

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 3rd October, 1996

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of Kenya Pipeline Company for the year ended 30th June, 1994, and the Certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Finance (Mr. Keah)
on behalf of the Minister for Energy)*

Annual Report and Accounts of Kenya Medical Research Institute for the year ended 30th June, 1990, and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Kenya Medical Research Institute for the year ended 30th June, 1994, and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Kenya Medical Research Institute for the year ended 30th June, 1995, and the Certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Finance (Mr. Keah) on
behalf of the Minister for Research, Technical
Training and Technology)*

Annual Report and Accounts of Teachers Service Commission for the year ended 30th June, 1994, and the Certificate thereon by the Auditor-General (Corporations)

Annual Report and Accounts of Jomo Kenyatta University College of Agriculture and Technology for the year ended 30th June, 1991, and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Jomo Kenyatta University College of Agriculture and Technology for the year ended 30th June, 1992, and the Certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Finance (Mr. Keah) on
behalf of the Minister for Education)*

ORAL ANSWERS TO QUESTIONS

Question No 751

VOLUME OF DIRECT LENDING BY
CENTRAL BANK OF KENYA

Dr. Otieno-Kopiyo, on behalf of **Mr. Orengo**, asked the Minister for Finance:-

- (a) what was the volume of direct lending by the Central Bank of Kenya to financial institutions, including banks, private or public companies, and natural persons in 1993, 1994, 1995 and 1996;
- (b) which were these institutions, companies or persons and specific amounts received by each body; and,

(c) if the answers to "a" and "b" above are in the affirmative, what were the policy considerations or reasons for such lending and whether the amounts have been recovered.

Mr. Achieng-Oneko: On a point of order, Mr. Speaker, Sir. I was in the same car with hon. James Orengo and he told me that he is coming soon to ask this Question.

Mr. Speaker: Well, sort out that problem first. Hon. Chris Kamuyu's Question?

Question No 185

ALLOCATION OF MONEY TO REPAIR
ROADS UNDER COUNCILS

Mr. Kamuyu asked the Minister for Local Government:-

(a) how much money has been allocated to repair roads that fall under the jurisdiction of all councils in the Republic; and,

(b) how much of this budget was allocated to Nairobi City Council and more specifically for roads in Dagoretti.

The Assistant Minister for Local Government (Dr. Wameyo): Mr. Speaker, Sir, I beg to reply.

(a) The Government has not allocated any funds to Local Authorities for roads maintenance.

(b) Part "b" does not arise.

Mr. Kamuyu: Mr. Speaker, Sir, the Assistant Minister has started his acrobatics again, because I have a very lengthy answer here and, with your permission, Mr. Speaker, Sir, can I read for him his own answer?

Mr. Speaker: I am sorry, Mr. Kamuyu. You are supposed to get answers, if you say you do not have one.

Mr. Kamuyu: Mr. Speaker, Sir, it is a full page. Would you, please, allow me to read out this answer to him?

Mr. Speaker: Would you like to put a question?

Mr. Kamuyu: Mr. Speaker, Sir, can I read it, please?

Mr. Speaker: No!

Mr. Kamuyu: He is aware of a lot of things, because they are all written down here. Maybe he has a problem with reading the text. In the last Sitting, the same Assistant Minister gave me an answer that Kshs812 million Service Charge money had been misdirected, eaten, stolen and so forth, and that the Service Charge money was not used for infrastructural development in the City of Nairobi at all. But now, he says that there is no allocation at all by the Government, at large, not just the Local Government, in the budget for improvement of Nairobi roads, and yet Service Charge money has been misappropriated. Can this Assistant Minister tell us now, whether the Nairobi roads which have grown from bad to worse are going to be left the way they are, or whether this Ministry has got any idea at all in the absence of the Kshs812 million already misappropriated?

Dr. Wameyo: Mr. Speaker, Sir, the Government is having discussions with the World Bank to finalise allocations for each participating local authority, and, therefore, the allocation will be made when that has been finalised, and we have got money from the World Bank for the local authorities which have been---

Mr. Kamuyu: Mr. Speaker Sir, my point of order is that the Assistant Minister did not listen to my question. He is not answering what I am asking. He is reading something totally irrelevant. Since Kshs812 million has been confirmed by his Ministry as lost or misdirected from Service Charge for the development of roads in Nairobi, is the Ministry going to ignore Nairobi roads completely? Will the Ministry just sit there and ignore the capital city?

Dr. Wameyo: But Mr. Speaker, Sir, that is why I said that we are holding discussions with the World Bank to get money to repair the roads not only in Nairobi, but in other urban centres.

Mr. Speaker: Mr. Gatabaki.

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Dr. Lwali-Oyondi?

Dr. Lwali-Oyondi: Mr. Speaker, Sir, why should the Assistant Minister mislead the House because in the last Session he told me that Nakuru roads and all roads in Kenya will be repaired by this month and I have got the answer and he had already got the World Bank money? Why is he misleading the House?

Dr. Wameyo: Mr. Speaker, Sir, the question I am answering now is not about Nakuru and what I said at that time. It is what the hon. Kamuyu has asked here that I am talking about.

Mr. Gatabaki: Could the Assistant Minister tell this House who is responsible for tarmacking and maintaining the urban roads? Is it the Central Government or is it the local authorities? If it is the Central Government, could he tell the House why the roads in urban areas are in such appalling conditions?

Dr. Wameyo: It depends on which roads because there are those roads that are under the local authorities and those roads that are under the Government and done by the Ministry of Public Works and Housing.

Mr. Kamuyu: Mr. Speaker, Sir the Assistant Minister very, very evasively says that "Discussions are going on". And yet I have here some meagre figures that are quoted for the development of roads. My main question was on all the councils in the Republic. He has refused to answer that question. Could he tell us what precisely he is going to do and how long are these discussions are going to take and also give us some specific time when this answer can be given to this House because discussions cannot go on forever? I particularly want to know how much money has been allocated to Dagoretti. I am glad to welcome the Minister for Local Government.

Dr. Wameyo: Mr. Speaker Sir, the discussions are still on. When they are finalised, an agreement will be signed and we will get the money.

Question No. 380

PURCHASE OF CEMENT BY BUNGOMA MUNICIPALITY

Mr. Speaker: Hon. Members, Question No. 380 by Mr. Lawrence Sifuna is deferred to next week.

(Question deferred)

Mr. Mutani: Mr. Speaker, Sir, before I ask my question, with your permission, I would like to correct an error on the Order Paper. I am not the Member for Tharaka-Nithi. I am the Member for Parliament for Nithi.

Question No. 530

LAND REGISTRAR AT THARAKA-NITHI
DISTRICT HEADQUARTERS

Mr. Mutani asked the Minister for Lands and Settlement:-

(a) whether he is aware that residents of Tharaka-Nithi District travel to Meru Town for their land title deeds; and,

(b) when he will post a Land Registrar at the Tharaka Nithi District Headquarters in order to facilitate the issuance of title deeds.

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): Mr. Speaker Sir, I beg to reply.

(a) I am not aware that the residents of Tharaka-Nithi District have to go to Meru Town for their land title deeds.

(b) The Ministry posted a District Lands Registrar on 4th September 1995 to open a Land Registry office at the Tharaka-Nithi District Headquarters in Chuka.

Mr. Mutani: Mr. Speaker Sir, in September, as the Assistant Minister has said, they posted a Land Registrar to Tharaka-Nithi District Headquarters who stayed there for two to three months without issuing any title deeds at all. After that he was transferred elsewhere and that is why I asked that Question. I am happy that recently the Minister for Lands and Settlement posted a new Land Registrar with a few workers and with a borrowed typist and I am thankful for that. Now, since he came the other day, could the Assistant Minister tell us if the Land Registrar has started working? How many title deeds has he issued so far?

Mr. Sumbeiywo: Mr. Speaker Sir, as I said earlier on, the District Land Registrar a Mr. Awadh Bamusa was posted to Tharaka-Nithi on 4th September 1995 to open a Land Registry and facilitate issuance of title deeds. The problem maybe lack of office accommodation for the Land Registry at Chuka and I would like to request the hon. member to liaise with the District Commissioner, Tharaka-Nithi, to try and assist in availing office accommodation for the officer because he is working under very difficult circumstances at the moment.

Mr. Speaker: Next question, Mohammed.

Question No. 966

ISSUANCE OF TITLE DEEDS IN LAMU EAST

Mr. Speaker: Mr. Abu Mohammed is not here? Next question.

*Question. 917*ALLOCATION OF FUNDS FOR RURAL
ELECTRIFICATION PROGRAMMES

Mrs. Asiyó asked the Minister for Energy:-

- (a) what the criteria for allocating funds for the Rural Electrification Programme is;
- (b) whether he is aware that Homa Bay District Development Committee recommended Kendu Bay Rural Electrification Programme, but its implementation has yet to commence; and,
- (c) when the programme will be implemented.

The Assistant Minister for Energy (Mr. Nang'ole): Mr. Speaker, Sir, I beg to reply.

(a) The Ministry of Energy, in deciding which areas in rural Kenya are to benefit under the Rural Electrification Programme, uses the recommendations of the District Development Committees (DDCs). It is the responsibility of the local DDCs to identify all the rural projects and priority ranks before they are forwarded to the Ministry of Energy for evaluation and eventual funding leading to the implementation of the same by the Kenya Power and Lighting Limited.

(b) Yes, I am aware.

(c) The project will be implemented in phases when sufficient funds have been secured. It is estimated that this project will cost Kshs160 million and will serve some 1,050 potential customers.

