwingine nafasi, unataka kuendelea.

**Maj-Gen. Nkaiserry:** Bw. Naibu Spika, je, kwa nini Serikali haijengi nyumba za askari wa jeshi ndani ya barracks ndio wasishughulike na mambo ya kuongezewa pesa?

**Mr. M. Kariuki:** Bw. Naibu Spika, hilo ni swali nzuri. Mwongozo wa Wizara ni ya kwamba askari waishi kwa kampi zao. Nimesema katika jawabu langu kwamba ni wale wachache ambao kwa hali ambayo si ya kawaida, wanaomba msaada wa kuishi nje ya kampi. Lakini mwongozo ni kwamba, ikiwezekana, kila askari wa jeshi aishi katika kampi ya jeshi.

**Mr. Wamwere:** Bw. Naibu Spika, tatizo hili la tofauti za mishahara kati ya wafanyakazi katika ofisi ya Rais ni kubwa sana. Ningeteka Waziri Msaidizi aeleze Bunge kama ana habari ya kwamba hata Wakuu wa Tarafa wanapojiriwa kazi, wanapewa mishahara mdogo kuliko askari wao? Inawezekanaje kwamba Mkuu wa Tarafa anapewa mishahara mdogo kuliko askari ambaye anafanya kazi chini yake?

**Mr. M. Kariuki:** Bw. Naibu Spika, tunajaribu kurekebisha mishahara ya umma, kama vile nimesema hapo awali. Wakati tulikuwa tunaangalia hali ya mishahara ya askari, inaonekana ya kwamba tulisahau kuangalia pia hali ya mishahara ya watawala. Hapo ndipo tofauti kidogo inaingia, kwamba askari wengine wa utawala na hata polisi wanapata mishahara ambayo iko juu kuliko watawala. Lakini hivi karibuni, hiyo hali itarekebishwa kuhakikisha ya kwamba mishahara inategemea kiwango cha kazi na pia kiwango cha masomo.

*Question No.506*

ERECTION OF BUMPS/ROAD SIGNS AT  
KAHEMBE TRADING CENTRE

**Mr. Deputy Speaker:** Hon. Members, Mr. Muchiri has informed the Chair that he is unwell and, therefore, the Question is deferred.

**The Minister for Roads and Public Works (Mr. Raila):** On a point order, Mr. Deputy Speaker, Sir. I have an answer for Question No.506.

**Mr. Deputy Speaker:** But I just said that Mr. Muchiri is unwell.

**The Minister for Roads and Public Works (Mr. Raila):** But the Minister should also be informed in advance.

**Mr. Deputy Speaker:** Mr. Raila, the Chair has just been informed that he is not well, right now. So, there was nothing I could do.

**The Minister for Roads and Public Works (Mr. Raila):** In this case then, what does the Minister do?



**Mr. Deputy Speaker:** The Question is deferred and the Minister will wait until the Question comes on the Order Paper on Tuesday.

**The Minister for Roads and Public Works (Mr. Raila):** Will the Member be warned next time so that the Minister does not waste his time coming here to answer a Question and he is not there?

**Mr. Deputy Speaker:** Order! Mr. Raila, I think you should sympathise with hon. Muchiri because he is unwell.

*(Question deferred)*

*Question No.145*

NON-RECRUITMENT OF TEACHERS  
IN EMBU DISTRICT

**Ms. Mbarire** asked the Minister for Education, Science and Technology:-

(a) whether he is aware that Embu District did not recruit any teacher in the just concluded recruitment exercise;

(b) what criteria was used to determine the district to benefit from the recruitment drive; and,

(c) when Embu District will be considered for this important exercise.

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

(a) I am aware that Embu District did not recruit teachers in the just concluded recruitment exercise for primary school teachers, but they got some teachers for secondary schools.

(b) The recruitment criteria was based on the situation of available teachers, staffing situation in the district, as of February, 2004, and only the districts with teachers shortages were allocated a proportionate number of teachers to recruit based on the level of staffing.

(c) As of February, 2004, Embu District had 233 teachers in primary schools, more than the allocated numbers. The district, therefore, did not require any extra teachers because they had more teachers than they needed.

**Ms. Mbarire:** Mr. Deputy Speaker, Sir, I wish to thank the Assistant Minister for the answer. But Embu District is facing a very serious problem. There are many students who have left teacher training colleges, especially for primary schools. When they go for recruitment in other districts, they are always sent back. The problem Embu is facing of over-staffing is because Embu is a provincial headquarters where most of the staff members come with their spouses and they end up teaching in Embu District and, therefore, denying our own chances to be recruited within the district. What is the Ministry going to do about this?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, I sympathise with the situation in Embu. By the way, it is a problem in several other districts where they have a number of teachers from outside the district. This is a national problem. The only reason we also recruit locally is to ensure that the teachers report and remain in the districts. But I agree that we should not discriminate on the basis of where teachers were born. But until we are able to recruit all the teachers for all districts, it is going to be difficult to implement this policy. But this is a problem for Nairobi and other provincial headquarters.

**Mr. Karaba:** Mr. Deputy Speaker, Sir, the shortage of teachers is not only confined to Embu, but throughout the country. How many teachers are about to be recruited now, so that we can

solve this problem of shortage of teachers?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, on the basis of the budget available, we are going to estimate the number of teachers we shall recruit. But still, those teachers are only going to be a proportion of the total number. For now, it is going to be impossible to recruit all the teachers we need. But I look forward to a situation when we can recruit teachers for all the schools in this country.

**Mr. Wambora:** Mr. Deputy Speaker, Sir, you have heard the Assistant Minister clearly admitting that they have not been recruiting primary school teachers in Embu simply because of these provincial headquarters spouses and relatives of the departmental heads. Could he then consider going back to the old system of recruiting teachers nationally so that the graduate teachers from Embu can also serve in other districts?

**An hon. Member:** No! No!

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, as you can hear from the grumbling of some of the Members, I think his proposal needs to be negotiated, even with Members of Parliament. One of the reasons that we insist teachers get recruited in their home areas, although we believe in having teachers who have a national outlook, is to ensure that especially the remote districts have teachers who would want to stay there. But I agree it is a national problem.

**Mr. Omingo:** Mr. Deputy Speaker, Sir, I appreciate the fact that the Ministry has a ceiling on how many teachers it should employ. We have been told that the last recruitment was based on the statistics of 2002. Could the Assistant Minister replace teachers instantaneously upon vacancies arising either through death or retirement? When there is a shortage of teachers, pupils are the ones who suffer.

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, this proposal was made before and we are discussing it to see the possibility of replacing teachers instantaneously. However, recruiting one teacher at a time could be very expensive. We are considering the proposal because it was made sometimes ago.

**Mrs. Kihara:** Mr. Deputy Speaker, Sir, this is a very serious problem. I am an hon. Member of the Constituency Development Fund Committee (CDF) in my constituency and I have found out many primary schools are coming up. What is the Assistant Minister doing to ensure that there are enough teachers to teach in these schools? I visited North Eastern Province and I found out that very many primary schools have been started. What arrangement does the Assistant Minister has to make sure that schools are not built where there are no pupils and teachers?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, unfortunately, like I said before, this problem is very acute. However, it depends on how much resources we have. For the time being, until we are able to recruit enough teachers, we are going to continue with the programme of cost-sharing with the communities whereby the Board of Governors (BOG) will employ some teachers. Ideally, we look forward to a time when we can recruit enough teachers for our schools.

**Ms. Mbarire:** Mr. Deputy Speaker, Sir, this is a very serious problem in many districts in the country, but I will talk about Embu District because that is where I come from. We have not recruited a single primary school teacher since 1997 in Embu District. Further to that, by the end of 2005, 92 teachers are expected to retire. How many schools are over-staffed in Embu District and by how many teachers? The average age of a primary school teacher in Embu District right now is 45 years old. There is no serious handing-over and naturing of new primary school teachers. We have sickly teachers who are affecting the quality of education in our schools because they cannot teach.

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, there has been attrition in all districts and Embu has an attrition of 92 teachers. Still, there will be more teachers than I need if 233 was the problem last year. However, we will try to ensure that where we have lost teachers we replace them with teachers

from schools that have more teachers than they need.

I have the numbers of teacher shortages in each province. I do not have the breakdown per district, but most likely, Embu has more teachers than needed. I agree that there is a problem, but I would like to tell the hon. Member that there are a few other districts that have not had any teachers recruited including Meru Central, Thika Municipality, Baringo, Koibatek, Isiolo and Nyeri. This is not just a problem in Embu District.

*Question No.404*

IMPROVEMENT OF FOOD PRODUCTION/SECURITY IN WUNDANYI

**Mr. Deputy Speaker:** Where is hon. Mwandawiro? It is quite unusual for him to be absent. In any case, the Question will be dropped.

*(Question dropped)*

*Question No.464*

PAYMENT OF DUES TO MS. JANE  
NYANGAU BY ECK

**Mr. Deputy Speaker:** Mr. Mwanicha is not here. The Question will, therefore, be dropped.

*(Question dropped)*

That is the end of Question Time. I have two requests for Ministerial Statements.

**Mr. Kimeto:** On a point of order, Mr. Deputy Speaker, Sir. I came in a little bit late. Could I request you to allow me to ask the first Question by Private Notice. I already have the written answer.

**Mr. Deputy Speaker:** Mr. Kimeto, you know the rules. You came late and the Question had been dropped. If you wish to discuss this matter, please discuss it in the office and not in the Chamber.

**POINT OF ORDER**

BOMB BLAST IN LONDON

**Mr. Ndolo:** On a point of order, Mr. Deputy Speaker, Sir. I stand to seek a Ministerial Statement from the Minister for Foreign Affairs on the incident which occurred this morning in London. Could the Minister tell this House whether there are any Kenyan casualties in that explosion? Kenya is a friendly country to the United Kingdom and Kenyans are very eager to know what happened in that incident.

**MINISTERIAL STATEMENTS**

DETAILED STATEMENT ON LONDON  
BOMB BLAST TO BE ISSUED ONCE

## INFORMATION BECOMES AVAILABLE

**The Minister for Foreign Affairs** (Mr. Mwakwere): Mr. Deputy Speaker, Sir, I beg to make a brief statement on the reported blast which occurred in London this morning. I have established contacts or sought more information from our High Commissioner in London. So far, I do not have any information to confirm whether or not there are Kenyans who were injured. However, I would like to confirm to the House that as soon as I get that information, it will be made public.

While I take that position, it is important to note that when an incident like this one occurs, the first thing is to save lives. Those who are saving lives do not go to the extent of checking the nationalities of the people. They give emergency first aid. At that stage, the injured people are treated on the spot and those who are seriously injured are taken to hospitals. If there are any deaths, then the necessary management is done by the hospitals. At that stage, it is premature for them to check the nationalities of the people. The first thing they do is to save lives and make sure the bodies of those who are dead are taken to the morgue. As soon as I get information on the nationalities of the people who were injured or killed in the blast, I will make a more comprehensive Ministerial Statement, so that Kenyans may know the status of our nationals in London.

**Mr. Deputy Speaker:** The Minister has clearly stated that at this stage, it is better to wait and he will make a further Statement when he receives more information. So, you do not need to belabour on this issue.

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, I agree that we cannot belabour on this issue because I do not even expect the Minister to have the details of the blast as early as now. I know there was something about the blast in the news, but the Minister should tell us what happened, so that we have an idea of what happened. We are not sure what happened. Could the Minister clarify to the nation what happened in London?

**The Minister for Foreign Affairs** (Mr. Mwakwere): Mr. Deputy Speaker, Sir, I do not know at this moment in time. I am waiting for information from the High Commission, and once I get the details, I will make a more comprehensive Statement next week.

**Mr. Deputy Speaker:** That is a fairer statement by the Minister. Mr. Angwenyi wanted to request a Ministerial Statement, but he is not there. We have two Ministerial Statements from the Minister of State, Office of the President.

ESCALATION OF ARMED  
ROBBERY IN KITUI

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Deputy Speaker, Sir, on 16th June, 2005, Mr. Kiema Kilonzo rose on a point of order to seek a Ministerial Statement on alleged recent escalation of armed robbery in Kitui District and, particularly, in Kitui Town. He specifically requested a Statement to address the motive in the killing of Mr. Kyambi Mwithia on 8th June, 2005; what action had been taken to ensure security in the district; and, lastly, what action we are taking against police officers who are alleged to have stayed in Kitui Police Station for more than 15 years. I wish to state as follows:

Mr. Deputy Speaker, Sir, to state that there has been recent escalation of armed robbery in Kitui District is an overstatement. Cases of robbery with violence that have been reported to the police, total three, from January to June this year. This is inclusive of the unfortunate murder of the late Reuben Kyambi Mwithia on 8th June, 2005 in Kitui Town. The other two cases of robbery with violence took place on 10th January, 2005, at Isangua village, Kiang'ithia, East Location; on 6th

June, 2005, at Isungua village, Kiang'ithia West Location. The Government cannot down-play even a single case of violation of its citizens' right to security and their property. However, three cases in six months cannot be termed as an escalation. Following the murder of the businessman on 8th June, 2005, five suspects have been apprehended and are being held by the police for questioning. The probable motive of the killing was to steal money. The Government will continue to intensify both day and night police patrols and collection of crime intelligence in the area to ensure security. *Wananchi* and particularly businessmen are advised not to keep large sums of money in their houses.

Mr. Deputy Speaker, Sir, finally, I wish to clarify that there are no police officers currently deployed within Kitui District who have stayed in a station for more than 15 years. On average, most of the officers have been in their current stations between one and two years. The Government would appreciate any information from members of the public regarding any involvement, if at all, of our police officers in cases of robbery with violence. They should report it to any appropriate authority. Such information will be treated with utmost confidentiality and appropriate action will be taken. Otherwise, the claim of police collusion with criminals remains an allegation.

**Mr. Deputy Speaker:** Does Mr. K. Kilonzo want any clarification on that? Mr. K. Kilonzo is not here! Let us go to the second Ministerial Statement.

#### GRABBING OF DANDORA LAND BY POLICE

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Deputy Speaker, Sir, on 16th June, 2005, Mr. Mwenje sought a Ministerial Statement on the Dandora Police Station plot. He alleged that on 15th June, 2005, the police went to Dandora to forcefully grab a plot which is meant for use by members of the public. Consequently, I wish to state as follows:

Mr. Deputy Speaker, Sir in 1995, residents of Dandora voiced concern over the increased insecurity in the area. The local leaders were consulted and a piece of land was set aside by the Nairobi City Council for the construction of a police station in Dandora. The plot which is No.1200, was thus allocated to Kenya Police and a Land Survey Beacon Certificate was subsequently issued on 15th August, 1995.

Mr. Deputy Speaker, Sir, all the well intentioned residents of Dandora are in support of the project in order for the police to provide them with prompt and better services. The Government has already allocated Kshs600,000 for the fencing of the plot before the construction of permanent buildings start. This is an area which has frequent violence, guns and where certain outlawed sects continue to terrorise the lives of innocent Kenyans. The Government has a responsibility to provide security to these people. It is for this reason that the residents of Dandora are demanding to have a police station on part of the plot they have set aside for public utilities.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Is there anyone seeking clarification on that Statement from the Minister? I see no one. Therefore, we will proceed on to the next Order.

Hon. Members, before we proceed, I want to draw your attention to the fact that we have a Supplementary Order Paper. I believe that Supplementary Order Paper has been circulated and it is the one we are following. Disregard the other Order Paper when we proceed with the business as per the Supplementary Order Paper.

Next Order!

**Mr. Mwenje:** On a point of order, Mr. Deputy Speaker, Sir. I know that the Assistant Minister has replied to a Ministerial Statement that I sought, but he did not even alert me that he

would do so, and yet I am just behind him. I think it is unfair---

**Mr. Deputy Speaker:** Order, Mr. Mwenje! You were in the House but you were very busy. Therefore, we have already moved ahead and we cannot go back. Therefore, I order that we proceed to the next Order.

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, the matter is *sub judice*, anyway. It is even not supposed to be raised here.

**Mr. Deputy Speaker:** Next Order!

## MOTION

### ADOPTION OF TWELFTH PIC REPORT

THAT, this House adopts the Twelfth Report of the Public Investments Committee on the Accounts of State Corporations laid on the Table of the House on Wednesday, April 13th, 2005.

*(Mr. Muturi on 6.7.2005)*

*(Resumption of Debate interrupted  
on 6.7.2005)*

**Mr. Muturi:** Mr. Deputy Speaker, Sir, as I began saying yesterday, this Committee whose report is being discussed held a total of 60 sittings. Part of the reason was that during the year under consideration, this was also the period during recess, when the National Constitutional Conference, otherwise referred to as Bomas of Kenya Conference, was taking place. As a result, staff of Parliament and more particularly the HANSARD Reporters were not available to the Committee as they were also required at the National Constitutional Conference.

In conducting what would be referred to as retrospective inquiry into whether or not the affairs of public investments were managed in accordance with the sound business principles and commercial practices, as I said yesterday, the Committee heard and received both oral and written evidence from the Chief Executives of various State Corporations and other relevant witnesses.

Mr. Deputy Speaker, Sir, the recommendations on the issues raised by the Controller and Auditor-General will be found under the appropriate paragraphs of the report. The records of evidence adduced, documents and notes received by the Committee formed the basis of the Committee's observations and recommendations as outlined in the Report and can be obtained in the HANSARD Reports of the Committee, available in the Parliament library.

These observations and recommendations, if taken into account and implemented by the Government without fear or favour, will enhance accountability, effectiveness, transparency, efficiency, prudent management and profitability in State Corporations and the public investment sector as a whole.

Mr. Deputy Speaker, Sir, in the course of the Committee's deliberations and taking of evidence, the Committee was able to come across a number of areas in which it had to express itself one way or the other. Without sounding repetitive, I will merely highlight the areas which were of great concern to the Committee in examining the affairs of various State Corporations in light of the reports that came with reservations from the Controller and Auditor-General.

One such area was that of consultancy fees charged by various consultants that are engaged by various public enterprises. Another area of concern was the area of procurement of goods and

services, and award of tenders. Thirdly, the Committee was concerned about the manner in which the Executive has been implementing Treasury memoranda which are based on the recommendations of this Committee as adopted from time to time by this House.

The fourth area of concern to the Committee was the non-adherence to various Treasury circulars that are issued as guidelines to Ministries and parastatals. Fifthly, the Committee was concerned that in a number of cases, the Treasury has not been receiving any dividends from various State Corporations, some of which run purely commercial activities. The Committee also got evidence on dilution of Government shareholding in a key parastatal, namely the Kenya Seed Company. Since this matter is already before the High Court, it is not appropriate for me to discuss it here. In the area of dilution of the Government shareholding in various State Corporations, the Committee was informed of Government intention to divest from the Kenya Wine Agencies Limited, and the much publicised KenGen. This dilution of Government shareholding has been done in obscure circumstances, and without existence of enabling legislation. It is my hope that the Privatisation Bill that is already before this House will come in handy to offer proper guidelines on how the Government will undertake future divestiture programmes, and dilution of its shareholding in various State Corporations.

The Committee was also concerned about the issue of wrong accounting procedures adopted in some of the State Corporations, such as the National Hospital Insurance Fund, whose 1997/98 accounts were actually disclaimed by the Controller and Auditor-General. Also, there was loss of cash in transit in a number of State Corporations. This is a matter which is necessarily not historical, but it is on-going in a number of State Corporations.

Another area of concern to the Committee was how the various Chief Executives of State Corporations abused imprest procedures. The Government regulations on how imprest should be taken were flagrantly disobeyed. As a result of this abuse, there were cases of officers of parastatals finally paying back what they had taken as imprest after a long period. Imprest was treated like interest-free loans and was repaid over a long period of time. Some of the officers took over three years to repay imprest. The Committee concluded that if its recommendations were taken seriously and implemented, then there will be financial propriety in the public sector, particularly in parastatals.

The Committee wishes to commend the staff of the Kenya National Assembly, the Kenya National Audit Office, the Inspector-General (State Corporations) and the Department of Government Investments and Public Enterprises of the Treasury for their good work. Their dedication to their duty made the work of the Committee and the production of this Report possible.

Mr. Deputy Speaker, Sir, having stated in those general terms part of what the Committee did, I wish to give some highlights of some of the issues I have touched on. I wish to do that so as to demonstrate to this House and to the country some of the transgressions that the Committee came across during its work. I will do that at random.

A good example is the case of the Kenya Medical Research Institute, whose report is found on pages 109 to 111. The Committee heard evidence, which was given by the Chief Executive of the Institute, that it entered into an agreement with a developer, a Mr. Cyrus Jirongo of M/s Cypper Enterprises Limited, for the development of a staff housing project on Mbagathi Road, next to Nyayo Highrise Estate in Nairobi. The project was estimated to be completed in February, 1991 at a cost of Kshs165 million. By the time the project stalled in 1993/94 Financial Year, the institute had incurred expenditure totalling to a sum in excess of Kshs101 million. The developer had used the title documents of the land on which the development was being undertaken to borrow funds from the National Bank of Kenya, which loan was Kshs25 million, but grew to a sum of Kshs313 million. Concerned that the matter was getting out of hand and in order to resolve the matter, the Treasury

decided to discharge the title on the said property and made available to Kenya Medical Research Institute (KEMRI) a further sum of Kshs280 million which was paid into the developer's account. Consequently, after some negotiation on the sums owing, the balance which remained unpaid as of April, 1993 was Kshs8 million. M/s Cypper Enterprises Limited had been advanced a sum of Kshs25 million on that same account KEMRI was also interested in. By the time Cypper Enterprises borrowed the Kshs25 million, they never disclosed that fact to KEMRI. An inter-Ministerial committee was formed by the Government to try and resolve the problem facing the project. The committee resolved that Treasury should pay the National Bank of Kenya a further sum of Kshs160 million in order to release the title deed to KEMRI. Consequently, in the Financial Year, 1999/2000, Treasury, through the Ministry of Health released to KEMRI a further sum of Kshs142 million in order to settle the amount of money owing as at that time.

The Committee further heard that the Director of KEMRI, without relevant authority, deposited out of the Kshs142 million, the sum of Kshs120 million with the institute's lawyers, that is, M/s Sande Makhandia and Company Advocates allegedly as commitment to settle the outstanding account on the staff housing project. The Committee was further informed that out of the sum of Kshs120 million which was held by M/s Sande Makhandia and Company Advocates, a sum of Kshs27,327,677 was allegedly disbursed to Mr. A.D.O. Rachier of Rachier and Company Advocates vide Kenya Commercial Bank (KCB) cheque No.000033 on 6th April, 2000 to allegedly pay pending City Council rates amounting to Kshs14,067,567.20 and land rates to the Commissioner of Lands amounting to Kshs13,260,129.60 in respect of the same parcel of land LR. No.209/10683.

The Commissioner of Lands was summoned by the Committee and when she appeared before it, she disowned the payments and informed the Committee that receipt No.333214 dated 7th April, 2000 for the cheque No.067118 produced for the alleged payment was fake and that land rates outstanding, including penalties on the said parcel of land, L.R. No.209/10683, since 1993, stood at a paltry figure of Kshs3,616,675 as at 26th April, 2004.

**Mr. Mwenje:** On a point of order, Mr. Deputy Speaker, Sir. The Chairman of the Public Investment Committee (PIC) is telling us very useful information. Could it be in order for him, as he reads out these fraudulent cases, to also tell us what action his Committee has taken to remedy the situation?

**Mr. Deputy Speaker:** Hon. Mwenje, that is really not a point of order. You may not be satisfied with how he is doing it. He is moving the Motion. So, take note and later on stand up to respond or even tear what he is saying in pieces if you so wish. I am sure hon. Mwenje knows that being a very old Member of this House.

**Mr. Muturi:** Mr. Deputy Speaker, Sir, I suspect that hon. Mwenje wants me to skip this very important information so that I can read out the Committee's recommendations. I will be coming to that stage soon. However, I think that it is appropriate for this country to know where we have come from. Yesterday, when I was moving this Motion, I indicated that among the Members of this Committee at that time, included the indomitable hon. Henry Obwocha among others. He is aware of these facts and I see him seated patiently.

The Committee was further informed; at the same sitting when the Commissioner of Lands appeared before it, by the Clerk of the City Council of Nairobi, a Mr. Maganju, that no payment of Kshs14,067,567.20 was ever made to the council vide cheque No.A448658001 as alleged by M/s Cypper Enterprises and its lawyers, Rachier and Company Advocates, as the receipt allegedly issued was also fake and the Nairobi City Council's bank statement for the period April, 2004 did not show any banking of any cheque for the said amount. Further, at the time of the alleged payment in April, 2000 only a paltry sum of Kshs2,975,392.30 was owing to the Nairobi City Council and it



could not, therefore, legally have demanded the sum of Kshs14,067,567.20.

The Committee further heard that the remaining public funds amounting to Kshs92,672,303, out of the sum of Kshs120 million originally held by the institute's lawyer, M/s Sande Makhandia and Company Advocates has not been transferred to a Government account as directed by the Committee because the lawyers are allegedly contemplating first discharging the various professional undertakings and commitments before they surrender the funds to KEMRI. The Committee was gravely concerned that the matter on KEMRI Staff Housing Project had taken inordinately long and that an amount of Kshs381,272,177 had been spent on the project, which is far from being completed and, indeed, as we speak, the structures which had been put in place have been vandalised. The Committee was further concerned that public funds had been irregularly used to clear a personal loan of Kshs25 million, which had been borrowed by M/s Cypper Enterprises Ltd. from the KEMRI Housing Project account at the National Bank of Kenya Ltd. without the knowledge of KEMRI. The management of the institute, for unexplained reasons, and without reasonable cause, has not taken the necessary steps to resolve the matter and appears to have abetted some of the irregularities which have taken place on the project, which is part of the Committee's concern.

Further, the Committee was concerned that the release of public funds, amounting to Kshs120 million to a lawyer to bank in a private (client's) account was irregular, as no authority appears to have been obtained from either the parent Ministry, the Ministry of Health, the Treasury, nor from the board of directors of the institute and that the safety of the money and its recovery is highly doubtful.

Further, the Committee was concerned that the alleged payment to the City Council of Nairobi and the Ministry of Lands and Housing, totalling to Kshs27,327,697 was fraudulent as no such monies were ever received by the two Government Departments. Despite the assurance and commitment made on oath by a lawyer from the firm of M/s Sande Makhandia and Co. Advocates that the remaining sum of Kshs92,672,303 was safe and would be returned to the institute's account, the amount still remains unreleased to KEMRI.

The law firms of Rachier and Co. Advocates and M/s Sande Makhandia and Co. Advocates appeared to have connived with Cypper Enterprises Limited in defrauding KEMRI of Kshs27,327,697, through false payments by uttering forged receipts in respect of land rents and council rates.

**Mr. Deputy Speaker:** Mr. Muturi, I notice that you are going through this Report. How do you want to go about it? Do you plan to take us through it?

**Mr. Muturi:** Mr. Deputy Speaker, Sir, as it is our practice, that is why I did not want to go through the summary. I wanted to pick on a few examples and illustrate using them. It is also important that I give the figures as they are, without altering them.

**Mr. Deputy Speaker:** Proceed!

**Mr. Muturi:** Mr. Deputy Speaker, Sir, finally, the Committee was concerned that the Treasury and the parent Ministry, the Ministry of Health have been misled to believe that there are genuine pending bills in respect of the project, leading to an amount of Kshs544 million to be provided for in the Ministry of Health Estimates for the 2004/2005 Financial Year.

I believe that hon. Members recall that we made some efforts on the Floor of this House to try and convince the Minister that something was amiss. In the circumstances, therefore, the Committee having heard the evidence and considered the issues the Controller and Auditor-General raised, we made the following recommendations.

As a first step, the Director of KEMRI, Dr. Davy Koech, should be asked to step aside, to allow the Government to carry out intensive investigations in the manner in which the project was

conceived, the developer identified, how the project account at the National Bank of Kenya has been operated since February 1991 and how huge sums of money have continued to be paid to the developer, yet the housing project has stalled. Secondly, the institute, in liaison with the parent Ministry and other Government agencies should ensure that an amount of Kshs92,672,303 is recovered from M/s Sande Makhandia and Co. Advocates without any further delay. For the information of this House, one of the partners in the law firm of M/s Sande Makhandia and Co. Advocates is a serving High Court Judge. Thirdly, the Commissioner of Police should move with speed to investigate the law firms of M/s Sande Makhandia and Co. Advocates, M/s Rachier and Co. Advocates, and Cyrus Jirongo of M/s Cypper Enterprises Ltd. to establish the manner in which a sum of Kshs27,327,697 was disbursed from KEMRI, allegedly to pay for land rents and council rates in respect of plot No.LR. 209/10683 yet, the Ministry of Lands and Housing and the City Council of Nairobi have denied ever receiving monies and have declared receipts as forgeries.

Fourthly, the law firms of M/s Sande Makhandia and Co. Advocates and M/s Rachier and Co. Advocates be reported to the Advocates Complaints Commission for what appears to have been professional misconduct by abetting loss of client's money and uttering false receipts to Government agencies.

The fifth point, which is belated but part of the recommendations, is that the sum of Kshs544 million included in the 2004/2005 Estimates of the Ministry of Health for the project, be withheld until an independent verification is carried out on the alleged pending bills and the correct amount outstanding with the National Bank of Kenya determined.

Finally, the Committee recommends that the Government intervenes on behalf of the institute to require the National Bank of Kenya to discharge the title deed in respect of LR. No.209/10683 so as to allow completion of the housing project for the staff of KEMRI.

I have taken the liberty to take this House through those recommendations, observations and evidence that the Committee received because, as much as it happened sometime back, it is important that these things are not allowed to happen again. It is hoped that if these issues are handled in a manner that the Committee sees fit - all that has been recommended here is a matter that is non-partisan.

I want to give one or two other examples before I ask one of my colleagues to second the Motion. There was a more recent matter that the Committee dealt with. It is important that the House and indeed, the country knows some of the happenings in some of our parastatals. This is with regard to the East African Portland Cement Company (EAPC). The House will recall that on 30th January, 2003, the Minister for Trade and Industry appointed an audit inspection team to investigate into and conduct audit on management practices at the EAPC.

Among the issues raised in the report which the Minister tabled before this House on 1st April, 2004, were:-

- (i) Irregular award of contract for provision of goods, wares and services.
- (ii) Irregular selection of cement distributors, trade policy and practices.
- (iii) Manipulation of quantity discounts in favour of one distributor. The trade policy was skewed in favour of that one distributor.
- (iv) Staff appointments, promotions and dismissals had been conducted arbitrarily.

This is an examination that the Committee pursued in terms of the powers vested in it under Section 148(5)(a) of our Standing Orders, which mandates the Committee to examine any reports, not necessarily those of the Controller and Auditor-General. One of the key issues was the trade policy and practices of the EAPC. The Committee heard evidence that in 1998, the company had been faced with a cashflow problem and urgently required some bridging finance. As a result, the Japanese Government was approached and hastily the company introduced a system of trade

volume discounts to its cement distributors which required them to take a minimum of 20,000 metric tonnes per month. Following that, a company by the name M/s Donholm Rahisi Stores (M.K. Roble) became a distributor for the company. Since the said company was the only distributor who could meet the conditions set out by the company, 200 other distributors found it uneconomical to buy cement from the EAPC.