Mrs. Asiyó: Mr. Speaker Sir, in the first place, his answer to part (b) of my question contradicts his answer to part (a) because the Assistant Minister is admitting that he is aware that the District Development Committee of Homa Bay District has given this project top priority. Could the Assistant Minister tell this House why the Ministry has ignored the recommendations by the District Development Committee of Homa Bay and why it was necessary for the Government to remove, in 1992, all the electric cables, the equipment in containers, electric poles, hardware and everything else that had been delivered to the DO's office in Kendu Bay? Why was it necessary to remove this equipment and where was it taken?

Mr. Nang'ole: Mr. Speaker, Sir, as for the first question, we have not neglected installing rural electrification in the area as alleged by the hon. Member. That is why in part (b) of the Question I have accepted that the project has been given first priority by the District Development Committee (DDC) of the area. As for the second question, I want to sincerely tell the hon. Member and the House that I am not aware of any removal of the cables as is being alleged.

Dr. Otieno-Kopiyo: Mr. Deputy Speaker, Sir, the cables were taken to that place during the 1992 election and then they were removed to some unknown place. In the first place, how much money did it cost the Kenya Power and Lighting Company Ltd. (KPLC) to bring down all this equipment and remove it, and where is it? We saw the equipment, and the posts were lying in that place for one year!

Mr. Nang'ole: Mr. Speaker, Sir, I do not know whether hon. Kopiyo got me well. I said that I am not aware that any cables were removed.

Mr. Mbeo: Mr. Speaker, Sir, now that the Assistant Minister is aware that the cables and other equipment were brought to the district officer's office, what action is he going to take to ensure that all those poles, cables and everything else are brought back and the job is started as it had been arranged?

Mr. Nang'ole: Mr. Speaker, Sir, I undertake to investigate that and, if it is necessary, I can report back to the House.

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. Could the Assistant Minister inform this House what it takes for him to be informed by the Ministry? We have told him that we ourselves saw those things!

Mr. Speaker: Dr. Otieno-Kopiyo, that is not a point of order!

Dr. Otieno-Kopiyo: He is being illogical!

Mr. Speaker: Dr. Otieno-Kopiyo, once you are out of order, just sit down.

Mrs. Asiyó: Mr. Speaker, Sir, about one year ago I brought this same Question to this House. If the Assistant Minister cares to check the HANSARD, he will see that he admitted at that time that the equipment was removed from Kendu Bay District Officer's (DO's) office. When the DDC gave top priority to this project for the area, why did the Government find it fit to remove equipment that had been delivered to Kendu Bay? Could he now get the Ministry to transfer the equipment back to Kendu Bay? In fact, right now, as I am asking this question, there are two rolls of cables, which they forgot to pick, which are still lying at the DO's office. There are also about 100 electric posts which they were unable to take away because the lorry, which went there to remove everything, had no

space for them. Can he now tell the House when he will implement the project? Already there is some equipment that they forgot to remove, which they can use to start off the work.

Mr. Nang'ole: Mr. Speaker, Sir, I am very glad that the hon. Member is informing me that cables and other electrification equipment were removed from the area. But that was not done with a bad intention. Therefore, I want to assure her that as soon as we secure the funds--- It is a lot of money! I have talked of Kshs160 million. To get Kshs160 million today is not a simple matter. So, if we secure the money we will start the project.

Question No. 146

HOUSING OF CIVIL SERVANTS

Mr. Nthenge asked the Minister for Public Works and Housing:-

- (a) what plans the Ministry has for housing civil servants, given that most Government houses have been condemned and plots thereon allocated to individuals; and,
- (b) whether he could consider re-possessing the said plots and building new houses to alleviate house shortage currently faced by civil servants.

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

(a) The Government will continue to provide institutional housing for staff working in essential institutions such as schools, hospitals and also in remote places, as well as to personnel liable to frequent transfers.

(b) My Ministry does not have power to either allocate or repossess Government plots. The Government does not intend to build new houses for civil servants, except for staff in essential services, in this era of liberalisation, as this can effectively be done by the private sector. The Government will only provide an enabling environment to the private sector.

Mr. Nthenge: Mr. Speaker, Sir, can the Assistant Minister address himself to former Government houses and plots which have been privatised? Government officers have declared plots unwanted by the Government and then applied and got the same plots for themselves or for their friends.

Mr. Mwamzandi: Mr. Speaker, Sir, in reply to part (b) of the Question, I said that my Ministry does not have power to either allocate or repossess a plot. The responsibility of my Ministry is to build houses for the Government.

Mr. Nthenge: Mr. Speaker, Sir, could the Assistant Minister be specific? He is trying to evade the issue. Since the colonial days the Government has been one organisation which is divided into Ministries. His Ministry constructs buildings and looks after them. But the land is given to it by another Ministry. How can he say that he has no power to repossess a former Government plot when the Government is one organisation? Today he can answer Questions for the Ministry of Lands and Settlement!

Mr. Mwamzandi: Mr. Speaker, Sir, matters relating to land acquisition are the responsibility of the Ministry of Lands and Settlement. My Ministry is responsible for houses, which we build when we are given land.

Mr. Farah: Mr. Speaker, Sir, in the past, one virtue of working for the Government used to be free education for one's children and housing. As it is today, under secretaries and professionals like doctors and engineers do not have Government houses to live in, and they are given a meagre house allowance of less than Kshs4,000. In the light of the despicable conditions in which civil servants are living, knowing very well that this is one of the things that promote corruption in this country, the Government having given its houses to political big wigs, can the Assistant Minister tell us how he expects Government officers to perform their duties? Their salaries are even less than Kshs15,000!

Mr. Mwamzandi: Mr. Speaker, Sir, Government officers are encouraged to rent houses for themselves. In some cases they are even encouraged to purchase houses so that we can alleviate the housing problem.

Mr. Michuki: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to disown this issue when, in fact, before these plots are allocated to individuals, his Ministry condemns the houses which are on them? In this case, it is his Ministry which sets the process of plot allocation in motion!

The Assistant Minister for Public Works and Housing (Mr. Mwamzandi): Mr. Speaker, Sir, it is true my Ministry is responsible for condemning or not condemning the houses. But, if we are given money to renovate the houses, then, that is when we can get in.

Mr. Speaker: Next Question!

Question No.635

TARMACKING OF MUTARAKWA-NDERU-THIGIO
AND RIRONI-NGECHA-KABUKU ROADS

Mr. Nyanja asked the Minister for Public Works and Housing:-

(a) whether the Minister is aware that the Mutarakwa-Nderu-Thigio and Rironi-Ngecha-Kabuku Roads are impassable during the rainy season; and,

(b) if the answer to "a" above is in the affirmative, when the roads will be tarmacked.

The Assistant Minister for Public Works and Housing (Mr. Mwamzandi): Mr. Speaker, Sir, I beg to give the following reply.

I am aware that Mutarakwa-Nderu-Thigio Road was impassable during rainy seasons and for that reason, Rironi-Ngecha-Kabuku Road was upgraded to gravel standards. This 6.5 kilometre road is now completed and the only thing remaining now, is the drainage system.

The Mutarakwa-Nderu-Thigio-Gikambura Road will be gravelled during this 1996/97 financial year to all-weather standard.

There are no immediate plans to tarmac the road in question due to lack of funds, but it will be all-weather motorable once the gravel works are completed.

Mr. Nyanja: Thank you, Mr. Speaker, Sir. First of all, the answers have a lot of - I do not know whether it is deliberate - typing errors. There are names which are unheard of by Limuru people, and there are some people who are asking me questions. So, I would like perhaps with your permission, Mr. Speaker, Sir, that the names should read: Mutarakwa-Nderu-Thigio-Gikambura Road and Rironi-Ngecha-Kabuku Road.

Having said that, I would like to thank the Assistant Minister for his half answer. As per the answer I have here, he is only trying to read and correct it, because the answer says that Rironi-Ngecha-Kabuku Road is being graded and I am just from there and it is good he has said that something is remaining. All I want to ask the Assistant Minister is whether he could accompany me to this particular area to certify it himself.

Mr. Speaker, Sir, the question is, how much money was set aside for Ngecha-Kabuku-Rironi Road? Because some politician there - Kuria Kanyingi - is saying that, that road has been done because of his influence. The other question is, how was the contractor appointed? Was it single sourcing, open tender or how was it done? As for Mutarakwa-Nderu-Makutano-Thigio-Gikambura Road, when do you intend to complete it? Because we are now in the financial year you have talked about. When do you intend to start? Because there are so many roads---

Mr. Speaker: Order! Order, Mr. Nyanja! If we go at that rate, we may not even finish your own question, leave alone the questions of other people. Assistant Minister, would you like to respond?

Mr. Mwamzandi: Mr. Speaker, Sir, the contract was awarded to Messrs Coastal Kenya Enterprises Limited in February 1996 and, it was a competitive tender. The contract sum was Kshs30,940,087.50.

Mr. Nyanja: Mr. Speaker, Sir, have you heard what I have heard? That, Kshs30 million went to a 6.5 kilometres murrum road being gravelled. This is open theft and this is why money has been hidden from the local MP, because I am in that building industry. Now, using that formula, how much money have you set aside for Mutarakwa-Nderu-Thigio-Gikambura Road and what is the distance? How much money have you sent there in the current financial year? I am happy we have that, but, we must visit the site with your people including the Minister for Public Works and Housing. This is open theft.

Mr. Mwamzandi: Mr. Speaker, Sir, with respect to Mutarakwa-Nderu-Thigio-Gikambura Road, which will be gravelled during this financial year, we cannot make the figure public because it is subject to tendering. Arrangements are under-way to have the tender process completed.

Question No.455

TOTAL COLLECTION FROM PETROLEUM LEVY

Mr. Mathenge asked the Minister for Public Works and Housing:-

(a) if he could disclose to the House the total amount of revenue so far collected by the Government from the Petroleum Levy;

(b) how much of that money has been spent on repairing tarmac roads; and,

(c) if the Petroleum Levy revenue is spent on the construction of roads.