Mr. Deputy Speaker, Sir, in the year 2000, M/s Donholm Rahisi Stores and the then Managing Director entered into an agreement to give the distributor favourable trading discounts and transport rebates of Kshs98; trade discounts of Kshs60 and transport discounts were at Kshs38 per bag bringing the purchase price of cement to Kshs372 per 50 kilogramme bag of cement compared to an ex-factory price of Kshs470 per 50 kilogramme bag for any other buyer. This, in effect, made M/s Donholm Rahisi Stores dominate and control 70 per cent of the company's sales.

Further, in the financial years 2001/2002, and 2002/2003, up to February 2003, when the Minister for Trade and Industry intervened, M/s Donholm Rahisi Stores was credited with Kshs285,803,951 and Kshs358,800,202 respectively, a total of Kshs671,604,153. It was noted that this irregular huge discounts were eating into the profits of the EAPC. Consequently, as a result of the audit report that was filed by the extra ordinary inspection audit team, the Committee summoned the Chief Executive Officer and other senior officers of the company. The Committee heard the following evidence:-

First, upon maturity of the Japanese loan, the company without proper business considerations introduced a system of trade discounts and volumes as described earlier on.

Second, the contract, among other things, whose authenticity is a subject of a court dispute, offered 18.9 per cent trading discounts and transport rebates to the distributor contrary to the company's policy of 5 per cent discount.

Third, Mr. Deputy Speaker, Sir, further, among others, the then Managing Director, Mr. E.C. Birya, was subsequently relieved of his job and the contract terminated. M/s Donholm Rahisi Stores sued the company for breach of contract claiming compensation. The case has since been forwarded to the Kenya Anti-Corruption Commission (KACC) for investigations.

Fourth, M/s Donholm Rahisi Stores also engaged the services of the law firm of M/s Abdulahi Ahmednassir and Company Advocates in the case. The Committee was, however, informed that since the adoption of the report of the extra ordinary inspection team ordered by the Minister, the company had instituted the following trade policy and practice adjustments:-

(i) recruitment of distributors in Nairobi and other parts of the country.

(ii) daily, weekly and monthly reports and transactions of the depots has since been submitted to the headquarters;

(iii) There have also been strict supervision by Treasury accountants on the financial activities of the depots.

(iv) It was also noted that the company had abolished the transport rebates.

The Committee observed with concern that:-

(i) The then Managing Director, Mr. E.C. Birya, misled his Board of Directors during its sitting of 13th June, 2003, that he had effected the 5 per cent discount rates as recommended by the report of the Inspector-General (State Corporations), which had been ordered by the Minister for Trade and Industry, when the true position was that he had already entered into a contract with M/s Donholm Rahisi Stores giving them 18.9 per cent discounts.

(ii) The contract was signed by the then Managing Director, Mr. E.C. Birya, and a former Finance Accountant, a Mr. J.N. Otindo, without informing the Board of Directors of the company. Due to the over-reliance on one distributor, the EAPC sales had tremendously declined over a short period of time from 60 per cent dominance of Nairobi market to below 50 per cent. The company

had also lost contact with most of its other customers.

As a consequence, a number of persons were invited to appear before the Committee. The Committee expressed concern at that time over the apparent conflict of interest in view of the fact that

Mr. Abdulahi Ahmednassir, who is acting for the distributor in the civil court in the High Court was at that time the Chairman of Kenya Anti-Corruption Advisory Board (KACAB), to whom a case against M/S Donholm Rahisi Stores had been referred for investigations. The Committee observed that this represented a possible conflict of interest and invited the said Mr. Ahmednassir to appear before it, who when he did, assured the Committee that he would not, as the then Chairman of the KACAB interfere with the due process in the case between Donholm Rahisi Stores and East African Portland Cement Company Limited (EAPCC), and that the law firm of Ahmednassir Abdilkadir & Co. Advocates would reconsider its status and position to represent the distributor if the investigation revealed any criminal intent on the said agreement. This is because the agreement was disowned by some members of staff and as a result, the dispute is pending before court.

As a consequence, the Committee made the following recommendations:-

(i) That the company must adhere to public procurement procedures contained in the public procurement regulations of 2001 while tendering for distribution.

(ii) That the company must introduce and adhere to a cost-effective distribution policy which should apply to all distributors.

(iii) That the board of directors should constitute a panel of senior staff that will be charged with the responsibility of recommending to the board discounts, if any, to distributors.

(iv) The Chief Executive should also ensure that an aggressive market penetration programme is made a priority of the company.

Mr. Deputy Speaker, Sir, I am happy to observe that this has actually been implemented, since you would appreciate, this report was actually tabled before the House last year in November.

(v) That the said Mr. E.C Birya, who was the then Managing Director be investigated by the Kenya Anti-Corruption Commission (KACC) for misleading the board during its sitting of Friday 13th June, 2003, since he had effected discount rates of 5 per cent, which had been recommended by the inspection board in the report which the Minister for Trade and Industry tabled before this House on 1st April, 2004, consequent upon which it was then believed that the 5 per cent discount is what was being implemented when, indeed, what was being accorded to Donholm Rahisi Stores was actually 18.9 per cent discount. The Committee felt that the persons of Mr. E.C. Birya and Mr. J.M. Otindo, who signed the contract on behalf of EAPCC, while aware that the board had adopted a 5 per cent discount, be investigated and that appropriate action be taken against them.

Mr. Deputy Speaker, Sir, I took the liberty to take the House through this particular example because it is something that is current; it is ongoing. It has been argued that the Public Investments and Public Accounts committees deal with "dead carcasses" and, therefore, do not have anything current.

I would like to say that there are numerous other examples of past malpractice by chief executives. Indeed, even Treasury Circular No.3 of 31st January, 2003, which was signed by the then Permanent Secretary, Ministry of Finance, Mr. Magari, appeared to have been "strange" or "unknown" to very many chief executives of various State Corporations. Indeed, it was surprising to the Committee that even when the Permanent Secretary appeared before the Committee, he appeared in doubt as to whether he had signed that circular. That begs the question, and the Committee has expressed itself on this, "should such Treasury circulars not be made in form of legal notices by way of subsidiary legislation in order to give them legal effects and meaning so that nobody can then say they were not aware of them?" In a number of cases that the Committee

examined, and has been examining, a lot of violations appear out of failure or lack of knowledge about requirements of Treasury circulars that have been issued from time to time and which date, if I can remember this off head, from around August, 1990. A lot of them have been violated, but as we have observed, unless Treasury or indeed the Government proceeds by way of preferring charges about abuse of office in most of those cases, you find that those Treasury circulars seem to lack legal effect.

Mr. Deputy Speaker, Sir, I know some of my colleagues who are here are keen to deliberate on various other instances and, therefore, it would not be necessary for me to give more examples than would be necessary. However, I would like to conclude with one about Kenyatta National Hospital (KNH).

Kenyatta National Hospital awarded a tender in 1999 on selective basis to M/S Nelliwa Builders and Civil Engineers Limited for a sum of Kshs383,800,000 to do rehabilitation and extension of what are called the Registrar's flats, the sisters' flats, the sisters' mess and histopathology laboratory. The contractors were paid a sum of Kshs57,570,000 ostensibly to mobilise materials and equipment for the project even before they had set foot on site. It was interesting, and the Committee observed that the bank that provided the contractors advance guarantee was also the contractor's bank, which apparently was the bank for KNH. Further, the overall guarantee had not been fully recovered by October, 2004. The contract was already terminated, and as a result, the contractor filed a suit in court. The hospital, for unexplained reasons, did not file any defence and thereafter an *ex parte* judgement was entered in favour of the contractor for the payment of the sum of Kshs78,315,914 compensation against the hospital.

An assessment of the value of the remaining works was carried out by officials from the Ministry of Roads and Public Works. That assessment revealed that the value of the remaining works was Kshs93,445,135 as at June, 2003. That was against a compensation order by the High Court of Kshs78 million. The Committee was informed that the board had since approved the works to continue, and that the work had been resumed by the same contractor upon negotiations. The Committee observed that, that was logical in the circumstances, but the board should, at all times, adhere to the laid down procurement regulations. The then Chief Executive Officer (CEO), Dr. Augustine Muita, should be held responsible for failing to advise the board on the irregular advance payment to the contractor before moving to the site, and also for abuse of office for choosing selective bidding to award a contract of that magnitude.

Mr. Deputy Speaker, Sir, having given those examples, I do not wish to continue speaking. But, in conclusion, suffice it to say that many parastatals, over the last 15 or 20 years, have really laid down to waste so much money that it boggles anybody's mind. You just need to look at the financial accounts in the area of consultancy services. For example, in the financial accounts for the National Social Security Fund (NSSF) for the year 1998/1999, a sum of Kshs670,047,094 was spent for projects which were conceived and were to be undertaken in various parcels of land, some of which were on rocks around the country. Those projects were later abandoned! But even though the contractor did not move to the site, consultancy fees were paid and the matters remained unresolved.

Mr. Deputy Speaker, Sir, it is as a result of our recommendations that the Inspector-General, State Corporations became pro-active. Him or his representatives sit in the boards of all State Corporations as a requirement. Many decisions that take place in various State Corporations, which result in huge losses, are made in his presence or that of his officers. Therefore, we recommend that the Inspector-General, State Corporations must carry out his duties as spelt out in Chapter 446 of the State Corporations Act. He should curb the many cases of abuse of office and flouting of various financial regulations. We have also recommended that the alternates from parent Ministries must also stamp their authority in those boards. We can see some progress in the right

direction with the signing of performance contracts. Several of the decisions that are found in this Report were, apparently, taken by boards members who were either oblivious or ignorant of whatever was happening. That is found in many decisions taken by the two managements of the Kenya Airports Authority (KAA). Indeed, were it not for the fact that I am aware that these matters have been captured in the famous Ndung'u Report, I was going to take you through a catalogue of grabbing of plots of land belonging to KAA at the Jomo Kenyatta International Airport (JKIA), Wilson Airport, Mombasa, Malindi, Kisumu and Kabarak Airstrip. All that took place in total disregard of the existing regulations. Some of the plots that were given out at JKIA measured close to 1000 acres. Some constructions have been done and some of them are on the flight path. I do not want to bore the House because those reports are here.

Mr. Deputy Speaker, Sir, if you look at page 33 of this Report, you will see the list of some of the allottees. Some of them are even serving Members of Parliament. The names are there. I am sorry! That information is found on page three of this Report. You can see, for example, there are parcels of land in Malindi measuring 281.4 hectares, Eldoret - 388 hectares, Kisumu - 292.07 hectares and Ukunda - 10.19 hectares. If you go through some of the allottees down there--- You can see the first one. It reads:-

"The Commissioner of Lands allocated the following parcels of land, some of which are on the flight path, are reserved for airport development, to private developers.

The first one is A.K. Magugu and Partner."

I do not need to go into a lot of depth to understand who some of those people are. It is obvious. If you look at page five, part 3, some of them are sons of serving Members of Parliament. For example, there is Charles Ayacko Nyachae. There is somebody there who bears a name similar to mine, but I can assure you that it is not mine. On page four, somebody is indicated there by the name of Justin Gachuru Njuguna. The first name resembles mine, but I can assure you that it is not me.

Mr. Deputy Speaker, Sir, this is like a list of shame. These are names of the people who have been allocated airport land. The Commissioner of Lands at that time knew very well that there existed Legal Notice No.2001 of 7th June, 1994 but, nevertheless, went ahead to allocate those parcels of lands. Some of the plots are now owned by internationally reputed firms like Homegrown. The Commissioner of Lands assumed that it was his responsibility at that time, to dish out land as he wished. It appears to have been the practice at that time.

Mr. Deputy Speaker, Sir, since some of my colleagues would like to make their comments regarding this Report, I want to end by saying: In as much as we are doing a postmortem, it is instructive to point out that even though history is but a lesson, we must learn it appropriately and vow never to be bound by it.

With those few remarks, I beg to move and call upon Mr. Wamunyinyi to second.

**Mr. Wamunyinyi:** Mr. Deputy Speaker, Sir, thank you for this opportunity to second the 12th Report of the Public Investments Committee (PIC) which is now before the House. Hon. Muturi has given a lengthy presentation and enumerated strong examples on what has been covered in this Report. I will briefly touch on a few examples. I do not think I will take a lot of time like he did so that other hon. Members can also contribute.

Mr. Deputy Speaker, Sir, past experiences have it that the PIC and PAC have always had to deal with cases that took place long ago. Like you rightly put it, they have had to do an autopsy of both the living and dead bodies. It is important that we note the reasons for this trend because when we deal with history alone we will be doing nothing. Some of the reports that are before the House date back to the 1995/1996 Financial Year. It is important that we get to the current reports and deal with the issues as they occur. By doing this, we would effectively deter various irregularities and

illegal activities that take place within our circles. There is the need to undertake a rigorous update of both the PIC and PAC Reports which, at the moment, still have quite substantial amounts of past issues within the 1990s that have not been discussed by the committees and reported to the House.

Mr. Deputy Speaker, Sir, having said that, I want to express my concern on the issue of the Inspector-General of State Corporations. I have said this before and hon. Muturi also mentioned it briefly. My concern is the involvement of the Inspector-General in the activities of State Corporations Management Board and at the same time playing that role of watchdog which consists of reporting to the Government whatever irregularities and omissions that may have taken place within those corporations. A shining example of one of the issues that brought about conflicts was the case of the Kenya Pipeline Company (KPC) where the Inspector-General sat on the board, decided to award the contract through the AAA; that controversial bill and when this matter was brought before Parliament as was highlighted, it was the same Inspector-General that had to undertake the investigation. You will realise that he was the same person that took part in making the decision and then he is the same person that is being called upon to investigate the same issue. You realise that you cannot investigate yourself. He is part of decision-making and cannot therefore investigate himself. It is something that we need to look at. We must harmonise our laws to ensure that such a conflict does not arise.

Mr. Deputy Speaker, Sir, I want to say that most corrupt activities in the Government Ministries have been due to poor procurement rules which perpetuated mismanagement and general abuse of office. Most of the corruption has taken place at the stages of tendering. You realise even from the audit queries, both in the PAC and PIC, what has been pointed out hinges most on irregularities that take place during the process of tendering. You will obviously conclude that the reason for allowing those irregularities to thrive is because some people were compromised in the process. I trust that the laws that we passed the other day to do with procurement will strengthen the offices of Government and should greatly enhance competition and boost transparency in the tendering process. It is important also that the Office of the Controller and Auditor-General is strengthened to ensure that all these past pending accounts are concluded and presented for consideration by the committees without any delay.