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

(a) The total amount of revenue collected by the Government from the Road Maintenance Levy is K£152,181,750.15 up to 10th May, 1996.

(b) The total amount of the Road Maintenance levy that has been spent on repair of tarmac roads in Nyeri District is K£61,308.32, an additional K£453,100 were spent on roads repair, maintenance, gravel and bridges repair in Nyeri. The total Road Maintenance Levy funds allocated to Nyeri is therefore, Kshs514,408.32

(c) The Road Maintenance Levy is not spent on the construction of new roads.

Mr. Mathenge: Thank you, Mr. Speaker, Sir. Can the Assistant Minister help this House and myself in particular, in knowing the numbers of the authority to incur expenditure that has been incurred on the roads in Nyeri? Also, could he give a list of names of the roads and the bridges repaired?

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead the House? He has told the House several times that, the Road Petroleum Levy goes directly into the Consolidated Fund, not as a specific docket. Now, he is talking about specific amounts spent from that Fund. Which one of these two positions is really true?

Mr. Mwamzandi: Mr. Speaker, Sir, this Petrol Levy Fund, is normally distributed to the districts for road maintenance and I do not know the question that, it cannot be spent.

Mr. Speaker: Maybe we can have Mr. Ndicho!

Mr. Mathenge: Mr. Speaker, Sir, he had not answered my supplementary question.

Mr. Speaker: I am afraid, you are right, Mr. Mathenge, he was diverted. Could you put your question again?

Mr. Mathenge: Now, the Assistant Minister has said, that, they have spent quite a substantial sum of money on repairing Nyeri roads and bridges. Can the Assistant Minister do me or this House a favour by giving a list of specific roads and bridges where the money has been spent? Also can he arrange for me to make an inspection tour next Monday, with his Provincial Engineer in Nyeri?

Mr. Mwamzandi: Mr. Speaker, Sir, I do not have the list of the roads and, the distances of the roads and the bridges that have been done in that area. But, I have figures showing how much was sent there in 1994/95 and 1995/96. So, it is upon the hon. Member to find out from the area District Roads Engineer. He can show him the roads.

Mr. Nthenge: On a point of order, Mr. Speaker, Sir. Following hon. Mathenge's question, is he prepared to go with Mr. Mathenge and the engineers so that the hon. Member can offer proof that the money has not been spent on something else and that it is not all paper work?

Mr. Mathenge: And Mr. Speaker, Sir---

(Loud consultations)

Mr. Speaker: Order, Mr. Mathenge! We do not do it that way here. Proceed, hon. Mwamzandi!

Mr. Mwamzandi: Mr. Speaker, Sir, I would not be able to accompany the hon. Member from here because I have representatives there. We have provincial or district engineers there who can show him every road which was done and if he makes a request, we can make arrangements for his visit.

Mr. Speaker: Final one, Mr. Mutahi.

(Mr. Ndicho interjected)

Mr. Speaker: Order, Mr. Ndicho! Proceed, Mr. Mutahi.

Mr. Mutahi: Mr. Speaker, Sir, we want the Assistant Minister to tell this House when he is going to produce, before the House, the list of the bridges and roads, also the number of kilometres done as requested by hon. Mathenge. When is he going to bring that list here?

Mr. Mwamzandi: Mr. Speaker, Sir, if the list is required to be produced, then it can be provided. But what is important to the hon. Member is to know which roads and bridges have been done and I have already promised him that I can provide him with the provincial engineers---

Mr. Speaker: Promise the House, not him.

Mr. Mwamzandi: Mr. Speaker, Sir, I am also prepared, if the House would like to go there, to ask the Provincial Engineer to accompany them. But if the list is required, I am sure it can be provided.

Hon. Members: When?

Mr. Speaker: When do you intend to do that?

Mr. Mwamzandi: Mr. Speaker, Sir, preferably, Thursday next week.

Mr. Speaker: Next Question, Mr. Muite!

(Mr. Mathenge stood in his place)

Sorry, Mr. Mathenge, I have given the Floor to Mr. Muite.

Question No. 731

BACKGROUND OF HOTEL PROPRIETOR

Mr. Speaker: Is Mr. Muite not here? We will leave his Question until the end. Let us move on to the next Question.

Question No. 531

STATUS OF WAMBA BEE
CO-OPERATIVE SOCIETY

Mr. Leshore asked the Minister for Co-operative Development:-

- (a) what the present status of Wamba Bee-Keeping Co-operative society is;
- (b) how much money has been used and/or allocated by the GTZ/IFS during the years 1990/94; and,
- (c) what urgent steps he is taking to revive the refinery.

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Speaker, Sir, I beg to reply.

- (a) The present status of the Wamba bee-keeping Co-operative Society is that, it is dormant.
- (b) Between 1990 and 1994, the GTZ/IFS made available Kshs138,100 to the society.
- (c) My Ministry, in collaboration with the Ministry of Agriculture, Livestock Development and Marketing, is undertaking the following steps among others to revive the honey refinery:
 - (i) Intensified Membership recruitment drive for purposes of increasing the capital base.
 - (ii) There are plans to educate members of the Co-operative Society with a view to adopting modern methods of bee-keeping husbandry.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, I have been trying to listen to the loudspeaker here and I have heard nothing from the beginning to the end. Could the Assistant Minister speak up so that we can hear what he is saying?

Mr. Speaker: I think you are right, Dr. Lwali-Oyondi. I was not following a thing either.

An hon. Member: Speak English!

The Assistant Minister for Co-operative Development (Mr. Titi): Mr. Speaker, Sir, I beg to reply.

- (a) The present status of the Wamba bee-keeping Co-operative Society is that, it is dormant.
- (b) Between 1990 and 1994, the GTZ/IFS made available Kshs138,100 to the society.
- (c) My Ministry, in collaboration with the Ministry of Agriculture, Livestock Development and Marketing, is undertaking the following steps among others to revive the honey refinery:
 - (i) Intensified Membership recruitment drive for purposes of increasing the capital base.
 - (ii) There are plans to educate members of the Co-operative Society with a view to adopting modern methods of bee-keeping husbandry.
 - (iii) A request for funds to rehabilitate the Refinery has been put up in the Samburu District Development Programme.

Mr. Leshore: Mr. Speaker, Sir, this refinery is one of the oldest refineries in Kenya. It dates way back to the early 1950s. The people of Wamba and Samburu in general are really missing the sweet honey which the refinery used to produce. The honey even used to be exported to England. Could the Assistant Minister tell this House when he is going to request for funds? He is saying "undertaking" and not that he is requesting for funds to rehabilitate the refinery. When are you going to request for these funds or have you already requested for them? My second question is: What has happened to the GTZ Land Cruiser which was seconded to the project and which has disappeared with a Mzungu Manager who was there? Could you tell the House what has happened?

Mr. Titi: Mr. Speaker, Sir, there is already a budget which has been prepared by the Ministry for Kshs250,000, which will be submitted in July, 1997 to the Samburu District Development Programme for

rehabilitating the co-operative. With regard to your second question, I do not have the information now.

Mr. Leshore: Mr. Speaker, Sir, I would like to request the Assistant Minister to urgently send a Co-operative officer or an assistant to follow up the Ministry's reply in Part (i), which talks of intensified Membership recruitment drive and educating the members of the Co-operative Society. Will the Assistant Minister now tell us when he is going to send or post a Co-operative Officer to Wamba to undertake that?

Mr. Titi: Mr. Speaker, Sir, in the light of this new information, I undertake that we shall send somebody to investigate the matter and report back to the Ministry.

Mr. Speaker: Very well, next Question, Mr. Mulusya!

Question No. 655

SECURITY FOR RETIRED JUDGES

Mr. Mulusya asked the Attorney-General what the Government policy is on the provision of Government car and driver and personal body guards to retired Judges of the High Court and Court of Appeal; and,

(b) why these services are provided on selective basis to retired Judges.

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

(a) Retired Judges are not entitled to a Government car, driver or personal body guards unless, at the time of retirement, they have pending court matters which require to be finalised by them, in which case, they may have a car and a driver for a reasonable period to enable them to complete their work. I wish to add that also where, after retirement they are serving their leave of retirement.

(b) It is not true that these services are provided on a selective basis to retired Judges.

Mr. Mulusya: Mr. Speaker, Sir, I am very disappointed with the answer given by the Attorney-General, and it is my opinion that, either he does not know what happens in the Government, and the department which is supposed to be under his control, or, he has deliberately decided to mislead this House. Can he tell this House now what special duties his predecessor, the retired Justice Matthew Guy Muli, had pending up to August, 1996 from the time he retired last year? Even today, he has two armed body guards and he surrendered his official car only in July, 1996.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, according to the information I have, Justice Muli, who retired with effect from 11th February, 1995, had 74 days leave during which he enjoyed the facilities. In other words, the car was definitely withdrawn according to the record which I have, on 30th May, 1995. As to the question of providing bodyguards, police can at times provide police guards at houses, not just to a retired Judge, but to any person who may feel threatened.

Mr. Murungi: Thank you, Mr. Speaker, Sir. Judges and retired judges do not face any major security risks in this country. The people who face security risks are Members of Parliament. Could the Members of Parliament also be provided with bodyguards especially those travelling in insecurity ridden areas like Northern Eastern Province, parts of Eastern Province and the Opposition Members of Parliament?

Mr. Wako: Mr. Speaker, Sir, I would have hoped that the Members of Parliament's security lies with the people.

Ms. Wanjiru: Mr. Speaker, Sir, I would like also to request the hon. Attorney-General to explain why I am also being trailed simply because I am a Member of Parliament. A host of people trail me? Can he give me security?