Mr. Deputy Speaker, Sir, I would like now to turn to one example which I want to cover that involves the Kenya Ports Authority (KPA). My colleague has pointed out some of the projects which were initiated and did not take off. Some took off and were abandoned. A lot of public funds were expended on them but there was nothing which was achieved. One such project was the expansion of the KPA

*[Mr. Deputy Speaker left the Chair]*

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

headquarters at Kipevu which was mentioned earlier. The decision was arrived at procedurally at a board meeting in 1994 which, among others, spelt out very clearly what was to be done and that the building required extensive rehabilitation in the operations of marine offices, replacement of floor tiles, toilet fittings and so on. The board held its 163rd meeting on 24th August, 1994 and approved the works subject to very specific conditions that the architect and consultants would only be paid if construction work was undertaken in furtherance of the design and the letter appointing the lead consultant. The board eventually changed and if you look at page 58 of this Report, you will see

how public funds have been looted and how there has been no regard in looking for the people responsible of holding these offices and undertaking works. I will ignore Part I of the Report and draw the attention of hon. Members to some important paragraphs in Part II. One of the paragraphs reads as follows:-

"The Board, in its 163rd sitting held on 24th August, approved the proposals subject to the fact that the architect and other consultants would only be paid if construction work was undertaken in furtherance of the designs and the letter appointing the lead consultant. In September, the following consultants were appointed to work under the lead consultant in accordance with the terms and conditions agreed upon between the Kenya Airport Authority (KPA) and the lead consultant: M/s Kisa & Partners for electrical engineering works; M/s Multiconsult Consulting Engineering for civil structural services, and M/s Jagggar Consultants for quantity surveying services".

Mr. Temporary Deputy Speaker, Sir, when the membership of the Board and the Chief Executive were changed, the Company Secretary and Secretary to the Board did not pass this information to the new Board and the new Chief Executive, that there was a condition which was supposed to have been fulfilled before any payment was made. So, the consultants were paid some amount of money following some fee notes they raised. Those fee notes were approved by the new Board, which was not aware of this condition. The chronology of the events is given on Page 59, and hon. Members can look at it for themselves.

Mr. Temporary Deputy Speaker, Sir, I will move on to Page 60, where the hon. Members made observations related to the evidence that was adduced before the Committee. The Committee observed with concern that the Board had initially resolved and explicitly approved for refurbishment and rehabilitation works only, with reference to looking into the possibility of extension and additional floors, subject to its approval, and there was no budgetary allocation for the extension and additional floors.

The then Chief Executive, Mr. Simeon Mkalla, and the Acting Chief Executive, Mr. George Dulu, who is now a Judge of the High Court of Kenya, appeared to have, deliberately, withheld from the Board its earlier decision that the payment for the design works would only be made if construction work was undertaken in furtherance of the designs and, as a result, the Board, in its 172nd sitting, approved payment to the consultants.

Mr. Temporary Deputy Speaker, Sir, in Part III, we have made the following observations:-

"On the basis of the initial project, the fee note paid to M/s Jagggar Consultants for quantity surveying services were inordinately inflated in comparison to the fees paid to the consultants, thus flouting the provisions of Cap.525 of the Laws of Kenya. The project, which included extension and additional floors, was neither viable nor necessary as the Authority then, and now, had sufficient office space and some of the works earmarked for rehabilitation did not require designing as they were normal maintenance works".

These are like repairs on a broken window or a leaking roof. You do not require design works to do that.

"The High Court, in its ruling on Case No.2931 of 1991, ignored to take into account the Board's original decision of 24th August, 1994, on appointment and payment to consultants. Had the court taken cognisance of this decision, it would not have made a different decision".

Mr. Temporary Deputy Speaker, Sir, after receiving all this evidence, the Committee made some recommendations. I would like to, briefly, highlight what we felt was a necessary step to ensure that we do not lose public funds in the future, and that everybody who is involved in any project in this country acts responsibly.

It is recommended that the then Managing Director, Mr. Simeon Mkalla, and the then



Company Secretary, Mr. George Dulu, now Judge of the High Court of Kenya, be investigated and prosecuted by the Kenya Anti-Corruption Commission for deliberately withholding the original decision made by the Board, during its 163rd sitting from the subsequent Board, therefore, misleading it to approve irregular payments to the consultants in the 172nd sitting. We also recommend that the principal consultant, Jaggar Consultant, Mr. J.N. Kachagwa, be investigated and prosecuted for demanding and receiving from the KPA, unlawful payments amounting to Kshs315,691,200, contrary to the clearly stated terms of appointment. We further recommend that the then Managing Director, Mr. Simeon Mkalla, Justice Dulu and Mr. J.N. Kachagwa, be barred from holding any public office conferred by the Republic of Kenya.

Mr. Temporary Deputy Speaker, Sir, we have deliberately included these very strong recommendations, having considered all that took place and the evidence that we had, so that all Kenyans, wherever they are, can act responsibly, protect public funds and, always, be in a position to explain themselves whenever something takes place. We must take responsibility for any irregularities or our actions, and account for everything that takes place within our domain. As I said earlier, there are various other omissions, but I will give only this one example, so that we may move on. We should be able to conclude debate on this Motion and have it adopted by this House today.

Arising from this, these consultants were paid a total of Kshs504 million in respect of consultancy services for the extension and refurbishment of KPA headquarters in Kipevu, a project which never took off, although the money was spent. This is not a small amount of money. Similar things happened with regard to many other projects. The National Social Security Fund (NSSF) also spent over Kshs600 million on consultancy services, but no project was undertaken.

Mr. Temporary Deputy Speaker, Sir, apparently, this was the trend in the past, in all the state corporations. Therefore, this issue must be addressed once and for all, so that we can address the current issues. I would like to see current projects being undertaken monitored very closely by the National Audit Office, to ensure that no public funds are lost. As I said earlier, all the projects that were awarded to contractors irregularly were never concluded. They always fizzled out somewhere along the way. In fact, some of them never took off.

If you look at the audit report for the defunct Kenya Posts and Telecommunications Corporation, you will see that buildings which were alleged to have been constructed in Malindi and Mombasa were never constructed.

Mr. Temporary Deputy Speaker, Sir, billions of shillings were borrowed for the expansion of Nzoia Sugar Company, but the project never took off. Currently, Nzoia Sugar Company owes banks about Kshs15 billion. Some of the equipment bought is still lying at the factory. The project has never been implemented; Kenyans have lost money, farmers continue to suffer, and, generally, the few people who benefited from this loot are enjoying themselves.

One of the other projects where a lot of money was spent and never took off was the Kenya Airports Authority (KAA). Besides theft, looting and grabbing of land, some money was also spent on projects which never took off, for example, projects like cleaning of the runway where costs were inflated and the tender was awarded to some companies which were very well connected. I can see the Minister smiling because he knows about them. Some of these well connected companies which were awarded the tender to clean the runway were unnecessarily paid huge amounts of money. Every time we have a project in this country, people have to get an avenue for stealing public funds. So, this culture, as we speak now, I am sure the NARC Government will not condone these kind of activities, and we trust that the recommendations that have been given in this report will be implemented, and the various arms of the Government that are responsible for the various recommendations in the respective Ministries should take appropriate action to ensure that, where money is supposed to be recovered, it is recovered; where some people are supposed to suffer disciplinary action, they should be disciplined; and even where prosecution is supposed to take place, it should take place.

Mr. Temporary Deputy Speaker, Sir, the other issue which I would like to point out and which is also important is this: I think most of the projects which are undertaken by most of our state corporations and parastatals are not properly studied. Where you find there are interested parties, they will push a project so that funds are available for it to be undertaken. But because there are no proper feasibility studies, and because no funds are particularly earmarked and set aside for it, there will be a struggle to raise funds for that particular project while some other people will be enjoying. So, in my opinion, I want to suggest that any project to be undertaken should be studied in detail and it must be seen to be beneficial to the people and help this country. It should not be a white elephant like many other projects that we have seen in this country.

As I talk about projects, I should not forget about the projects in my constituency. One of the colleges which the Ministry of Education, Science and Technology gave about Kshs60 million is Kibabii Teachers Training College. I am happy that during a visit to Bungoma, the holder of the highest office in this land ordered that construction of Kibabii Teachers Training College should start, and I trust it is going to start. A Mr. Kinyanjui, who is a KANU activist and a politician was paid by a firm to construct the college, but he used the money which he was supposed to use for the construction to contest for a parliamentary seat. I am told that he joined NARC and this is where I agree with hon. Kaparo; that some of the people who worked for the previous Government and were rolled over--- I call them "Roll-overs", because they were very active in the previous Government and participated very strongly by playing a major role in all those misdeeds. You know, some of them were permanent secretaries, provincial commissioners, Ministers, intelligence officers and so on. All those were rolled over and are now in the NARC Government, and that is why you find those problems persisting. I have always said, and I have even appealed to the President, that some of those people should not be retained in the Government.

*(Applause)*

So, Mr. Temporary Deputy Speaker, Sir, I was talking about Kibabii Teachers Training College, and I trust that since his Excellency the President ordered that it should be constructed, I trust that this will be done. If it is not done, then you should know that this is one of the reasons that made the people of Bungoma hate former President Moi. They hated him very much and did not want to hear about KANU and Moi because of that college. I am sure hon. Kibaki would not wish to be hated by the people of Bungoma. This is the message I would like to pass across.

Mr. Temporary Deputy Speaker, Sir, in conclusion, so that I can allow other hon. Members to also contribute, I would like to state that this report covers various recommendations which we cannot go through here, but we can make comments like I have done. I want to appeal that, for those cases which require prosecution, there are sufficient materials with the Clerks of the National Assembly who helped the Public Investments Committee (PIC) to compile the report, which carry a lot of information. What is presented to the House is a summary, and I am sure there is a lot of information, some of which was taken on oath. For example, the oath from the lawyer from Makhandia and Company Advocates, who was put on oath when he was testifying before the PIC and he gave a lot of information which can be used to help ensure that the Government strongly fights these vices.

I, therefore, want to suggest that, apart from taking action to prosecute those responsible, recovery proceedings should be initiated to ensure that those who loot do not get away with public funds just like that. They should be pursued to make sure that the funds are recovered. We, of course, see them driving around in big cars and enjoying big businesses at the expense of suffering citizens. We should also enforce all the other recommendations and come up with various strong measures which should deter future occurrences of such offences and omissions in the Government Ministries, state corporations and parastatals. We must do all these things in order to help our people to develop.

Mr. Temporary Deputy Speaker, Sir, in the remaining few minutes, I want to say that I appreciate the reforms in the Ministry of Water and Irrigation, which has particularly led to the establishment of water companies in various parts of this country. I trust that the spirit is to ensure that people benefit from good clean drinking water, which should prevent infections and so on. I was very disappointed the other day and the situation called for my personal intervention. Nzoia Water Company disconnected water to Bungoma District Hospital and that caused a lot of suffering to the sick people. I found it to be very inhuman and very irresponsible for the board of the water company to disconnect water to the hospital.

With those few remarks, I beg to second.

*(Question proposed)*

**The Assistant Minister for Trade and Industry** (Mr. Syongo): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to make my contribution to this Motion. First, I want to congratulate the Committee for coming up with a very clear report, and for its presentation on the Floor of this House this afternoon.

Mr. Temporary Deputy Speaker, Sir, prudent management of the procurement and investments can make a very big difference to the economic health of this country. Many times, I sympathise with the Minister for Finance when he has to go through considerable difficulties trying to balance his books. Sometimes he is forced to plead for assistance from outside this country in order to make the figures balance as he prepares the annual Budget for this country, yet through prudent management of the procurement process within our Ministries and public institutions, we can, in fact, save him from this unnecessary pain. On average, this year, we shall spend, say Kshs150 billion on procurement, which I am reliably advised may be the case. If we only saved 10 per cent of that, we will have Kshs15 billion, which will make a huge difference in terms of public investment in the improvement of our infrastructure such as roads.

I believe that the total amount of money that is going to the Ministry of Roads and Public Works, for example, is a mere Kshs3.2 billion. If you look at this Report, which has been presented to us, you will see that the total amount of money that has been misappropriated is colossal. We must take this Report seriously, go through it and come out with the amount of money that has been misappropriated. I recommend to this Committee that we should make a very firm proposal, that the Ministry of Finance sets up an assets recovery unit within it to recover all assets that have been misappropriated from the people of this country.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, I will use the same example the Chairman of the Committee has given, namely the case of the East African Portland Cement Company. After the intervention of the Minister for Trade and Industry and the removal of the Chief Executive, who had signed this obnoxious agreement with this particular distributor, the East African Portland Cement Company has now an accumulated reserve in form of retained profits, of over Kshs2 billion. The first half-year profits for the company are in excess of Kshs500 million. This is as a result of a mere act of removing a corrupt Chief Executive and closing the loopholes through which this company was losing huge amounts of money every year. It goes without saying that, indeed, we do not have to beg the way we do in order to raise sufficient funds to develop our country.

Mr. Temporary Deputy Speaker, Sir, there is one other recommendation that I would have wished the Committee to have come up with, in addition to recovery of assets, and taking punitive steps against the perpetrators of theft of public funds. It should also have recommended the comprehensive review of the existing laws in order to see to it that there are no loopholes in the existing laws, so that we can use them effectively to deal with such situations in a timely manner.

For example, I think it is high time, in spite of pressure for the repeal of the Trade Licensing Act, we retained this piece of legislation, so that those individuals who steal money can have their licences revoked as a way of discouraging malpractices amongst our merchants.

We need also to be serious in our respective Ministries and enforce the law where it exists. It is unfortunate that this particular trader, Donholm Rahisi Stores, practised monopoly in the distribution of cement with impunity. This took place in spite of the fact that we have the Restrictive Trade Practices and Monopolies Act, which provides adequately a mechanism for dealing with such a situation.

Mr. Temporary Deputy Speaker, Sir, my third point is the question of those who get involved in malpractices. We did pass the Public Officer Ethics Act. But it is unfortunate that in the case of both the Kenya Medical Research Institute (KEMRI) and the Kenya Ports Authority (KPA), the perpetrators of malpractices still hold public offices. The amounts of money involved are enormous. We are not serious. I think it is high time we took the pain that Kenyans are going through seriously. Every hon. Member knows exactly how many desperate young men and women come to see us looking for jobs. We also know how painful it is to have our patients in hospitals, who cannot pay their bills. In fact, sick people avoid going to hospitals because they cannot raise money to pay for treatment, yet we have public officers, people who have stolen from those suffering, still holding public offices and earning huge salaries. There is a Member of Parliament, whom I should not term "honourable", and an executive director of a parastatal, still earning money, yet they have stolen all this public money.

**The Temporary Deputy Speaker** (Mr. Poghio): Mr. Syongo, please, watch your language!

**The Assistant Minister for Trade and Industry** (Mr. Syongo): Mr. Temporary Deputy Speaker, Sir, the Mover and the Seconder of this Motion have clearly indicated that not only are Chief Executives and Members of Parliament who committed malpractices holding public offices, but actually that there is a possibility of Judges of the High Court of Kenya having been involved in malpractices. As representatives of the people of his country, we must say enough is enough, and action must be taken.

Mr. Temporary Deputy Speaker, Sir, I believe there are many of my colleagues who want to speak. But I just want to emphasise that there is a lot we can do in order to generate sufficient funds through savings by prudent management of our procurement and investment processes. This will make a huge difference in the economic health of this nation.

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

**Mr. Bahari:** Thank you, Mr. Temporary Deputy Speaker, Sir, I would like to join my colleagues in supporting this Report. It is extremely important that it be discussed at length, because one of the key functions of Parliament is oversight. I wish there were more hon. Members here to contribute to this Report. This is because it gives us an account of what has been happening over a period of time, and how we have managed our meagre resources. It is from this that I think, we must learn which direction to take in the management of our public affairs.

Without running the risk of repeating what other hon. Members have said, I want to concentrate on the supervisory role of the Ministries. It looks like some Ministries under which some of those parastatals fall have neglected their responsibilities. They are the parent Ministries and are charged with the responsibility of over-seeing efficient and prudent management of parastatals. In many cases, there are representatives from the Ministries who attend those board meetings, and yet a number of audit queries which arise are very basic. The representatives from the Ministry should have stopped them at that point. It is extremely important that those who sit on those Boards do not go there only to earn allowances for the day. They should be made to account for their respective parastatals. As much as we know the Accounting Officers are the chief executives, the representatives from the Ministries have a critical role to play. They should ensure that things are done properly.