Mr. Wako: Mr. Speaker, Sir, I did not quite understand that question. But if the question was that there were a number of people trailing her, it could be because of various reasons. Some could be job-seekers, admirers and anybody else.

Mrs. Ngilu: Mr. Speaker, Sir, I think the Attorney-General should be more serious with the question which the hon. Wanjiru asked because she is talking about her security. She is not talking about admirers, and security are two different things, surely.

Mr. Wako: Mr. Speaker, Sir, I am quite sure that if the people who were trailing her were doing so and endangering her security, she should have reported to the nearest police station.

Mr. Mulusya: Mr. Speaker, Sir---

Mr. Speaker: Order! Mr. Mulusya, what is burning you?

Mr. Mulusya: Mr. Speaker, Sir, the Attorney-General is not serious. He keeps on smiling even when he is answering serious questions. If an admirer is not somebody dangerous, why is he having so many body guards when he has so many admirers?

Mr. Wako: Mr. Speaker, Sir, I do not know what he means by using the words "so many body guards"

because I only have one by virtue of being the Attorney-General of the Republic of Kenya or a Cabinet Minister in the Government.

Mr. Speaker: Order! I think it is all a very admirable state. We must proceed to the next question for the second time. Mr. Orengo.

Question No.751

DIRECT LENDING BY
CENTRAL BANK OF KENYA

(Question deferred)

Mr. Oneko: Mr. Speaker, Sir, I wish to ask, on behalf of Mr. Orengo, to have the Question deferred.

Mr. Speaker: Very well, the Question is deferred to 15th, October, 1996.

For the second time, Mr. Abu Mohammed's Question.

Mr. A. Mohammed: Mr. Speaker, Sir, I apologize for the delay and I beg to ask Question No.966.

Question No. 966

ISSUANCE OF TITLE DEEDS IN LAMU EAST

Mr. A. Mohammed asked the Minister for Lands and Settlement:-

(a) out of the 4,800 claimants from Lamu East Constituency who submitted their claims to the recorder of title deeds in accordance with the Gazette Notice No.4056 of the 28th 1993, how many claims have been processed and the title deeds issued, and,

(b) what arrangements is he making to ensure that land adjudication is completed in Lamu East Constituency and the title deeds issued to the residents.

The Minister for Lands and Settlement (Gen. Mulinge): Mr. Speaker, Sir, hon. Kaino was supposed to reply to this Question and he is the one who is having the written answer for it.

The Assistant Minister for Lands and Settlement (Mr. Kaino): Mr. Speaker, Sir, I apologize. I was consulting with another Member in the House, but I now beg to reply.

The work is in the process of implementation, and it will start very soon.

Mr. A. Mohammed: Mr. Speaker, Sir, yes, I am satisfied by the answer given by the Assistant Minister, but I would request him to assure this House that the adjudication process should continue until all the residents of Basa and Junga Divisions have been given their title deeds.

Mr. Kaino: Mr. Speaker, Sir, I thank the Member very much. I would like to say that the Ministry is seriously committed to the project and, therefore, assurance is given to the same community.

Question No.731

BACKGROUND OF HOTEL PROPRIETOR

(Deferred)

Mr. Speaker: Mr. Muite's Question is deferred for two weeks.

QUESTION BY PRIVATE NOTICE

DEATH OF THE LATE JAMES MURITHI RUTERE

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

(a) What are the detailed circumstances that led to the death of the late James Murithi Rutere, a [Mr. Murungi]

Computer Programmer with the Government Computer Services, Herufi House, Nairobi, in the early hours of Sunday,

the 22nd September, 1996?

(b) What was the cause of his death?

(c) What steps is the Government taking to bring the killer(s) to book?

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

(a) The body of the late James Murithi Rutere was discovered by the Police and Fire Brigade personnel on the 15th September, 1996 following an explosion in the building at about 1.50 a.m. The incident is still pending being investigated through the CID Central Inquiry File No.1 of 1996.

(b) The postmortem report indicates that the deceased died due to bleeding in the brain as a result of injury sustained after the blast.

(c) Active investigations are still in progress.

Mr. Murungi: The answer given by the Assistant Minister is too brief. The deceased in this case was the son of Rutere Marara, who is the Chairman of KANU in Kanyakine Location and I have got information to the effect that this person did not die as result of bomb blast, and that he was strangled at the gate of Herufi House. Can the Assistant Minister give more details?

Mr. Sunkuli: Mr. Speaker, Sir, the postmortem was performed by Prof. Nyong'o of Nairobi Hospital who formed the opinion that the death was caused by bleeding in the brain due to injuries caused by the blast. The postmortem report does not show any evidence of strangulation either by the deceased or by anybody else. But according to the information so far received because the hon. Member wants more information, a statement recorded by one James Abong'o Orunyi, who is a security warden at Herufi House indicates that Mr. Murithi entered the building at about 6.50 p.m. on the 14th September, 1996.

However, when Mr. Orunyi went round the inside of the building at about 8.00 p.m., he found that the two of the deceased colleagues namely Bernard Kinyua Gakunya and Lecili Juda Musyoka were there. He asked the two whether they had seen the deceased, but they replied to the negative saying that the deceased was not on the night shift that day.

On 15th September, 1996, at about 7.50 a.m a loud blast was heard inside Herufi House followed by a thick smoke coming from the direction of the stationary store. The Police and fire brigade proceeded to the scene. While in the process of extinguishing the fire, they found the diseased body lying on the entrance of the stationary store and the door to the store was open. Those are the facts that I have.

Mr. Murungi: Thank you, Mr. Speaker, Sir. I have information that the body of the diseased had marks of strangulation on the neck, but unfortunately, I did not bring the postmortem report. I beg to lay it in the house on Tuesday, next week. Since Independence, we have had various bomb blasts in this country including the one where 26 people died near the OTC bus park just before J.M. Kariuki was found dead. In 1992 there was a bomb blast at Jogoo House, hon. Gatabaki's office, recently at the People's offices, Kituo cha Sheria and now at Herufi House. The strange thing with all these bomb blasts is that not a single person has been arrested by the Kenya Police since Independence as a result of these bomb blasts. If the Kenya Police are unable to investigate and arrest the people behind the bomb blasts, can we ask the Assistant Minister to invite the Scotland Yard to assist in investigations?

Mr. Sunkuli: Mr. Speaker, Sir, the bomb blasts the hon. Member has indicated in the history of our country have been far in-between, and the Kenya Police have done their best. The Kenya Police are very competent in conducting investigations. The hon. Member and other citizens are requested to provide the Government with any information that they have that may lead to the arrest of those who cause the bomb blasts.

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to continue misleading the House about these bomb blasts when he knows very well that this was a murder case and the purpose of bombing Herufi House was to destroy essential documents, such as, the report on census of 1989 and documents which incriminate some of these people for their misdeeds? Computers were destroyed to get rid of the documents containing information on theft of Government funds by these characters.

Mr. Speaker: Mr. Assistant Minister, would you really want to respond to that? I do not think it is a point of order.

Mr. Sunkuli: Mr. Speaker, Sir, that is not a point of order. What hon. Gatabaki is trying to do is to hide the facts behind the alleged bombing, next to his House, which he knows very well.

Mr. Raila: On a point of order, Mr. Speaker, Sir. The hon. Assistant Minister has not answered the question by hon. Murungi. Why is it that since Independence, there have been several bombings in the country and not a single individual has been apprehended by the police and charged with these activities? The question is not whether the bombings are far in-between, but why the Kenya Police has been unable to apprehend people and prosecute them for these illegal acts?

Mr. Sunkuli: Mr. Speaker, Sir, I have answered that question. The work of the police must be viewed in

totality. The record of the Kenya Police in investigations must be viewed not just in the case of bombings, but in the entire case of criminal sphere. The police have been very competent in conducting investigations.

MINISTERIAL STATEMENT

CLOSURE OF NAKUMATT

The Minister for Commerce and Industry (Mr. M'Mukindia): Thank you, Mr. Speaker, Sir. I thank you for giving me this opportunity to make a short statement regarding the recent Nakumatt affair.

A lot has been said concerning the importation of beef from the UK. The public and the Press have expressed concern about the deadly "Mad Cow" disease which has generated a lot of public debate in the UK and European Union as a whole. This disease is normally called "Mad Cow" disease or BSE which is linked to the equivalent of the so-called "Jakob" disease in the human beings. Human beings get this disease through eating infected meat. This disease is said to affect the head, the spleen and the spinal cord and leads to an incurable disease of the so-called "Jakob" disease. According to the information that we have from the European Union, a ban was imposed on the beef from the UK as a result of scientific findings of possible links between the "Mad Cow" disease and the "Jakob" disease. In view of the ban of imports of beef from UK, it is the responsibility of this Government to take appropriate action to protect the health of its citizens. Documentary evidence produced by Nakumatt Holdings Limited themselves, that is, Import Declaration Form, invoices, Customs Import Entry, Mombasa Port Release Order, Bill of Lading and the Clean Report of Findings supplied by Otechna, the preshipment inspector indicate that the consignment of the 3.2 tons of canned beef was actually imported from the U.K. and loaded at the Port of Felixstowe.

On learning of this importation and as a result of consultation with other relevant authorities, the Government revoked the trade licences for Nakumatt. As the Minister in charge of Commerce and Industry, I am empowered under the Trade Licensing Act, Cap.497, to revoke a trading licence in the event a trader is suspected of applying improper trading practices. The Government policy on importation of goods is clear and this does not mean engaging in the importation of substandard or otherwise harmful goods. After a careful consideration and in exercise of powers conferred on me under Section 15 of the Act, the appeal lodged by Nakumatt was allowed. In allowing the appeal, I considered the level of investment and especially employment and the fact that the consignment was still in the custody of the Customs and Excise Department. The Ministry in conjunction with other relevant authorities will ensure that the affected consignment is not released to the local market.