Mr. Temporary Deputy Speaker, Sir, in most cases, representatives from the Ministries avoid taking responsibility and behave as if they do not attend Board meetings. Even Permanent Secretaries must insist on being briefed time and again on what is happening in those parastatals because they are public investments. It looks like Ministries have run away from those responsibilities. I am happy that the Leader of Government Business is here. He is very keen on the performance of Ministers. We must ensure that Ministers take up their responsibilities. They should not do that in the Ministries alone, but even in the parastatals. It looks like once a Board member, under-secretary or a senior deputy secretary has been appointed a Permanent Secretary (PS), the Minister forgets that, that is his child.

Mr. Temporary Deputy Speaker, Sir, I want to go further and mention a few things about the Department of Government Investments and Public Enterprises (DGIPE) in the Treasury, in relation to public investments. The Treasury is normally represented in the Boards of the parastatal. The Treasury has investment experts, but you find that all those offenses are committed when the representatives from the Treasury are seated in those meetings earning allowances. Those allowances, in my view, are not justified. That is because billions and billions of shillings have been lost through fraudulent activities in the parastatals.

Mr. Temporary Deputy Speaker, Sir, to make it worse, there is what we call Treasury Memorandum. It gives an account of how far the issues raised by the Public Investments Committee (PIC) and the Kenya National Audit have been addressed. You would not want to read that memorandum from the Treasury. It is like somebody just sat down and, without looking at anything, made some generalised comments. It looks like some application forms I see in some of those institutions. They are general in nature, have no regard for accuracy and authenticity of information, and yet it is the Treasury which goes round soliciting for donor funds. Even when losses go up to billions of shillings, I am surprised that--- I thought the people at the Treasury are very concerned about figures. When they see that money is going to the wrong place and it is fraud, they should raise the red flag. They do not do that! They just sit there! They go round begging for funds, when the money is with them.

Mr. Temporary Deputy Speaker, Sir, that is very serious! It is an outright negligence of public responsibility. But since the Vice-President and Minister for Home Affairs is here, he must take up that matter seriously. I am happy that performance contracts have been introduced of late. But I am afraid that, if the Ministries are not keen, that will just be one those circulars or documents that have no meaning. That is a management tool and an instrument for control. It is prudent to have performance bonds. But if the attitude that has been there continues, those performance contracts, which we have used to increase the salaries of parastatal heads, will certainly be mere papers. We have seen instances where the Treasury releases circulars and memoranda and nobody enforces them. The supervision of parastatals must be on a continuous basis. All sorts of circulars have been released by the Treasury, but nobody implements them. Even the same Treasury that issues those circulars is not bothered. There is no control. If there is no control, anybody will relax.

Mr. Temporary Deputy Speaker, Sir, I would also like to talk about the Inspectorate of State Corporations. They have a key role to play. A number of heads of State corporations were appointed when the NARC Government took over power. I hope they were properly inducted. That is very crucial. Most of them do not know the basic rules that guide them. They do not know the Act that puts them in place! That is a very serious matter. I am not surprised that some of them were flying around in helicopters and doing things that were not in their mandate. Whom do you blame then? All those organs have been put in place, and yet they do not function! There must be some command at some point. There must be some people somewhere, monitoring these things. You can see the Treasury, parent Ministry, Inspectorate of State Corporations and the Controller and Auditor-General are all there. Institutions can be there. Fine! But then, any system is as good as the people who supervise it. Systems can be very good but then, if there are no good supervisors, too bad! I think it is unfair to allow billions and billions of shillings to get lost every year, while

Kenyan are wallowing in poverty.

Mr. Temporary Deputy Speaker, Sir, I must also mention that a number of investments by State corporations have no relation to their core functions. Those are some of the issues that the supervisory organs that have been put in place by law, must guard against. There must be a constant review of those investments. So, once again, I urge the Leader of Government Business, like he met Ministers and Assistant Ministers, to organise such a forum for heads of parastatals, to remind them that somebody is watching and their performance contracts will be reviewed.

Mr. Temporary Deputy Speaker, Sir, time and again, this Report has been tabled in this House. I am sure the next one, perhaps, will be voluminous than this one. What is even more critical is: Do we take action on the recommendations of PIC? If we do not, then we are more than lax and negligent. You know what happens to negligent people. They get dismissed!

Mr. Temporary Deputy Speaker, Sir, I must repeat once again that it is extremely important that the core functions must be adhered to when investments are undertaken. Most of the investments were done with prior knowledge of committing fraud. You will realise that plans were muted, monies are spent, and these are not small monies; these are colossal sums. In the end, those projects are abandoned for frivolous reasons. This is repeated from one parastatal to the other.

Therefore, the initial idea of establishing parastatals is completely destroyed. I urge the Ministries to take responsibility of parastatals within their dockets very seriously so that Kenyans will realise value for money. We lose a lot of money through procurement. I am sure this has been mentioned. Now that the Public Procurement and Disposal Bill has been passed, I hope this will be enacted very fast into law and public entities comply with it fully.

With those remarks, I beg to support.

**Capt. Nakitare:** Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me to contribute to this Motion. I want to thank the Mover and Seconder of this Motion for their able contributions. I agree with hon. Wamunyinyi when he blamed the Government for not having the will to recover the money that has been robbed from our taxpayers.

Mr. Temporary Deputy Speaker, Sir, we have been diagnosing the ways in which our country can be self-reliant in terms of money. We have been beggars for many years. But we have various civil servants who use their positions to run business using Government money. When the Ndegwa Commission allowed civil servants to engage in business, that is when trouble began. We cannot absolve this House from blame.

Mr. Temporary Deputy Speaker, Sir, my colleagues have dwelt a lot on public procurement. I am going to dwell at length with the way our investments have been disposed of. Let me now talk about disposal of public investments. I will start with the Kenya Pipeline Company. How much money was invested in digging and burying that pipeline from Mombasa to Nairobi? How much profit has it made? Our people are suffering because we thought that investing public funds in a pipeline instead of having road transport, the cost of fuel would be reduced, but at the moment, it is the opposite.

Mr. Temporary Deputy Speaker, Sir, if you look at our airports, you will find that we have three classes of aerodromes. We have Class I aerodromes, which include the international airports such as Jomo Kenyatta International Airport, Moi International Airport, Eldoret International Airport and the coming up Kisumu International Airport. We have Class II aerodromes which include Wilson, Malindi and Kitale Airports. A lot of money has been poured into aerodrome services. If we talk about consultancy, that is where our taxpayers' money is being misused. Out of the Budget we pass in this House, a lot of money is paid to consultants. This money does not benefit the projects involved, but the consultants themselves.

I take issue with the Ministry of Roads and Public Works. This Ministry takes a long time to construct roads under the pretext of the road construction consultancy. After we vote money for this Ministry, it does not begin its work until the next financial year, and the money that is earmarked for the construction of a certain road is taken back to the Treasury because consultants have not finished

their work. Sometimes they demand to be paid before they conclude their work.

Mr. Temporary Deputy Speaker, Sir, in other countries, the railway is the cheapest and quickest means of transport because we use it to transport heavy goods and save the road network from being destroyed by heavy trailers. We should introduce electric railway lines. The landscape of our country is not as harsh as in other countries, and so the railway system could be cheaper. Our roads are in a pathetic situation and this has discouraged investors from investing in this country. This also undermines the security of our country. Many people have died on our roads due to their poor state. We have invested in Ministries and departments which are non-functional.

We have institutions like the office of the Controller and Auditor-General, which monitors, by cent, all the invoices of goods and services in this country. We have the Public Officer Ethics Act, but we need somebody else who should monitor these officers. We cannot reap from our investments if the Inspector-General of State Corporations has personal interest in certain businesses or is an investor in the Stock Market. When things go haywire, he does not take action because there is nobody who can question him. There was inaction by the previous Government and it is now a headache, whereas these are our investments. We have to approach this issue very politely and conscientiously instead of talking about each other and calling each other names. Kenya is not corrupt. The investors who come into this country are the ones who corrupt our people and then we take the blame.

Mr. Temporary Deputy Speaker, Sir, we have talked about people who have been cited as disqualified even by law to practice or hold public offices. If a case has gone through a court and somebody has been acquitted, I do not think I can blame him on the Floor of the House, because he has been found innocent. What if he still goes on to practise and his long hand continues to siphon what we have invested? That is where I blame the Ndegwa Commission. Before the recommendations by this commission were implemented, civil servants never left their coats on the chairs. They never left their offices to go and count money that their businesses had accrued out there, even from selling charcoal. They used to be in the office from 8.00 a.m. to 4.30 p.m.

To date, how many civil servants sit the whole day in the office, for eight hours? I think the Government also loses. There is a lot of cheating from our labour manpower. Many of the senior civil servants do not even sit in the office the whole day. Therefore, the Government pays them a salary even for the time when they are not in the office. A consultant being paid Kshs504 million is not a piece of cake. This is taxpayers' money. I think it is misleading for us to depend on donor funds. Money lenders also have a method of accruing interest so that they can lend other borrowers.

Mr. Temporary Deputy Speaker, Sir, it is high time Kenya came out of that situation. If there was a chance of recovering money from even one person who stole from public coffers, the others would be afraid and the money would not be lost. I do agree with my colleagues who have spoken---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Poghio): Order, hon. Members! Those consultations are getting louder. We are not able to follow the proceedings.

Proceed!

**Capt. Nakitare:** Mr. Temporary Deputy Speaker, Sir, I agree with my colleagues who spoke earlier and criticised the mischief that has resulted to ridicule of our country. Kenyans are humiliated out there because our country is not clean. It is not clean because foreign investors have taught us bad manners. I think the person to be appointed Inspector-General should be vetted on the Floor of this House. He must not be hand-picked. This will ensure that when he takes up office, he knows that Parliament is looking at him. He will also know that the PIC has the overall power over public funds in this country and that he will not go scot-free even if he has held a high office.

Mr. Temporary Deputy Speaker, Sir, when you look at sections of the Investment Act, there

are checks and balances. There is also the factor of disposing property. Whatever has depreciated, at the end of the day, we dispose it of. The acquisition of property in this country was never influenced by foreign investors. I do not support the privatisation of our own investment. We do not boast of our own corporations. Today, we do not own anything. It is a disgrace that we talk of investment when we are planning to sell Telkom, Kenya Railways Corporation and other institutions that have for a long time been a source of our pride. What is our African culture really? We are supposed to be the role models of our families and the country at large.

At Independence, there was a slogan that encouraged the country to produce. The slogan read: By Kenyan, Build Kenya. That language is long gone. We are now superficial and artificial. We are now begging from other countries, and yet we have good soil on which we should have invested. Today, we are even importing food into this country. What a shame! We have good soil, technology, and highly educated men and women who are jobless, and yet we have not realised that we invested public funds in these people. It was an investment in human resources. So, we cannot talk about material investment at the expense of the human investments that we have in this country.

Mr. Temporary Deputy Speaker, Sir, the Minister for Finance has a lot of work to do. We have given him a burden. I praise him, but not like Mark Anthony who said, "I come to bury Caesar and not to praise him". I do praise the Minister for Finance for having laid down rules. I hope that he will adhere to those rules and his Ministry will be a watchdog over public funds so that the taxpayers' money is used prudently. I know that Kenyans are heavily taxed. We have resources that we have not even invested in. For example, we have minerals in our country, only that we have not exploited them. There are minerals in West Pokot which have not been exploited. Why can we not invest there? There is fuel along the East Coast of Africa which we can also exploit. Why do we have to keep on looking for foreign exchange? It is high time we recalled the old days when the white man exploited our raw materials and took them overseas, only for us to buy the same as finished products. Why can we not sell finished products to the white man now? Why do we have to follow him every now and then to borrow money from overseas? What do we lack?

With regard to Government houses, it is a shame that recently, the houses were sold at a throw-away price. The houses were sold along political lines and the sycophants who benefitted are the ones who are now trying to block the us from recovering what belonged to the State. The law is sharp-edged and will pursue them. I urge the Minister for Finance to recover the money, which was taken across the seas and was meant for the common man.

I take issue with the National Social Security Fund (NSSF) because people who qualify for pension cannot get any money from the Fund which used people's money to build its premises. The NSSF does not have money to pay all retirees. We must have a revolving fund. Money for pensioners must go into a revolving basket. It should be sold to the stock market and profits made. Pensioners' money should not be used to erect buildings like the one being used by the Fund. We have heard of money which was supposed to be used in helping physically challenged people being used to buy buildings. How many crippled people do we have? We are wasting our investment. I should not be speaking in such a high tone, but this is to show that we are failing.

It is my hope that the Minister for Finance will closely supervise Ministries to know how money is being spent. We would not like to see the Minister for Finance waiting for the next Budget day to point out mistakes of either misappropriating funds or returning unused funds to the Treasury by Ministries. When this happens, it means that money is not being used to serve the people of this country. Such issues should be brought to the Floor of this House so that hon. Members can know why certain Ministries do not make use of their Votes. It is shameful for us to vote money to construct roads and at the end of a financial year, a Permanent Secretary returns it all to the Treasury because he does not want to be blamed because it has not been spent. That is one of the practices in this country which are killing development. I think that all of us who are here should know how our money is being spent. We should criticise what is being done and bring those issues to the Floor of this House.



I urge the Minister to bring back the money which was looted out of this country. The machinery is there to do it. We have just heard a good example where a judge is involved in a fraud case and he is still holding public office. We have also heard of---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! Consultations are getting louder and louder. We would like to hear the hon. Member, so, please, consult in low tones. Proceed, Capt. Nakitare!

**Capt. Nakitare:** Mr. Temporary Deputy Speaker, Sir, we have had cases concerning Government consultants being brought to the Floor of this House, and those concerned being disqualified from holding public offices. We have also been given examples of Ministers and Permanent Secretaries who were serving the former Government and are still holding public offices. They are like rotten potatoes which can cause a whole bag of potatoes to rot. This is as good as allowing a goat that has a bad habit of sneaking out and eating food to teach the good ones such a habit. It is up to the Government to decide whether it will go on dancing to the music of old people; the previous Government's civil servants, who brought the Government down, and can give us a bad image. We are getting a bad image because of such people who are not clean. Since Parliament has no powers to take action on such people, the Executive should sack them. The Executive should not appoint a person who has been disqualified from holding public office.

Mr. Temporary Deputy Speaker, Sir, therefore, Parliament needs autonomy to decide on things that are good for this country.

With those few remarks, I beg to support.

**Mr. Mwandawiro:** Ahsante sana, Bw. Naibu Spika wa Muda, kwa kunipatia hii nafasi ili niunge mkono Hoja hii ya Kamati ya Bunge kuhusu vitega-uchumi vya umma.

Kwanza, ningependa kupongeza Kamati hiyo ya vitega-uchumi vya umma kwa kufanya kazi nzuri. Ingawa tunajua kuwa ni kazi ya mambo ya awali, lakini tunaona wahusika wengine bado wapo. Kwa hivyo, ni muhimu kuunga mkono Hoja hii. Wakati tunafanya hivyo, jambo la muhimu zaidi ni utekelezaji. Kama ujuavyo, kila wakati Serikali inawashawishi wapiga kura wawapatie hatamu za uongozi ili wapambane na ufisadi. Hata Serikali ya NARC ilichaguliwa kwa sababu iliahidi kupambana na ufisadi. Taarifa kama hizi zinaonyesha wazi kwamba kuna makosa yalifanyika; mali ya umma imefujwa na vitega-uchumi vimehujumiwa kwa sababu maofisa fulani wanaosimamia kampuni za umma wameshirikiana na watu wengine kuhujumu mashirika ya umma na kupoteza mabilioni ya pesa ambazo zingetumiwa kuleta maendeleo ya umma. Lakini ikiwa Serikali haiwezi kuchukua hatua kutokana na tarifa kama hizi, kwa kweli hiyo Serikali itakuja kuamuliwa na wananchi wenyewe. Wananchi wa Kenya watasema: "Mlituahidi kwamba kutakuwa na mabadiliko ikiwa mngechukua hatamu za uongozi. Lakini ushahidi unaonyesha kwamba mashirika ya umma yamefujwa na watu makusudi. Watu hao bado wako hai. Wengine walikufa, lakini wengine wanaishi. Wengine hata wako Bungeni na Serikalini." Mtaaminiwa namna gani kuendesha nchi hii kama hamuwezi kuchukua hatua hizo?

Bw. Naibu Spika wa Muda, ninazungumza mambo haya kwa uchungu sana kwa sababu mimi ni mmoja wa watu ambao hutumia siasa uchumi. Ninaamini kwamba ili kuwa na maendeleo, lazima sekta ya kibinafsi na mashirika ya umma yafanye kazi pamoja. Siamini kwamba mashirika ya umma ni ya kuharibu. Katika historia ya nchi yetu, mashirika ya umma yamechangia sana katika maendeleo ya nchi yetu. Siamini kwamba suluhisho la uchumi katika nchi yetu ni kubinafsisha na kuua mashirika ya umma.

Bw. Naibu Spika wa Muda, wakati Mswada uliletwa wa ubinafsishaji wa mashirika ya umma, niliupinga. Nilisema kwamba ninatarajia kwamba Wizara ya Fedha ingeleta Mswada wa kuyafufua ama kuyahuisha mashirika ya umma. Mswada huo ungetusaidia kutambua mahali makosa yalitokea na kuyarekebisha. Hiyo ingekuwa hatua moja ya kufufua mashirika ya umma.

Inaonekana wazi, kutokana na taarifa hii, mashirika ya Serikali yanaweza kufanya kazi. Hata hivyo, mashirika haya huonekana ni kama kwamba hayafanyi kazi vizuri kwa sababu ya sera na athari za kibepari. Maoni mengi ni kwamba ni lazima mashirika haya hatimaye yafilisike kwa sababu ya wizi. Jambo la kuhuzunisha ni kwamba hakuna hatua inayochukuliwa na Serikali dhidi ya watu wanaoyapora mashirika. Hili ndilo tatizo kubwa linaloyakumba mashirika yetu. Mashirika ya umma yanaweza kufaulu yakiwa yatasimamiwa vizuri. Nasisitiza kwamba tatizo kubwa ni wizi. Kwa mfano, tuna Mkuu wa Sheria ambaye mpaka sasa tunangojea tuone ni hatua gani ambazo atazichukua kupambana na kesi za ufisadi zinazoendelea hapa nchini. Jambo la kuhuzunisha ni kwamba hatuoni hatua yoyote anayochukua kupambana na ufisadi hapa nchini. Tukiendelea hivi, basi ufisadi utaendelea hapa nchini.

Bw. Naibu Spika wa Muda, mashirika ya umma yanaendelea kupata pesa kutoka Wizara mbalimbali za Serikali. Lakini suluhisho si kuyabinafsisha.

Hii Ripoti imeorodhesha mambo mengi. Ukiangalia katika mashirika kama Kenya Ports Authority (KPA), National Social Security Fund (NSSF), kampuni ya sukari ya Nzoia na shirika la posta la hapo awali, tumepewa mifano mingi inayoonyesha namna mashirika haya yalivyotumiwa vibaya. Wakati mwingine Serikali imepoteza pesa nyingi sana za umma kwa kupitia ufisadi. Kwa hivyo, lililoko ni kwamba tuipokee Ripoti hii. Tukifanya hivyo, ni lazima tuihimize Serikali kwamba ni lazima iwachukulie wahusika wa ufisadi hatua.

Bw. Naibu Spika wa Muda, moja ya matatizo makubwa ambayo yanatuzuia kama Bunge kufanya kazi ya kusimamia mali ya umma ni kanuni za kusimamia utumizi na ufanya biashara wa Serikali. Endapo tutaendelea na mtindo huu kwamba kuna makizano ya masilahi, yaani *conflict of interest*, kati ya watu wanaotarajiwa kusimamia masilahi ya umma na wenye masilahi ya kiuchumi; tukiendelea hivyo, hata tutengeneze sheria aina gani, sioni tukifaulu. Nadhani mambo yalianza kwenda mrama katika historia ya nchi hii wakati Tume ya Ndegwa ilibuniwa. Tume hii iliruhusu wasimamizi wa mashirika ya umma waanze kusimamia na kushiriki katika biashara. Wakati tume hii ilipobuniwa, wakuu wa mashirika haya walipewa mamlaka ya kusimamia mambo ya uchumi kwa niaba ya mashirika haya. Hata hivyo, walijali tu masilahi yao ya kibiashara. Kutoka mkuu wa shirika hadi mfanyikazi wa cheo cha chini, ilikuwa ni biashara. Hata Mawaziri, Makatibu wa Wizara na maofisa serikalini wanajali masilahi ya biashara zao. Tukiendelea hivi, sioni vile Bunge na Serikali zitaweza kusimamia mali ya umma kikamilifu. Mashirika yakiendelea hivi, lazima ufisadi uendele. Sheria zote tutakazokuwa tunabuni kwa njia moja au nyingine, tutakuwa tunawadanganya wananchi. Ikiwa tutafanya haki kwa wananchi wetu, basi ni muhimu tukubali ya kwamba hali ilivyo sasa, ni vigumu sana kwa Bunge au wakuu wa Serikali kuhakikisha wanasimamia matumizi ya mali ya umma vizuri. Hii ni kwa sababu maofisa wakuu Serikalini wanajali masilahi yao ya kibiashara. Tutaweza tu kufanikiwa ikiwa tutarudi mahali tulipokuwa kabla ya Tume ya Ndegwa, ambapo viongozi wa umma kama Wabunge---

*(Loud consultations)*

**Mr. Temporary Deputy Speaker** (Mr. Poghismo): Order! If you could only listen to yourselves! There are too many consultations going on at the same time! You need to lower your voices!

Proceed!

**Mr. Mwandawiro:** Bw. Naibu Spika wa Muda, jambo ambalo ninasema ni muhimu sana. Ni muhimu kulitaja na kuzingatia historia ya nchi yetu. Ikiwa tutajichambua kama wananchi wa Kenya kwa undani, na kuwa na uwezo wa kusimamia mashirika ya umma kikamilifu, na kuhakikisha kwamba kanuni za biashara na matumizi ya mali ya umma zinazingatiwa, lazima tusiwe na maslahi ya kibinafsi. Lakini tukiendelea kuwa na ubinafsi kama viongozi walioko Bungeni, wakuu wa mashirika ya umma na Makatibu Wakuu wa Serikali, hatutaweza kuwa na

uwazi na uwajibikaji katika nchi yetu. Tutakuwa tunaongozwa na maslahi yetu ya kibinafsi. Nasema hivyo kwa sababu ukiangalia Taarifa ya Kamati ya Bunge ya Kusimamia Vitega Uchumi vya Umma, inataja watu kama mahakimu, Wabunge na watu wengine Serikalini. Inaonyesha kwamba sisi ambao tunasimamia mali ya umma tuna maslahi yetu kwa hiyo mali na hivyo, hatuwezi kuisimamia kikamilifu.

Bw. Naibu Spika wa Muda, naomba Bunge hili liwe na ujasiri wa kusema kwamba, ikiwa tutawatumikia wananchi wa Kenya ipasavyo, lazima turudi katika hali ilivyokuwa kabla ya Ripoti ya Ndegwa. Siku hizi, tunalipwa vizuri zaidi. Tungependa pia maofisa wa umma walipwe vizuri. Lakini wajitoe kabisa katika maslahi ya umma. Ikiwa wewe ni mfanyabiashara, ukiingia Bungeni, achana na hizo biashara kwa miaka mitano. Ikiwa wewe ni mtaalamu wa kufanya *consultancy* ya uhandisi au ujengaji wa barabara, udakitari, siasa-uchumi au uanasheria, utoke huko ili utumikie umma. Lakini tukiendelea kujifanya kwamba tunatumikia umma na huku tuna maslahi ya kibiashara kwa kweli, hatuwezi kufanya hiyo kazi ya *oversight*. Hapo, tutakuwa tunawadanganya wananchi wa Kenya.

Bw. Naibu Spika Wa Muda, lazima tujifikirie. Hali yetu imekuwa nzuri zaidi. Mshahara ni mzuri kuliko ulivyokuwa hapo awali. Tuna sababu gani ya kuendelea kufanya hayo mambo? Tuamue kwamba tunataka kutoka kwa biashara na kazi zingine za kiutaalamu na kuchangia maendeleo katika nchi yetu kwa njia mbali mbali. Lakini uongozi unahitaji usimamizi mzuri wa umma.

Kuna jambo ambalo limesisitizwa hapa sana na liimesemwa mara nyingi sana. Kuna mashirika kama Kenya Ports Authority (KPA). Kwa bahati mbaya, ripoti hii inagusia mambo yaliyopita. Kuna wakati fulani ambapo mtu anakuwa kiongozi wa nchi fulani na watoto wake wanasomeshwa na umma. Huo ni ufisadi. Kwa mfano, katika KPA, utapata mtu ambaye ni kiongozi na tajiri mkubwa - *millionaire* - akiingia huko, haoni haya wakati watoto wake wanasomeshwa na shirika. Hii ni aibu kubwa!

Huu ulafi wa matajiri utafikia kiwango gani? Unaona hili ni shirika la umma, na wewe mwenyewe una hela za kutosha, hata kupeleka watoto wako ng'ambo. Unaenda KPA halafu, moja kwa moja, mtoto wako anaajiriwa kazi hapo na baadaye anapewa scholarship. Ni aibu! Hali kama hii, ulafi kama huu, na hao watu wakiendelea kuwa katika Serikali, sheria hizi zote na hizi kanuni zote tunazotunga ni bure. Hii ndio maana hata wananchi wa Kenya wamekuwa wakiuliza, je, ni kwa nini? Tumekuwa na Mkuu wa Sheria ambaye, kwa historia yake ya muda mrefu, ni vigumu sana yeye mwenyewe kuwashtaki watu ambao wamepatikana na ufisadi. Halafu, Serikali ambayo ilichukua mamlaka kwa kusema watafanya mabadiliko, inaendelea na kuwa na mtu kama huyo. Kumekuwa na mapendekezo mengi kwamba wale watu ambao wamechukua mali ya umma washtakiwe na wapelekwe mahakamani. Lakini tunaona kwamba hii ofisi inasimamisha hayo mambo.

Bw. Naibu Spika wa Muda, tuliteua tume ya kupambana dhidi ya ufisadi. Kile ambacho tunasikia ni kwamba hiyo tume inaendelea kufanya utafiti. Wakati mwingine, tunasikia kwamba hiyo tume haina uwezo wa kushtaki watu fulani ambao wanahusika na ufisadi. Tumeweka mashirika mengi sana ambayo yanapambana na ufisadi. Lakini wakati mwingine, hakuna chochote kinachofanyika. Itakuwa tunapoteza wakati wa Bunge bure kupitisha ripoti kama hii lakini mwishowe tunakuta wale watu ambao wameiba mali ya umma wanaendelea kufurahia utajiri huo huo; wanatamba kila mahali na wananchi wanajua ni wezi. Kwa hivyo, wananchi wataona kwamba Serikali inaongozwa na wezi. Sasa wananchi wameanza kuchoka. Ikiwa taarifa nyingi zimeletwa kuhusu unyakuzi wa mashamba na ploti za umma, halafu baadaye hakuna chochote kinafanywa katika nchi yetu ya Kenya, nani ataamini Serikali kama hii milele? Hii ni Serikali ya wezi! Watu wamekosa imani na demokrasia. Sasa wanasema hakukuwa na mabadiliko yoyote. Sasa wanaanza kusema afadhali wakati ule wa zamani. Wanasema hakuna tofauti kati ya Serikali ya zamani na ya sasa; kwa sababu Serikali haichukui hatua yoyote.

Jukumu kubwa zaidi la kupambana dhidi ya ufisadi na kulinda mashirika ya umma ni

kuhakikisha kwamba kanuni za utumishi na ufanyibiashara wa mashirika ya umma zinazingatiwa. Jukumu kubwa kabisa la kulinda uchumi wa wananchi liko kwa Serikali ambayo inatawala. Ikiwa hiyo Serikali ina nia ya kumaliza wizi; inataka kuyafufua na kuendeleza mashirika ya umma, hilo linawezekana kabisa. Lakini lazima nia hiyo itoke juu. Hii ndiyo maana ningependa kumsifu sana Rais wa Afrika Kusini, Thabo Mbeki. Wakati alipoona kwamba ingawa kuna mtu ambaye atatoka kwa chama chake na ambaye angekirithi kiti chake, wakati aliona amehusika katika ufisadi, alimfuta kazi na kumpeleka mahakamani kumshtaki. Kuna wakati maslahi ya nchi yanawekwa mbele ya maslahi ya watu binafsi.

Bw, Naibu Spika wa Muda, ikiwa wewe ni kiongozi halafu bibi yako, watoto wako na marafiki zako wanahusika katika ufisadi, kutakuwa na kulindana, na kukiwa na kulindana, ufisadi utaenea na mambo yote ambayo tutanya katika Bunge hili, yatukuwa ni domo kaya tunapiga na kuwadanganya wananchi wa Kenya. Wananchi wa Kenya sasa wameona mbele na hawawezi kudanganywa tena. Tukipata ripoti kama hizi ambazo zimeletwa na PIC halafu Serikali ikose kuchukua hatua mathubuti, itapata kiboko cha wananchi.

Kwa hayo machache, ninaomba kuunga mkono.

**Mr. Omingo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to support this Motion.

Indeed, the Motion has come in quite handy when the Government has been trying to fight graft. We have put the challenge on the Government's table and we want to see real action. I want to commend the Chairman of this Committee for having taken a very bold move to even mention names that, prior to this, were almost a taboo to mention. I want to commend KANU's wisdom to retain a Chairman who can consistently follow issues to proceed and give Kenyans value for the oversight function that Parliament is paid to do.

The risk of doing corrupt business in this country is extremely low. If you read through the Report, you will find that people who have been involved in financial mismanagement are in return rewarded. They are in return promoted and given bigger positions in more potential corporations. People have been given executive positions in parastatals to reward them as cash cows. As one hon. Member has said, those goodies that we need to share the national cake are used to satisfy tribal and sectional interests. It is high time that Kenyans stood up to condemn corruption.

It is painful to see that when big names are mentioned in this Report, the Attorney-General and the Ministers in charge of the various corporations turn their eyes the other way. What a shame? The Chairman of the PIC says that the "Committee reiterates the recommendations of the Tenth Audit Report". This is the Twelfth Report. This tells you that the Tenth, Eleventh and the Twelfth Reports speak about the same thing. We are using a term spoon instead of using a spade. We should own up! If you cannot die for something, you are not worth living 100 years. There are simple things here that give this House and the nation a bad name. It is painful that lawyers, whom we depend on for justice, are mentioned in this Report. Senior Government officials and hon. Members are mentioned in this Report. Sons and daughters of big men and women of this country are mentioned in this Report and, yet again, we turn the other way.