My Ministry intends to take the following remedial measures to ensure that such things do not happen in the future. We shall invoke and continue to invoke the Standards Act, Cap.496 and also invoke various other acts in conjunction with other Ministries such as, the Animal Diseases Act, Meat Control Act, Public Health Act, Trading in Prohibited Goods Acts, that is foods, drugs and chemicals and so on. I wish to emphasize that My Ministry and other relevant authorities acted in accordance to the laws of this country and, therefore, the name-calling that has been shown in the newspapers is not called for or was not justified especially where Mrs. Kenani, who is the Provincial Trade Officer is concerned. She had my authority to carry out the instructions and she should not have been ridiculed by the Nakumatt directors. She has been insulted and she does not deserve this. She did it in accordance with the law and with my instructions. I commend the personnel in the Kenya Bureau of Standards, Mombasa, Mrs. Kenani and all the officers in the Ministry. I also wish to commend Dr.Shariff, the Provincial Medical Officer, in the Coast Province. These are patriotic Kenyans and they should be commended for the action they have taken.

We have a problem with importation of foods which have expired in this country and I wish to advise the public in general that any canned foods ought to have a mark on expiry date on the tin itself and not on paper. All too often, we have found out that expired food is being re-labelled. One officer went to Eldoret Nakumatt last week, picked four cans of expired foods and talked to the management about it, but the four cans were taken away and hidden. When this officer tried to get them back, it was not possible.

Mr. Speaker, Sir, on three occasions in the past, my Ministry has prosecuted Nakumatt Holdings for selling sub-standard goods in this country. Furthermore, having seen that the problem of sub-standard goods in this country has increased as a result of liberalisation, we called all the supermarkets to a seminar on quality, by the Kenya Bureau of Standards. All the major supermarkets in this country attended and only Nakumatt declined to attend.

Therefore, I wish to tell this House that the action we took was not malicious. It was meant to protect the citizens of this country. Furthermore, this disease is not well known as to how exactly it spreads. It is possible that this disease could spread to our own livestock industry, and you know how much we depend on the livestock industry in this country. We cannot afford to kill our livestock in this country.

Mr. Speaker, Sir, I do not want to go further, but it maybe worthwhile for hon. Members of this Parliament to note that the people who imported this beef do not consume beef. Thank you, Mr. Speaker, Sir.

(Loud consultations)

Mr. Speaker: Order, hon. Members! I am agonizing over what is the right course for me to take just now. This is because I had also allowed a Question by Private Notice by hon. Anyona on the same issue. I do not know what to do; whether to allow clarification and withdraw that Question, or to leave it and give it another time. Hon. Anyona, I will give you the first shot for clarification.

Mr. Anyona: Mr. Speaker, Sir, I think I have asked for---

Mr. Speaker: I will give you the first opportunity to seek clarification because it then follows that the Question will not arise.

Mr. Anyona: Mr. Speaker, Sir, I would rather wait for the Question because I raised some very specific issues in that Question, which I do not think can be answered. Part of the Question is a comprehensive Ministerial Statement. He could retrieve what he has told us, but there are also some very specific questions in that Question, which I would like to have answered. I do not think that I will seek clarification.

Mr. Speaker: Very well. If that is so, we will wait until Tuesday.

POINTS OF ORDER

MISLEADING STATEMENT FROM THE MINISTER FOR EDUCATION

Mr. Farah: Mr. Speaker, Sir, I stood on a point of order yesterday and asked the Minister for Education a question which sought to know how many girls from North Eastern Province have qualified to enter our national universities in the last three years. The second part of that question was why he has not implemented the Motion passed by the House setting quotas in university intake for students from remote areas of the country.

The Minister replied that in the last three years, only five girls from schools in North Eastern Province qualified to enter the national universities.

When answering part (b), he said that he was not aware of any Motion passed in this House to have a quota system of admission into our public universities.

Mr. Speaker, Sir, I said that in both cases, the Minister was grossly misleading the House, in that no girl ever qualified to enter our national universities in the last three years from schools in North Eastern Province, and that the Motion was actually passed.

I want to table in the House, a Motion that was passed on 19th October, 1994 and moved by me, with amendments. The Motion read:

THAT this House approves that in view of the fact that the Government of Kenya is committed to the development of all regions in the country, and recognising that North Eastern Province and the contiguous districts of Isiolo, Marsabit, Turkana, Lamu, Tana River and Samburu, have been and continue to be marginalised in matters of development, and noting that the situation in schools in these areas is pathetic due to inadequate and sub-standard facilities, lack of books and teachers and concerned that unless the Government mounts a special programme to address the problem, the historical under-development of the areas will continue, this House resolves that the Government launches a special emergency programme to improve the education facilities, provide teachers and books to all schools in the areas and, further calls upon the Government to implement urgently, an affirmative action programme through reserved quotas in admission to our national universities in favour of students from these areas in all fields of study.

Mr. Speaker, Sir, the Minister said that this Motion was never moved and never passed. He further misled the House that there were five girls who entered the universities from secondary schools in North Eastern Province. To begin with, I would like to table this Motion.

(Mr. Farah laid the Motion on the Table)

Secondly, I am seeking an apology from the Minister for grossly misleading this House, failure to which this House should take appropriate action against him.

Dr. Lwali-Oyondi: On a point of order,

Mr. Speaker, Sir. Is it in order to table a Parliamentary document again?

Mr. Speaker: Order! They are for his reference. He wants the Minister to have his reference.

Proceed, hon. Kamotho.

The Minister for Education (Mr. Kamotho): Mr. Speaker, Sir, first of all, I would like to seek permission of this House to bring a comprehensive Ministerial Statement on the action programme which the Government is taking to ensure equity of girls education throughout the country. But I still question the content of that Motion and the issue of starting a quota system in the university. I do not know whether it is telling us to do that. I have been saying this again and again, that the quota system in our universities would interfere with the academic freedom of the universities. According to the Universities Act, the universities are supposed to decide on who should be admitted, who should teach in the universities and the contents of the curriculum of the universities. Universities are not like high schools or primary schools. But, as I said, I am ready to come out here with a comprehensive action programme to ensure equity of university education opportunities in our universities.

Secondly, I am going to table the list of the five girls who have been admitted to our public universities during the last three years from secondary schools in North Eastern Province. Some of them have already completed their studies. In addition, I am going to give the names of four more girls who have been admitted from other districts, but from North Eastern Province. Mr. Speaker, Sir, this is the list.

(Mr. Kamotho laid the list on the Tabled)

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members! I think the only bit that the Chair is concerned about in the point of order raised by hon. Farah is the issue of the Motion being passed. I think the Minister now knows that the Motion was actually passed. What is your response to the request by the hon. Member to apologise to the House for saying that the Motion was not passed?

The Minister for Education (Mr. Kamotho): Mr. Speaker, Sir, the question I sought from the House is to go and bring a comprehensive statement on the action-programme which the Government has put in place to ensure equity of quality education throughout the country. The Motion is not relevant to the question that the hon. Member asked here yesterday. He said we passed a Motion here demanding that Government start a quota system. In that Motion, that particular phrase is given as an example of the action which Government should take, but it is not affirmative that Government should start a quota system in our public universities.

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

Mr. Speaker: Order! I suppose when the Minister is asked to make a policy statement to the House, I would like to get guidance from the Minister as to how soon he thinks---

Mr. Farah: Can I seek your guidance, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! That is misbehaving! When I am still addressing the House, you should not interrupt. Do you have any idea?

The Minister for Education (Mr. Kamotho): Mr. Speaker, Sir, I would like to promise to do so by 15th October, 1996, that will be on Tuesday after next.

Mr. Speaker: Very well, that is okay.

Mr. Farah: Mr. Speaker, Sir, I think we need guidance from the Chair. I think we are talking in English and you are good in English. Why can you not interpret the Motion? The Minister is openly misleading a whole House here by saying that no Motion was passed. But according to the HANSARD, it was passed establishing and urging the Government to implement urgently an affirmative action programme through reserved quotas in the admission to our national universities in favour of students from these areas in all fields of study. And the Minister said this Motion does not exist!

Mr. Speaker: Very well, Mr. Farah. I intend to make that interpretation plainly on 15th October, 1996. Next Order. Mr. Osogo, you have taken me by surprise.

CIRCULATION OF STATEMENTS MADE IN
THE HOUSE TO MEMBERS

The Assistant Minister for commerce and Industry (Mr. Osogo): Mr. Speaker, Sir, I am seeking your guidance on a matter that has been raised in this House in connection with statements that are given by Ministers or personal statements. In view of the fact that we do not receive the HANSARD, we do not see these statements apart from statements from the Chair. Those are the only ones which are reported in the proceedings of the House, but the statements issued by Ministers or any other person hardly come out in the proceedings of the House. Shall we then

request that the Chair orders that whoever issues a statement, the statement is supplied to all hon. Members for our records?

(Applause)

Mr. Speaker: I think that is a reasonable request.
Next Order.

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

Mr. Speaker: Order, Mr. Nyagah! I think, I have been extra generous today on the order of our time. I think, we still have a very important Motion to move. Next Order.

BILL

First Reading

THE CENTRAL BANK OF KENYA (AMENDMENT) BILL

*(Order for First Reading read - Read the First Time -
Ordered to be read the Second Time tomorrow)*

POINT OF ORDER

GUIDANCE ON A MATTER OF PROCEDURE

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Normally, when a Bill is read for the First Time, a Minister is supposed to stand up and say tomorrow. Now, the Bill has been read by the Clerk and nobody stood up, everybody just sat there as if nothing is happening. Are we now drifting away from the procedures of this House?

Mr. Speaker: Very well, in fact, they should stand up and say "tomorrow!"

The Assistant Minister for Finance (Mr. Keah): Mr. Speaker, Sir, I did that, but I was at the back, he did not see me.

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Is it in relation to the order now we are going on with?

Dr. Otieno-Kopiyo: That is right, Mr. Speaker, Sir. During the presentation of the Fourth Report of the Public Investment Committee (PIC), the Chairman of that Committee, hon. Anyona, tabled the Report. The Speaker then ruled when it came to moving the Motion on that Report that there is no Chairman of a Report, there is a Chairman of a Committee. It then transpired that hon. Anyang'-Nyong'o was the Chairman and he moved the Motion, and hon. Anyona then seconded that Motion. Could you explain to us the true position as to what is the procedure that we should follow and are we departing from your earlier ruling?

Mr. Speaker: Listen, Dr. Otieno-Kopiyo, the hon. Prof. Anyang'-Nyong'o was the Chairman of PIC that produced the Report now before the House. It is only right that the person who chaired that Committee under whose Chairmanship the Report was compiled move the Report, and I do rule that he does so.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, I beg your indulgence on one issue. Can I then be allowed time tomorrow or next Tuesday to produce your earlier ruling on the same matter when hon. Anyona was not allowed to move the Motion on his Report?

Mr. Speaker: By who?

Dr. Otieno-Kopiyo: By Mr. Speaker, Sir.

Mr. Speaker: Order! Hon. Kopiyo, what there is, in fact, a Report of PIC or any Select Committee of the House can either be moved by the Chairman or any other hon. Member of the Committee. Proceed.

(Applause)

MOTION

ADOPTION OF THE SIXTH PIC REPORT

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Sixth Report of the Public Investments Committee on the Accounts of State Corporations laid on the Table of the House on Tuesday, May 7, 1996.

Mr. Speaker, Sir, before I proceed to move the Motion, first of all, I would like to thank the House under your speakership for allowing the Members of PIC to deliberate during my tenure of office as the Chairman and to produce this Report successfully.

I would particularly like to thank the hon. Members of the Committee as follows:-

The hon. Wilson Ndolo Ayah, KANU, MP, who however ceased to be a Member of the Committee on 29th February, 1996, when he was appointed by His Excellency the President to be the Minister for Transport and Communications.

I would also like to thank hon. Sammy Leshore, KANU, MP, hon. Isaac Muoki, KANU, MP, hon. Douglas Mbela, KANU, MP, hon. Mohamed Shidie, KANU, MP, hon. George Kapten, FORD(K), MP, hon. Dr. Otieno-Kopiyo, FORD(K), MP, hon. John Peter Mutere, FORD(A), MP, hon. Gacuru wa Kareng'e, FORD(A), MP and the hon. Joseph Mulusya, DP, MP.

I would like to thank the current Committee for electing Mr. John Peter Mutere as the Chairman of the Committee, competently succeeding me to the office, and I would like to assure this House that the hon. Mutere is not only punctilious in his work, but very conscious of his duties.

(Applause)

I would also like to thank, Mr. Speaker, Sir, the following members of the Parliamentary staff serving the Committee under the Clerkship of the Clerk of the National Assembly. First, Mr. Patrick Gichohi, Principal Clerk Assistant, Mr. P.C. Omolo, Principal Clerk Assistant, Mrs. C.W. Munga, Senior Clerk Assistant, Mrs. F. Abonyo, Clerk Assistant II, Mr. E.M. Yesse, Clerk Assistant I, members of the HANSARD staff and Ms. C. Mwambua, Clerk Assistant.

Mr. Speaker, Sir, I would also like to thank the Office of the Auditor-General (Corporations) beginning with the Auditor-General himself, Mr. W.K. Kemei, Mr. E.N. Mwai, Deputy Auditor-General, Mrs. P.N. Komora, Director of Audit, Mr. Philip Omondi, Deputy Director of Audit, Mr. E.N. Wambugu, Deputy Director of Audit, Mr. L.R.O. Majiwa, Deputy Director of Audit, Mr. Peter Obado, Assistant Director of Audit and Mr. P.G. Ndung'u, Principal Auditor, Mr. E.O. Osaho, Senior Auditor, and Mr. Z.T. Komora, Senior Audit.

Mr. Speaker, Sir, I would also like to thank officers from the Department of Government Investment and Public Enterprises beginning with Mr. George Mitine, Investment Secretary, Mr. C.S. Barasa, Under-Secretary, Mr. J. Wekesa, Under-Secretary, Mr. S.M. Kitunguu, Acting Senior Economist, Ms. P. Gathirwa, Chief Accountant, Mr. J.K. Mahinda, Acting Chief Accountant, Mr. F.W. King'ori, Assistant Secretary, Mr. J.M. Akoyo, Assistant Secretary, Mr. F.N. Achola, Accountant I, and Mr. M.A. Okuni, Acting Accountant I.

Finally, Mr. Speaker, Sir, I would like to extend our gratitude as a Committee to what we call the "Big Five", that is the Permanent Secretaries whom the Committee always meets at the end of our sittings to review the major policy issues, the Committee's recommendations and the Treasury Memoranda, its implementation schedule. The "Big Five" are the Permanent Secretary, Office of the President and the Head of the Civil Service and Secretary to the Cabinet, the then Prof. Philip Mbithi, the Permanent Secretary, Treasury, Mr. Ben. Kipkulei, the Permanent Secretary and Director of Personnel Management, Mr. Gaylord Avedi, the Permanent Secretary in charge of Parastatals, Mr. Makau, and the hon. Attorney-General, Mr. Amos Wako.

Mr. Speaker, Sir, during the deliberations of the Committee, the Committee was non-partisan, and reached its decisions on the basis of unanimity, and made its recommendations on that principle. The Committee was fair and impartial in dealing with all Chief Executives and other witnesses called to give evidence before the Committee.

The Committee, Mr. Speaker, Sir, was diligent in its work and did not have any problem with quorum for the 85 sittings that it had. The Committee received full compliance and co-operation from the State Corporations, and most Chief Executives did their best in response to the questions put to them. The Committee had one major problem with the National Social Security Fund (NSSF). The problem was created by the unwillingness and at times, downright stubbornness by the Permanent Secretary in the Ministry of Lands and Settlement, Mr. Sang, and the Commissioner of Lands, Mr. Gachanja; regarding the information that the Committee needed concerning the land that had either been sold to the NSSF at exorbitant prices or bought by the same Fund at equally astronomical prices thereby depriving workers of their valuable savings and the Republic of Kenya of available source of domestic investment and capital accumulation.

Mr. Speaker, Sir, I will, later on in my address go into the details of the affairs of the NSSF, the problems it has put this nation in by mis-investing public funds and in compounding the problem of land grabbing in this nation.

Mr. Speaker, Sir, the criteria the Committee set for its recommendations were established in advance and fully discussed amongst its Members. We also went ahead to discuss these recommendations with the "Big Five", and I am glad to say that the "Big Five" were in concurrence with our recommendations.

Finally, Mr. Speaker, Sir, the Committee in all its deliberations and workings sought to restore the authority of Parliament in the management of State Corporations. As such, the Committee resisted all attempts to be drawn into partisan party politics in trying to make sure that it performs its duties in accordance with the laws of the Republic of Kenya.

Mr. Speaker, Sir, it is in that framework that I now wish to make a summary of the Report of the Committee that is contained in these two volumes of our Report that has already been tabled in this House, and made a public document in the Republic of Kenya. The Report consists of the HANSARD, the Minutes of the Committee, and all documentary notes and records received in evidence. In this regard, it is important to verify many questions that may arise in this Report by referring to the HANSARD which is available in the Library for the use of the hon. Members, and if possible by consulting the Clerk of the National Assembly with regards to the Minutes of the Committee. It is important to make that statement, because quite often hon. Members are not aware that the records of the Committee are that vast and extensive.

Mr. Speaker, Sir, the Report also includes the Treasury Memorandum on the implementation status of the Fifth Report, hence, the Sixth Report must be ready in conjunction with the Treasury Memorandum which tells this House to what extent the Government has implemented the recommendations of those previous reports.

I would like to underline the fact that the Report is a public document and is available to the general public for perusal and use, and, hence, if the journalists or the "Fourth Estate" uses the Report at their own will, it is right and meek so to do, because the Report is a public document. While we, as hon. Members, are enjoined to discuss the Report in this House, members of the public are not thus enjoined to discuss with us in the House and, hence, they can discuss it in the mass media. That is what the law is.

The Report, I must say, although presented by me, is a collective effort of the Committee and I am sure that various members of the Committee will contribute to it and the hon. John Peter Mutere will second it as the current Chairman of the Committee.

Mr. Speaker, Sir, the Report is further based entirely on oral and documentary evidence received by the Committee. That is why it is so important that Government civil servants do appear before the Committee as required by law and give the evidence that this House needs to compile the Report and debate it. The observations and recommendations of the report have been summarised in the Executive Summary of the Report to make for easy reading and make for quick reference by both the House and the public who are reading the Report.

Mr. Speaker, Sir, as a general comment, therefore, I would like to urge the House that when they finally adopt this Report the Government side takes it as an important document of this House and ensures that the recommendation of this Sixth Report is an improvement of the recommendations of the Fifth Report.

Mr. Speaker, Sir, I will now go forth to discuss the major issues that are in this particular Report. The Committee dealt with the following issues of public concern and interest in the operations of State Corporations: corruption, fraud, misappropriation of public funds, mismanagement of State Corporations and public assets, irregular procurement that have led to gross losses to public corporations and hence lost opportunities for investments, irregular investments that do not lead to capital accumulation but rather to de-capitalising the public sector; poor co-ordination and control of public corporations and their departments; poor planning and implementation of plans and policies; unco-ordinated privatisation of public enterprises as a result of non-existence of clear policy guidelines debated and approved by this House to guide the privatisation exercise and finally lack of accountability, transparency and good governance in the running of public corporations.