It is a shame when we go with begging bowls to the G8 to ask for money when, indeed, we have billions stashed here. It is also a shame for the Minister for Justice and Constitutional Affairs to recover assets out there, purported to be stashed out there, when we have billions of shillings in assets in this country and yet we are turning our face the other way. It is a shame! We have to bring those Ministries to account. We pretend to be doing certain things when we mean the opposite. We also heard of a pet subject, where we were going to bring back to this country Kshs87 billion which has been stashed outside the country. Today, we are hearing that it is a far cry to attain that objective. That happens after an illegal and irresponsible procurement of a company to recover assets from overseas countries. They have to account how they repatriated funds from our coffers.

Mr. Temporary Deputy Speaker, Sir, it is unfortunate that somebody involved in corruption will sit in front of a sitting Judge who has also been named in this irregularity. What justice can

Kenyan expect? What justice would such a Judge pass to a Kenyan who is involved in graft, when he is also a player? It is high time the Attorney-General stood up to be counted. I have said time and again that we do not have bad laws at all, but the implementing agents of the law are wanting. What moral authority does this Parliament have, if year in, year out, we recommend to the Attorney-General to prosecute certain persons, but he does not do so?

Mr. Temporary Deputy Speaker, Sir, what moral authority does Parliament have when we have to repeat the previous year's recommendations? It is a shame! It is high time we now said that, under the Public Officer Ethics Bill, we will not hide under a particular institution. We should lift the veil and name the culprits involved in corruption. That is what this Committee has done; by mentioning names and not "officers". Whether the Government responds or not, Kenyans and the Committee have spoken, and Parliament is speaking today. The Goldenberg Scam has taken a lot of time to unravel, but today, it still remains an issue in the public domain.

In the public's opinion, we know who is who. In the public's opinion, we also know what this Government is doing and we have already condemned and judged it. We are now only looking for men and women, who can stand up to fight this graft for the benefit of our children and grandchildren. It is shameful to drive a Mercedes Benz car which you got through graft. You take your children to holidays abroad using stolen funds and pretend to be a decent Kenyan. It is a shame! We are waiting for that day when men and women of this nation will stand up to be counted.

I have looked through this Report and seen a sorry state of affairs. According to this Report, Manchester Outfitters, a company owned by Asians - I am not racist - was given tenders to supply uniforms to the army and free plots by the Kenya Railways, Kenya Ports Authority and even a runway by the Kenya Airports Authority. Which god did this Manchester Outfitters shake hands with, as opposed to the God we know? Somebody said here that it is a previous regime's issue. But I would like to say that it is a continuity, because those who served in the previous regime are still serving. We must stand to be counted!

Mr. Temporary Deputy Speaker, Sir, I recommend that those plots which were allocated by the KPA and the land that had been set aside for the expansion of the airport be repossessed. That land should be given back to the Government so that this airport can expand to match the Malaysian ultra modern airport. After all, when this Government came to power, it repossessed the KICC under an Executive decree and KANU cried foul, but woe unto them; they never had the muscle to flex. The Government took control. Why can we not also repossess this land which has been illegally acquired and given to people who do not have a right to it?

Incidentally, the people who got some of this land are very rich people. Some are hon. Members of Parliament in this House. It is a shame! I want to believe that we should present some of these issues to the public so that we can be judged on the basis of our actions. I think it is reasonable, that if you are mentioned in this Report, you should own up and resign. If you cannot resign, take back the plot you have to where it belongs because it is a big shame. What moral authority do you have to fight graft if you are a thief yourself? I hope that the Leader of Government Business will crack the whip on the Attorney-General if he can, and tell him to be proactive. We know he suffers from incapacitation, but even the people who work under him lack integrity and professionalism. It is a shame that we have lost billions of shillings in contracts through dubious means. Do you know where Kenya would be today? If Kenyans really believed and acted the way they pretend to, we would be miles away from where we are today.

Mr. Temporary Deputy Speaker, Sir, there are some parastatals which have invested funds out there in collapsed institutions and their cases are in court. I, therefore, do not want to dwell much on that. However, I think that it is critical that we read history and mirror the future from there. We cannot afford to repeat the mistakes our predecessors made. What has happened today is a message to those intending to dine with corrupt officials. Surely, they shall be exposed. It is a message that is supposed to sink. If you wined and dined with corrupt officials yesterday, today you will be known. If you do the same today, tomorrow you shall be exposed. Shame unto you leaders

of the nation and powerful men who enjoy the loot of widows and orphans who cannot afford to buy a pill in hospital! We cannot afford even to buy Anti-Retroviral drugs for our people and yet we have scandals in Kenyatta National Hospital. We cannot afford to buy sanitary towels for our women in the maternity wing in Kenyatta National Hospital and yet we keep on stashing billions of shillings in sinking corporations. What a shame? Where did we go wrong? President Moi used to say; and he still says it, that whites do not love us and yet we do not love ourselves. It is a great shame that a man who pretends to guard the national coffers picks money from one pocket and stashes it in another pocket and runs away as if he has stolen. He has stolen from himself! What a shame! We must stand up to be counted because in the court of public opinion, Kenyans know who we are.

There is a scandal in the National Housing Corporation with regard to a company called Computer Appliances Limited (CAL). This company is notorious in all spheres of life. The company might have shaken hands with the miraculous golden god. Most companies in the country have shaken hands with a miracle god. They were in Treasury and computerised it. If you go to the Treasury today, tables that were supposed to hold computers are now gathering dust. It appears that this is a big network. We require divine intervention to break this network of corrupt and rotten individuals in our society. The games and gimmicks played here are such that if you are a Minister or an Assistant Minister in a sensitive Ministry, you find gifts flowing into your office. Somebody says, "Congratulations for being appointed Minister". That in itself is a catch. You will find yourself in the web of corruption. That is why these companies cannot die a natural death. We want to uproot them even though their cancer is so deep-rooted. It is unfortunate that this country is collapsing in the hands of such companies and everybody is being infected including people in the previous regime and current one. It is high time we looked into this matter.

In terms of expediting prosecution of corruption cases, the Euro Bank case is in court, but do you know that justice delayed is justice denied? How long has the Euro Bank case taken in court? It is all like a cobweb of cases meant to delay the delivery of justice. We are saying that the person overseeing the case in the High Court was himself mentioned in this corrupt deal! How do we expect the Director of Euro Bank to face the music we are not serious about? How can we follow up these issues without necessarily hurting the perpetrators of corruption?

The Kenya Railways Corporation, in the Financial Year 1998/99, posted a negative balance of Kshs8 billion. One wonders; if you had a small *kiosk* selling sodas, would you continue pumping money into it every year, even when you are recording losses? Must one invest further into the business? I expected the Committee to have gone deeper and mentioned the Directors of the Corporation who made it collapse and posted the negative balance. We have seen cases where tenders are unanimously given to individuals after flouting all the financial management regulations. It is a pity that when these irregularities start taking place, instead of following them up, we continue to support the same corporations, which do not even submit their accounts to the Controller and Auditor-General for audit. These are the same corporations we continue to give grants. It is a pity that these kind of things are happening while we watch.

There is the issue of tenders being revalued. Someone may win a tender and request that it be revalued. The tenderer may even ask for a further revaluation of the tender, to an extent that whatever was---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! Let us consult in lower tones!

**Mr. Omingo:** Thank you, Mr. Temporary Deputy Speaker, Sir. Hon. Members should listen to this issue because it is critical. A company may win a tender today and even before it commences work, it goes back for a revaluation. When doing that, such a tenderer has already been mobilised to go on site. At the end of the day, we end up paying money for goods which are

worthless. There is a case where Kshs500 million was paid to consultants to draw and design buildings, while the Government did not have money to pay for it. If you were a father to a child whom you drop to school and does not come back home with whatever homework he or she has been given, would you continue to pay fees? The answer is "no". Why should we continue supporting corporations which do not account for the money which we give them, yet the money is still in our midst?

I want to make an appeal; that if this House is to regain its integrity and oversee the functions of the Executive, those of us who are mentioned in this report should apologise to Kenyans, whether by fluke or by design. Otherwise, we should be brought to book. The Speaker had read this report when he made the remarks he made recently; that most of us are dishonest. Unless we filter out our bad habits, we will continue to destroy our image. What is the essence of having these reports and the Treasury Memoranda if the Government does not implement the recommendations? I want to appeal that the Treasury, which holds the key and purse to the finances today, should also be held responsible for not insisting on the financial regulations to be followed. Whether the Treasury wants to claim responsibility or not, it is critical that, since they are the ones who disburse the money, when the Committee gives them a report on a memorandum, to respond and if they do not respond, then they are accomplices in that particular scam. I do not want to believe that the Treasury does not know what happens in this department. Mr. Katuku confirmed that he knows this. That confirms that, maybe, a fraction of that loot could be going to where somebody sits; who knows what is happening and turns his eyes the other way.

Mr. Temporary Deputy Speaker, Sir, when some of us who are sitting on the [Mr. Omingo] other side crossed over to the Government side, something went wrong. I want to ask our forefathers to foretell and predetermine what really happens when people cross the Floor. When decent Kenyans, men and women of substance, cross the Floor to acquire power, they start walking on their heads as opposed to walking on their feet. It is painful that we are seeing these things happening and nobody challenges them.

Efficient procurement would lead to saving which will reduce the burden on Mr. Mwiraria's Budget. However, we eat into what he has not given us and, therefore, generating the income value for the taxpayers is not seen. This then means that people do not pay taxes because what we pretended to have been procured for them cannot be seen. The risk of refusing to pay taxes is higher because there is no service delivery. We continue doing this and when we do not get sufficient funds, we go to the coffers. It is high time that this nation stood up to fund its operations within its means. The only way to start is by trimming down and introducing effective financial management in our systems to procure efficiently, economically and effectively.

With those few remarks, I beg to support.

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, thank you for this opportunity. Let me also pay tribute to the Chairman of the Public Investments Committee. Indeed, this Report is an examination of the performance of his political party in the last five or six years. It is a very sad commentary on the performance of KANU. We hope that we are going to learn lessons so that they do not risk repeating the same mistakes that have been made in the past.

It is quite worrying that the oversight Committees would be confined to carrying out postmortem exercises on what has gone wrong in the past. It is time that we re-thought this position. The oversight Committees should be able to deal with the present as well as the past so that we can stop the haemorrhage of public funds that is taking place now as opposed to looking at the postmortem exercise and finding out what caused the wreck that we are suffering from.

Mr. Temporary Deputy Speaker, Sir, it is interesting to see the number of persons who are named in the Report. Indeed, each year we have so many personalities that are named in reports of this nature. Sometimes I pause to ask: What happens once these personalities are named? However, more important, we would also like to know whether they got an opportunity to know that charges

have been brought against them by the Committee. That opportunity is key because one of the major principles of natural justice is to give people an opportunity for a fair hearing.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Order, hon. Members! Please, consult in low tones especially those of you seated near the hon. Member making his contribution. The consultations are actually drowning his contribution!

Proceed, Mr. M. Kariuki!

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, one of the cardinal rules of natural justice is to let somebody know the charges that are being preferred against him and to give him an opportunity to counter the allegations. My worry is that so many people have been named in this report, and I hope that they had a fair opportunity or at least they were invited to appear before the Committee to make their presentation.

The most sad aspect of this report relates to the acquisition or the so-called "grabbing of public land." The amount of public land that has been lost as mentioned [**The Assistant Minister, Office of the President**]

in this report is, indeed, enormous. Lack of respect for the law in terms of alienation of public land comes out quite clearly here. If one was to look at this report against what we find in the Ndung'u Commission Report on land issues, we need to take stock of our position relating to land. There are glaring incidents of abuse of law. If one was to have a glance at the Government Lands Act, which really is an authority on regulation and alienation of Government land, the authority granted under that particular statute---

*(Prof. Olweny stood up in his place  
and consulted loudly)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Prof. Olweny! Please, take your seat and consult in low tones!

Proceed, Mr. M. Kariuki!

**The Assistant Minister, Office of the President** (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, under the Government Lands Act, the authority to alienate public land is confined to unalienated public land. That is land which has not been allotted. That means, therefore, that the authority of the President under Section 3 of this Act is to confine himself to land that has not been alienated. Of course, the President is enjoined by law to act in the public good.

Under the same law, land that has been alienated, and this covers Government houses and land occupied by parastatals and Ministries, nobody has any authority whatsoever to take away that land, not even the President, because the requirement of Section 12 of that Act is that, that land must be valued, advertised and sold by public auction to the highest bidder. So, what we have seen of Government houses and buildings being sold left right and centre, is in contravention of the law. This report vindicates that particular position.

So, as we look forward to ensuring that there is greater compliance and respect for the law, it is important that Government officers, more so those in the Ministry of Lands and Housing, understand that they do not have a blank cheque to alienate public land or to sell public assets. In that regard, if anybody carries out an exercise without authority, no proper title can be conferred to the person who purports to acquire that particular asset.

The most challenging thing in this report is the recovery strategy. Have we devised a recovery strategy as a nation to ensure that what is lost through abuse of office or theft and fraud goes to the public? That is why I commend the Ndung'u Commission Report because they were able to come up with a strategy of recovery of public land. Where land was dished out without authority



of the law, the proposal and recommendation is that, that land should go back to the public. For other assets that State Corporations or the Government has lost, it is time that we came up with a Sessional Paper on the recovery strategy for those assets. Year in, year out, we will roll out reports of committees of this House, read the recommendations, persons will be adversely mentioned, but at the end of the day we must ask ourselves: "How do we benefit the ordinary person?" If we have not recovered what was lost, then we have not done anything. So, we need to devise a clear policy of recovery of assets that have been plundered.

Mr. Temporary Deputy Speaker, Sir, as far as land is concerned, I would like to appreciate the position taken by the Minister for Lands and Housing, to have a Land Commission put in place. Indeed, without a land policy for any country, you open the doors for plunder. That is why we have seen that kind of abuse. We do hope that, that Commission will come up with recommendations on the management of our land in terms of land use. That is why we are losing a lot of goodwill with the people. So, I would like to commend the Ministry for taking that bold step. So many people have been mentioned as having received that land; that was unlawfully allotted. The question we keep on asking is: Are they going to return that land? I hope we can put mechanisms in place to ensure that public land is returned in the interest of the public.

Mr. Temporary Deputy Speaker, Sir, I would like to appreciate something that happened in August last year, when His Excellency the President published some rules relating to parastatals and statutory boards. He gazetted a number of rules on the recruitment of Chief Executive Officers (CEOs) of parastatals and their appointment. For a long time, there has been a lot of abuse in the appointment of CEOs of parastatals; where political considerations seem to carry the day. In the newly-published rules, there will be a rigorous test and an examination of the candidate before an independent panel; to look for the best. That is a major step in terms of ensuring that public assets are in the right hands.

Mr. Temporary Deputy Speaker, Sir, on the issue of performance contracts, it is another test for people to perform. If you cannot post any profits for a period of time, then your contract cannot be renewed. Those are major and commendable steps in terms of ensuring that public assets are protected. We have just concluded discussing the Public Procurement and Disposal Bill, which is another major step forward. As it comes for the Third Reading, my only observation is that, given the abuses that have been covered by this report on procurement, we need to tighten the loopholes. Let us learn from the recommendations that have been made in this particular report and put them in the Third Reading of the Public Procurement and Disposal Bill, so that we can seal all the loopholes.

But, more importantly, we need to take a very nationalistic attitude in our procurement procedures. Unless there is no local company that offers the services that we require, we should, at all times, give preference to local companies. I am aware that, in South Africa, they have a law on procurement which ensures that, unless a company can demonstrate that 51 per cent of the shareholding is local, it cannot be entitled to get any procurement preferences at all. Since we need to build ourselves as a nation, we need to empower our people in terms of business. We need to consider such a provision, so that we can protect our people against undue global competition by more advanced states.