The Committee found and established evidence of all these malpractices and shortcomings in the various State Corporations whose chief executives and staff appeared before it. This evidence is fully documented and recorded in the report itself and in the HANSARD both of which are available in our library. I will now deal with these issues one by one occasionally making reference to the Report itself for clarity.

Mr. Speaker, Sir, first, some of the State Corporations have been exempted from the State Corporations Act. The Committee, in its previous recommendation, has stated quite clearly that as a matter of policy the Committee on behalf of this House, is not opposed to exemption from the State Corporations Act. However, the Committee is opposed to blanket exemption. Exemption should be done on a case-by-case basis with reference to specific aspects of the State Corporations Act, giving the Government the opportunity to state before this House why a particular State Corporation is being exempted from the Act. We know that during the previous sittings in this Parliament, and I cannot remember when, the Government did introduce to this House proposals to amend the State Corporations Act. The Bill proposing the amendment of the State Corporations Act, was, however, withdrawn before it was debated before the House. Now, if the Bill had come before the House, we could then have revisited the issue of exemption and a new

State Corporations Act would have been clearer under what circumstances and with reference to what specific activities of a State Corporation, should that State Corporation be exempted from the Act. I will give an example. For purposes of profit making, recruitment of personnel and competition in the market place, banking institutions can be exempted from the State Corporations Act so that they are allowed to hire personnel and establish remuneration of that personnel not following the State Corporations Act but responding to the dictates of the market. That is something that the Committee supports and encourages. But it worries the Committee a great deal when the National Social Security Fund (NSSF), Kenya Railways Corporation, Kenya Ports Authority (KPA), Kenya Posts and Telecommunications Corporation (KP&TC) and Kenya Power and Lighting Company (KP&LC) which the Government has a share in there --- But it worries the Committee a great deal when proposals to exempt these Corporations from the State Corporations Act are given with reason that these corporations have to be privatised or restructured.

Mr. Speaker, Sir, these Corporations can be privatised or restructured without necessarily being "blanketly", if there is an English word like that, exempted from the State Corporations Act. I am sure the Government will appreciate the concern of the House and, indeed, for purposes of good performance and accountability to the public whose funds are in actual fact in the hands of these Corporations that recommendation should be taken seriously.

Mr. Speaker, Sir, total exemptions are not necessary but partial exemptions may be needed by some Corporations for purposes of trading, profit making and competition of hiring of personnel in the open market place.

Mr. Speaker, Sir, finally, exemption from State Corporations Act is not a substitute for bringing a Bill to this Parliament so that we can discuss and lay a law for the privatisation programme in this country. Even the recent problem that has rocked this, that is the problem of the Kenya Co-operative Creameries (KCC), where some people were saying that it needs to be decentralised because of privatisation --- Now, the KCC is a private organisation already. It is a member's organisation.

But, Mr. Speaker, Sir, people are talking a lot and confusing privatisation with liberalisation. The two are theoretically and factually different. If this House had, indeed, passed a Bill that laid down these terms very clearly in respect of where the memorandum of objects and reasons clearly stated how this Government was going to privatise public Corporations, we in this country would not have the kind of confusion we are having, which is causing totally unnecessary conflict in the nation. We in this nation have somehow specialised in discussing trivialities. Little things are raised to the pedestal of importance, and capture the attention of televisions and radios for a whole week. We are wasting productive time and good brains talking nonsense. If there were good laws, good procedures and things were discussed clearly, we would save time, energy and the adrenalin of people in this country, and we would have less cancers and stomach ulcers. But I am afraid to say that we have entered the era of "mad cow politics". I plead with this House that we stop this "mad cow politics", and hence enter a much more serious discourse on public policy issues.

Mr. Speaker, Sir, I will go to the second issue - the submission of reports and accounts. It is important that the procedures laid down for the operations of State Corporations be followed. One of the most important procedures is that State Corporations should submit their reports and accounts as laid down by the law. When they do this they make the work of the Public Investment Committee (PIC), programming of this House's work and their work easy. The law states quite clearly that annual accounts and reports of State Corporations are required for audit by 31st October, each year. This deadline is not always met by State Corporations. In fact, it is extremely unfortunate that during our last sitting the Kenya Posts and Telecommunications Corporations (KPTC) could not appear before us because it had not finalised its accounts in time. That is the reason we were given. That, in itself, is breaking the law, and the chief executive should be penalised accordingly. You realise that the KPTC alone controls about 67 per cent of public investments in this country. The KPTC is one of the largest employers in this country. Kenyans used to be very proud of the KPTC. In fact, one of the jobs I myself aspired to when I was a primary school kid was to become a postmaster. But I doubt very much whether my little son, who is only three years old, will want to be a postmaster when he grows. I think one of the last things that would occur to him today when he sees the sentence on television "when I grow up I would like to be this and that" is to say "when I grow up I would like to be a postmaster". Even as we prepare the KPTC for restructuring and privatisation of some of its operations the Corporation must begin to put its own house in order. I am afraid to say that a young and capable Kenyan who was appointed the chief executive of the KPTC hardly lasted there for a year or two. He was then shunted off to be an ambassador in Japan. It is my submission, having met this Kenyan in the PIC meetings, that he was the right material for putting that Corporation in order. Immediately he departed we went to the stone age period in the running of that Corporation. The Government is aware of the name of that young and brilliant Kenyan, who was on the track in putting back that Corporation to working properly. Precisely because he was trying to do a good job he could not last in the Corporation. This is the tragedy of the "mad cow politics of our nation". A man who is competent, who was trying to put a State Corporation in order, and was preparing it for proper restructuring and privatisation of some of its operations was removed from doing an honest day's work, and was given a sinecure job as an ambassador. This is a complete travesty of

development ethics!

Mr. Speaker, annual accounts and reports are required to be audited by the Auditor-General (Corporations) (AGC) by 31st January each year. But this deadline is not always met because of delays in the submission of reports and accounts by the State Corporations for audit. The audit process takes a long time. If State Corporations do not obey these rules by submitting these things in time they will make the work of AGC very difficult. The Hon. Minister for Finance, my dear friend, Mr. Keah, is an accountant. I know that these things pain him as an Assistant Minister in the Government. Having done audit himself, he knows how long it takes. I am pleading with State Corporations to realise that these dates were not put in the law as some cosmetics: They were put in because we were responding to a certain process, which is technical and takes time. It is provided in the law that should a Corporation need extension of time in the submission of accounts and reports for auditing, it can seek that extension from Parliament. It can submit a request to the AGC, and if the need arises that request can be brought to Parliament for approval. It is amazing that for all the time I have been in the PIC not a single State Corporation has sought Parliament's permission for extension of the deadline for submission of the annual report and accounts for audit. In this report we have made it very clear that in the next season of implementation of this report we would like to read in the next Treasury Memorandum that the problem of failure to submit accounts for audit on time has been solved.

Thirdly, let me go to the thorny issue of misappropriation and mismanagement of State Corporations. Misappropriation of funds and mismanagement of Corporations go hand in hand. Quite often, Corporations are mismanaged so that that can be a camouflage for misappropriation. If you do not deal with problems of proper management, which is good governance, you cannot also deal with the issue of misappropriation of funds, which is bad governance.

Mr. Speaker, Sir, the Committee observed with very deep concern, that, some of the current Chief Executives and former Chief Executives were involved in glaring mismanagement of their Corporations and misappropriation of the finances of State Corporations. As a Committee, we were very careful to receive evidence, over and over again, before we made this kind of statement. Because, this statement is very injurious to the persons holding this office, and, hence, as Committee, we would not like to make this kind of statement without evidence. We would also not like anybody to sensationalize these issues without reference to the evidence. We would also not like any final decision to be made while this report is before the House in any other quarter other than this House. Hence, as a Chairman of the Public Investments Committee that produced this report, I have dutifully resisted any discussion of these matters until such time, that, this House as by law established, properly adopts this report and makes it an official document of this House.

[Mr. Speaker left the Chair]

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

The Fourth Estate, however, this being a public document, is free to discuss it outside this House. That discussion, cannot, in any way, whatsoever, cloud our sense of punctiliousness in presenting evidence to this House. Where there has been *prima facie* evidence of fraud, the Committee has in the past recommended appropriate action by the Corporation in consultation with the Attorney-General. The Committee, however, observed that such recommendations have not been properly acted upon by both the management of State Corporations and the Attorney-General's Office. The Attorney-General has on his part, claimed that officers of the law that should do further investigations in this work, have been slow in furnishing him with further evidence. This is absolutely no excuse on the part of the Attorney-General, because, the Government of Kenya is expected to hire and fire. Where officers of the law cannot produce evidence in the time required, for acts of misappropriation or for the breaking of the law to be put an end to, the Kenya Government is competent enough to ensure that such officers are either replaced or they are compelled to do their work in time.

Mr. Temporary Deputy Speaker, Sir, I will be the first to argue very strongly, that, the police force should be given proper equipment, proper remuneration, proper terms of service, so that law and order in this nation is indeed observed. But, when the people in power themselves do not observe and uphold law and order, who is a policeman to uphold law and order? This therefore, is a joint venture. We either have good governance from the top to bottom or we do not expect it at all from any lower echelons of the Government. When it comes to State Corporations, the excuse that my dear friend the Attorney-General is giving, I would say, that, the Government should go two, three or four extra miles, to ensure that when such evidence is produced in a report where the Committee sits carefully for about nine months to produce, the implementation of those recommendations should be done expeditiously.