Mr. Temporary Deputy Speaker, Sir, it is very interesting to see how much our hospitals are losing in this report and yet, everyday, we read reports of patients being held for non-payment of medical bills. I think it is time Kenyans were told, in very clear terms, that, even if a patient is unable to meet a medical bill, nobody has a right to detain another. That is really putting another person under enslavement. That is in breach of the Constitution. It is one thing for a hospital to be owed money by a patient, but a hospital cannot take the law into its own hands by holding the patient indefinitely. I think that needs to be mentioned over and over again. There are court and Constitutional Court decisions on that issue; that you cannot hold a patient against his will, merely because he is unable to pay the bill. You need to file a suit and if you can get him put in a civil jail

because, that is one of the remedies provided by the law. But those incidents, particularly at the Kenyatta National Hospital (KNH), where patients are held for a month or more merely because they are poor and cannot meet their medical bills, are totally unacceptable.

Mr. Temporary Deputy Speaker, Sir, I think the Attorney-General's office has quite some challenge in terms of recovery. One can understand the limitations that they have had to face that, even despite this report, I think further investigation needs to be carried out to establish whether it is possible to sustain a criminal charge against those who looted public assets and we do not see much of prosecution arising from the Parliamentary Report tabled in this House. I think the Attorney-General needs to increase the capacity of his prosecutors and investigators so that this report can see the light of day otherwise we will be going through a ritual where every committee submits their reports here, we vent our anger here, we say all manner of things, we make suggestions and at the end of the day the report just ends there. I think we would like to see this report translated into reality. We would like to see the culprits brought to book and we would like to see a recovery of the assets that have been lost.

Mr. Temporary Deputy Speaker, Sir, it was very sad to read reports recently from the Global Fund to the effect that Kenya has not been able to adequately spend the funds that have been given to this country. The Global Fund, which is a product of the G8 countries, targets HIV/AIDS, tuberculosis and malaria. I think that despite the fact that they have committed many evils against the developing countries, I think this was really a good gesture. We have seen a lot of difference from the Global Fund in terms of combating malaria, tuberculosis and also in terms of patients who require anti-retrovirals. I think that we need to build the capacity of our National Aids Control Council (NACC). If they are getting funds from the Global Fund and they are unable to utilise those funds while our people continue to die, I think that is a very sad commentary. I think it is a challenge we need to take up. The threat to withhold further support from the Global Fund needs to be pre-empted by ensuring that we take the necessary steps to ensure capacity for local bodies that have to utilise these funds because the challenge is still there and there is really great danger.

There is a mention in this report about proposals to divest; by the Government. There are divided views about it and sometimes if you look at our parastatals, we need to find out what is ailing them. Is it an ownership problem or is it a managerial problem? If it is a public corporation for that matter, and the managers are not doing well, is it not possible to hire good managers and post profits without having to privatise national assets? I think this talk from the multilateral donors that each time we have a problem we have to privatise and the Government must divest, we need to have a second look at it. If the problem is managerial, let us address it because this country has many skilled managers. The same people who are running our private sector may be hired to run our public sector because if we require the skills, let us hire the skills. Let us not confuse issues by saying: "Because a parastatal made losses last year, then the Government must divest and privatise it". I think those are two different concepts.

Mr. Temporary Deputy Speaker, Sir, we know who is interested in this privatisation. It is basically the foreign companies who want to come and take over our economy. We must jealously guard our economy against foreign domination. Much as we talk about globalisation, there is something that must remain Kenya otherwise having all the multinationals here owning everything, at the end of the day who are we? Just workers, working for them. We must have something to own. We have to have a sense of ownership in the management of our economy and the only way the ordinary person will be able to have that is when the Government manages our parastatals efficiently. I think we should not buy this confused talk that each time the solution lies in inviting foreigners to privatise and take over.

As we talk about liberalisation of the Kenya Railways Corporation which is now at a crossroads, we need to re-think what is likely to happen. This House needs to get an opportunity to examine what is likely to happen in a privatisation exercise. It is ironical that, today, Britain is moving from privatisation of the rail transport sector to public ownership. After experimenting for

15 years, they have found that they cannot afford to place a state monopoly like the railway in the hands of privately-owned corporations. I think Britain has set the way, and we should not experiment. Let us find out why Britain is today embracing the concept of public ownership of the railway transport.

Let us not privatise our railway corporation only to regret after another 15 or 20 years. These agreements that are being negotiated need to be brought before the Floor of this House for serious deliberation, because a monopoly has far-reaching implications when it is privatised. We need to think whether we can do better by retaining public ownership and, perhaps, improving on the management of this national monopoly. I see that we have continued to privatise certain aspects of the railway. After the Magadi line, a few other lines are being privatised, but let us not be in a hurry. Let us not act in haste. Let us examine what others have done and see whether we have some lessons to learn, so that we do not make the same mistakes.

Mr. Temporary Deputy Speaker, Sir, I would like to welcome this particular report and say that it is a step in the right direction. I hope that we will be able to examine those who have been mentioned adversely in this report and act. In particular, the Kenya Anti-Corruption Commission (KACC) needs to look at this report and see whether there are areas that require further investigation, so that it can take appropriate action. We have been blamed by our development partners; that we do not act on reports relating to corruption. We should disabuse them and rise to the occasion by ensuring that the recommendations that have been made by this Committee are implemented to the letter.

Similarly, the Attorney-General needs to do his research and further examine this document and be able to take appropriate action. I remember that last year, a number of hon. Members of this House were adversely mentioned. Surprisingly, they never came forward to dispute the allegations that were made against them. One year down the road, no action has been taken against them. I think this has to come to an end. If any hon. Member is adversely mentioned, let him get an opportunity to tell this House that he is Mr. Clean. By the end of another one year, I would like to see action having been taken against those who have been mentioned adversely. Otherwise, we do not want to ruin people's reputation. It is very expensive to make a reputation. So, fair opportunity must be accorded to those hon. Members who have been adversely mentioned in this report, and who are in this House, to clear their names.

With those remarks, I beg to support.

**Mr. Wamwere:** Ahsante, Bw. Naibu Spika wa Muda, kwa kunipa nafasi hii ili nichangie Hoja hii.

Bw. Naibu Spika wa Muda, ningetaka kusema kwamba kupambana na ufisadi kunataka moyo. Wakati mwingine ni vigumu sana kupambana na ufisadi, haswa kama ufisadi huo unahusu watu ambao wanakaribiana nasi. Kuna msembo wa Kiswahili kwamba, ukitaka kumuua nyani usimtazame uso. Hii ni kwa sababu ukimtazama uso bila shaka utamuonea huruma na ushindwe kumuua. Hilo ni tatizo kubwa sana kwa Bunge hili, kwa sababu sisi ni binadamu na tunawaonea huruma wale ambao wanatukaribia na hatutaki kuwaona wakiingia taabani. Lakini pia, ni lazima tupambane na ufisadi. Hakuna wakati ambapo tutafaulu kupigana na ufisadi bila kujitwika jukumu na kuwa na moyo wa kuweza kuwaadhibu wale ambao wanatukaribia zaidi, kwa mfano, marafiki zetu, watoto wetu, bibi zetu na wale wanaotukaribia zaidi wakati wamehusika katika ufisadi. Kama huwezi kumuadhibu rafiki yako wakati amehusika katika ufisadi, usijaribu kusema kuwa utapigana na ufisadi; huwezi!

*(Applause)*

Vita hivyo vitakuwa vigumu sana kama huwezi kumchukulia hatua mtoto wako wakati amehusika katika ufisadi. Usiseme kwamba utapigana na ufisadi; huwezi! Kama huwezi kumuadhibu bibi yako wakati amehusika katika ufisadi, usiseme kwamba utaweza kupigana na ufisadi; huwezi!

Hiyo ndiyo sababu ninakubaliana na Bw. M. Kariuki wakati aliposema kuwa wale waliotajwa katika ripoti hii, wanafaa wapewe nafasi--- Hatujui kama walipewa nafasi ya kujitetea wakati majina yao yalipotajwa. Sisi ambao sio wanachama wa Kamati hii, tumetiwa katika hali ngumu kwa sababu tunasoma ripoti hii, na ndugu yangu anisamehe kama nitakosea, kwa mfano, tunaona jina la Bw. Gachagua limetajwa hapa, na mimi mwenyewe sikusikia ushahidi wowote uliotolewa mbele ya Kamati hiyo. Ripoti yenyewe inamhusisha na kosa la jinai na hata kupendekeza kwamba asiruhusiwe kushikilia kazi ya umma, na Bunge haliwezi kutoa uamuzi kamilifu mpaka Bw. Gachagua mwenyewe, iwapo hakupewa nafasi ya kujitetea wakati ushahidi ulipokuwa ukitolewa mbele ya Kamati hiyo, lazima asimame mbele ya Bunge na atuambie upande wake wa mambo haya.

*(Applause)*

Bw. Naibu Spika wa Muda, ningomba kuwa, Bw. Gachagua akitafuta tu nafasi ya kujitetea, basi umpe nafasi hiyo mara moja kwa sababu tunataka kujua iwapo amefanyiwa haki au la. Hatutaki kumhukumu bila sababu yoyote, na tunataka vile vile Bw. Mwiraria alivyosimama hapa kujitetea, na yeye pia asimame hapa na atupe upande wake wa mambo haya. Kwa sababu ni kweli kuwa iwapo umetajwa uweze kujitetea ndio wale ambao wanasikiza nao wajue vile watakvoyofanya uamuzi, aidha wakuhukumu au wakupe nafasi ya kwenda nyumbani ukiwa mtu huru.

Bw. Naibu Spika wa Muda, wengine wetu tulitembea huko New Zealand mwezi mmoja uliopita na tulipokuwa huko, tuliambiwa kuwa mtu akitajwa katika shughuli za Kamati hizi, aidha katika Public Accounts Committee (PAC) au Public Investments Committee (PIC), inamlazimu mtu huyo apewe nafasi ya kuja mbele ya kamati ili atoe ushahidi wa kujitetea. Jambo hilo linafaa lifanywe hata hapa kwetu, kwa sababu hatujui iwapo Bw. Gachagua alipewa nafasi hiyo au la. Wanachama wa Kamati hiyo wanafaa watuambie hilo kwa sababu hata wao watapewa nafasi. Je, mlimpa nafasi ya kujitetea au Wahenga walisema Mgala muue na haki yake umpe. Hiyo ni kusema kwamba hata unapomhukumu mtu yeyote yule ni lazima umpe nafasi ya kujitetea. Kwa hivyo na nyinyi mtatambia kama mlimpa nafasi au mnataka kumharibia jina tu.

Mwingine ambaye anatakiwa kusimama mbele ya Bunge hili ajitete ni Mkuu wa Sheria. Hii ni kwa sababu tumemlaumu sana, tukisema kwamba hakufanya kazi yake vilivyo, na ameshindwa kupigana na ufisadi. Tumesema kuwa ameshindwa kuwapeleka wafisadi mahakamani. Wengine wetu tumemtaka ajiuzulu. Hii ni kwa sababu kile tunachokiona kama uvivu wake kimeigharimu nchi hii mabilioni ya pesa. Tunaamini kwamba akiendelea kuwa ofisini nchi hii itaendelea kupata hasara ya mabilioni mengi zaidi ya pesa. Kwa hivyo, haifai tunapoongea katika Bunge hili tuwe kama vyura wanaopiga kelele tu. Tunawataja watu wengi wanaoshukiwa kuhusika na vitendo vya ufisadi lakini hawajitetei. Wale ambao wanatajwa ni lazima walazimike kuja hapa na kujitetea. Ni lazima watuambie ni kwa nini wamekuwa wavivu na wazembe, au ni kwa nini wamehusika katika visa vya ufisadi; kama wao si wafisadi. Kwa hivyo, tutamtaka Mkuu wa Sheria aje hapa atuelezee kuhusu mambo hayo.

Bw. Naibu Spika wa Muda, tulikuwa na tatizo wakati tulipokuwa tunajadili---

**Mr. Mwenje:** Jambo la nidhamu, Bw. Naibu Spika wa Muda. Nimemsikia mhe. Wamwere akisema kwamba mtu anapotajwa kuhusiana na kitendo cha ufisadi ni lazima ajitete, na amemtaja Mbunge mmoja. Nina na ripoti nyingine ya mahakama. Naomba kusikia uamuzi wako. Je, kukiwa na ripoti ya mahakama inayomuhepusha mtu na ufisadi, na hali mtu yuyo huyo ametajwa hapa kuhusiana na ufisadi, Kiti kinalichukuliaje jambo hilo?

**The Temporary Deputy Speaker** (Mr. Poghiso): That is not a point of order! If I heard Mr. Wamwere right, he was giving the example of New Zealand. He said that we should follow suit. Basically, he was suggesting that if you are named in a report, you should be granted a chance to be heard. I do not think there was anything really out of order in what he said. Therefore, you are bringing in a new story, and you have to find an opportunity to introduce it!

Proceed, Mr. Wamwere!

**Mr. Wamwere:** Bw. Naibu Spika wa Muda, nilikuwa nasema hivyo kwa sababu---

**Mr. Mwenje:** Jambo la nidhamu, Bw. Naibu Spika wa Muda. Nilikuwa naomba utueleze---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Mwenje! You really need to decide whether you want to speak in English or Kiswahili. While you are deciding that, let Mr. Wamwere proceed with his contribution.

**Mr. Wamwere:** Bw. Naibu Spika wa Muda, sijui ni kwa nini sielewani na mhe. Mwenje. Ninachosema, kama anataka maelezo zaidi, ni kwamba kama mtu ametajwa hapa

kuhusiana na kitendo cha uufisadi, ni lazima apewe nafasi ya kujitetea. Kama hapewi nafasi hiyo na vile vile Bunge halipewi nafasi ya kusikiliza ushahidi wake, kisha hukumu itolewe na aondolewe Bungeni--- Kwa mfano, imesemekana kwamba mhe. Gachagua asikubaliwe kushikilia kazi yoyote ya umma. Hiyo inamaanisha kwamba ripoti hii ikipitishwa hatakuwa na haki ya kubaki Bungeni tena. Hiyo ndio maana yake. Je, tutamuondoa Bungeni bila ya kumpa nafasi ya kujitetea? Mimi siwezi kumtetea! Si vizuri kushughulikia kesi hizi kwa siri. Ni lazima asimame hapa na kujitetea. Akitaka wakili wa kumwakilisha, amlete hapa, tumpe nafasi na yeye amtetee ndipo tuweze kuamua kesi. Hakuna njia nyingine. Hatutaki kumfitini mtu yeyote. Ni lazima kila mtu apewe nafasi ya kujitetea. Jambo hili ndilo nilikuwa nikilisisitiza.

Pia niliongezea kwamba katika Bunge nyingine hilo ndilo---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Wamwere! I think you have made that point loud and clear. Here, the hon. Member mentioned, like every other hon. Member, has the chance to speak. You do not even have to ask him to defend himself. So, just proceed!

**Mr. Wamwere:** Bw. Naibu Spika wa Muda, ninauelewa uamuzi wako. Lakini nilikuwa nimeyasema hayo kwa niaba yangu mwenyewe na pia kwa niaba ya wenzangu, kwa sababu tunataka kusikia ushahidi kutoka pande zote mbili.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Wamwere! You will have 20 more minutes when we resume.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Poghisio): Hon. Members, it is now time for the interruption of business. This House is, therefore, adjourned until Tuesday, 12th July, 2005, at 2.30 p.m.

The House rose at 7.30 p.m.