Mr. Temporary Deputy Speaker, Sir, I will refer for example, to the National Social Security Fund, the Kenya

Ports Authority, the National Housing Corporation, the National Cereals and Produce Board, the National Council of Science and Technology, the Kenya Research Institute and Nzoia Sugar Company. All of which in this report, have been poorly and terribly mismanaged and, all of which are affected by the virus of corruption and misappropriation of public funds. Later in my address, I will go into details on the extent to which misappropriation and mismanagement has affected these particular Corporations, so that this House and the people of Kenya can see vividly what the Committee is talking about.

Mr. Temporary Deputy Speaker, Sir, the Government has definitely been proud of the fact that, in the case of the Tana and Athi River Development Authority, Mr. Alfrick Birgen who was a former Chief Executive was brought before the law and convicted of misappropriation of public funds. This is a case that dates back to 1993, when the Committee started pursuing it.

Mr. Temporary Deputy Speaker, Sir, while I applaud the Government for finally making it clear to Mr. Birgen that this is something he could not get away with, I would like to inform the Government that, Mr. Birgen should not be the sacrificial lamb. As the famous saying goes: "We have many Birgens." And, if natural justice is to be followed, those other many "Birgens" should expeditiously be brought before the law, and, they should answer for the misappropriation of public funds whose evidence is contained in the fifth and sixth reports of the Public Investments Committees. I will, subsequently, in discussing those particular State Corporations, mention these many "Birgens" by their names, as Archbishop Kuria, once said: "People are known by their names."

Mr. Temporary Deputy Speaker, Sir, there was evidence of mismanagement of public funds and other resources as I said, in the National Social Security Fund, Kenya Ports Authority, National Housing Corporation, National Cereals and Produce Board, the National Council of Science and Technology, the University Students Accommodation Board, Nzoia Sugar Company, the Jomo Kenyatta Foundation and the list continues. There was also evidence of lack of internal audits and checks in the Kenya Ports Authority, the National Social Security Fund, Kenya Posts and Telecommunications Corporation, the Nyayo Tea Zones Development Corporation, the Nyayo Bus Company and many others. The lack of internal audits and checks is extremely important. Proper internal audits and checks is the first litmus test of the proper management of any organization, be it a public Corporation or a private Company, whose intention is that, either it should make profit or it should ensure that the resources at its disposal are not wasted. For example, I do not expect the National Hospital Insurance Fund or the National Social Security Fund to have as their major objective, profit making. But, I expect the National Hospital Insurance Fund and the National Social Security Fund to have as their objective, the proper use of public funds put before them, as a source of ensuring that our health services are properly run.

Two; as a way of ensuring that this nation has domestic savings for purposes of investment and capital accumulation. I do not know how many times I will stand in front of this House and make this point. This nation has a goldmine in the National Hospital Insurance Fund (NHIF) and the National Social Security Fund (NSSF). On these Funds alone, this country can be industrialised. Singapore did it, so did Mauritius and the Scandinavian countries. Contributions to the NHIF and contributions to the NSSF is a daily affair. It is a receptacle open on a daily basis, where money is put without let or hindrance and where most of us do not claim that money for ages. When I take my kids to hospital, I do not bother with the NHIF because I am insured by African Air Rescue (AAR), whatever crooks they are there. I am sure many hon. Members of the House have never claimed NHIF because we are doing this for prosperity, we are doing it for the nation, and we are doing it so that our health services can be properly run as this is a social good. Indeed, that is the first principle of social democracy.

Mr. Temporary Deputy Speaker, Sir, the NSSF, means that once you subscribe to it, you should be able to have a mortgage, be able to send your kids to school and be able to have health insurance. That is why it is called social security. The phrase "social security" means that you are secured against all kinds of social ills that affect you as a citizen. Some of the things which affect you and which are basic needs are housing, health, food and security. So, if Kenyans are contributing to these funds and somebody gets millions of the money to buy a quarry near the airport, which is worth nothing, where they are not going to invest a pittance for the next donkey years, this is a crime of the highest magnitude, and Kenyans should rise up and oppose it.

Mr. Temporary Deputy Speaker, Sir, when then this Government invites the World Bank and the International Monetary Fund (IMF) to come and help them in what is called Structural Adjustment Programmes, because they cannot pay their debts, they cannot meet balance of payments deficits, but they are misusing a fund which is right here on the hill and on getting that money, we are buying quarries--- The World Bank and IMF are also fools, they should pack up their bags and leave. There is nothing being restructured here. What we need are good lessons on Economics 101, which I learned at the University of Chicago. These "characters" will need to go to the University of Nairobi for basic Business Education.

Mr. Boy: Which characters?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, the ones sitting in front of me.

Mr. Boy: On a point of order, Mr. Temporary Deputy Speaker, Sir. I did not want to interrupt my learned friend. But, are we "characters", or hon. Members of Parliament?

Mr. Mulusya: Are you yourself learned?

Mr. Juma Boy: What do you think? Am I speaking Kikamba here? Where did I learn Kikamba from? Is Prof. Anyang'-Nyong'o in order to call us "characters" instead of calling us hon. Members of this House?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, the hon. Juma Boy is an old Member of the House. So, are they all sitting in front of me, hon. Members. But beyond me, beyond the walls of this House, are "characters", who are running this State. So, I hope hon. Juma Boy does not feel guilty because I am actually referring to people sitting much further than here. But if he wants to be included in that dishonourable company, he is welcome.

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

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

Mr. Temporary Deputy Speaker, Sir, there was also evidence of poor investment of surplus funds at the Kenya Industrial Estates (KIE); poor feasibility studies in Kerio Valley Development Authority; poor procurement procedures resulting in corruption, fraud and loss of public funds and other resources in many public corporations, not just the NSSF. One of the biggest losses, when it comes to procurement and fraud, was in Nzoia Sugar Company. What worries me a great deal is that a person who has been an hon. Member of this House, who has been an hon. Minister in the Kenyan Government, is now being rehabilitated by the same Government under this disease, "*mad cow politics*" to once more see the daylight in the public realm of our nation and continue with the same sins that he committed in the Nzoia Sugar Company. This nation knows whom I am speaking about. He then held the portfolio of the Minister for Agriculture and he presided over the poor procurement of equipment worth US\$86 million at the Nzoia Sugar Company. This equipment proceeded to be imported into the Republic of Kenya, and not to be used for the modernisation of that factory. Some of this equipment lay in the high seas and the Port of Amsterdam for months when the Kenyan Government had already been debited for procuring these things. When the Treasury was busy servicing the loan, the company for which the equipment was imported had neither installed the equipment nor used it for the expansion of the factory. The whole idea was that Nzoia Sugar Company gets a loan through the auspices of the Exim Bank of New York to procure equipment by Arkel International of the United States of America so that this equipment could be installed in Nzoia Sugar Company to expand the production capacity of that company from 3,000 tonnes per day to 7,000 tonnes per day. This is a proposal that was indeed, very decent and to be expected in a developing country, especially in an area where there is so much sugar production, where the peasant producers depend on that sugar for their livelihood. While this arrangement was there, Arkel International went ahead to import this thing, but not to install it precisely because of disagreement between Arkel and Nzoia Sugar Company; a disagreement engineered, presided over and, indeed, blessed by the then Minister for Agriculture, the dishonourable Elijah Mwangale.

I shudder at some of the consequences of our "*mad cow politics*" that a man like this, instead of being brought to book, to answer for US\$86 million, not Kenyan Shillings, worth of taxpayers' money in this country, should have the temerity of showing his face as a possible public character in our nation. To add insult to injury, the former Chairman of Nzoia Sugar Company, whose name I do not care to remember, when the Kenyan Government took Arkel International to court, in the International Court of Arbitration in Paris, decided to be the chief witness, to give evidence for Arkel International against the people of Kenya, knowing full well that he personally benefitted and, indeed, waxed rich as a result of this terrible procurement, which was done under fraud and corrupt intention under Nzoia Sugar Company.

The Committee visited Nzoia Sugar Company and saw the trucks that were imported from the United States of America for use by the farmers in the area and the factory. These tractors could not run on our roads.

Mr. Temporary Deputy Speaker, Sir, these tractors had no backward facilities for maintenance in Kenya. There were no facilities for procurement of spare parts for these tractors in Kenya. One of the first rules of procurement is that, when you are procuring something like a vehicle, you make sure that you can service it and that there are spare parts for it, especially if that equipment is to be of use for the company on a day-to-day basis. I do not mind if you are importing a very high tech-computer which is only manufactured by Car International in Japan and the good is guaranteed not to breakdown for four years, if you are using that kind of high tech-new engine equipment, then indeed, nobody would blame you if you say that there are no service facilities here. If you need a Jeep

from Japan it can be flown in a minute. But, in case of a tractor, how are you going to fly in a whole tyre, a whole rim from Kansas?

Mr. Temporary Deputy Speaker, Sir, the case of Nzoia which I will revisit subsequently in details cries for attention. The Committee realised the importance of what happened in Nzoia and ordered an Inter-Ministerial Committee to look into the matter. The Committee proceeded and gave that Inter-Ministerial Committee very clear terms of reference to look into the matter and report to the Committee. I want to report to this House that, that Inter-Ministerial Committee that involved about 11 Ministries, including the Police and CID did a marvellous job, their report which is contained in our report and our discussion on that report, which is in this report, is a must reading for all of us. Their report made us arrive at very succinctly recommendation with regard to Nzoia.

Mr. Temporary Deputy Speaker, Sir, I am proud to say that the work we have done together with Members of that Inter-Ministerial Committee, will help the Government to sort out issues and bring to book the individuals who are responsible for this dastardly act. If the Committee and this House and the Government can co-operate in that manner and ensure that our public corporations are properly run, and when things go wrong, we are man enough and woman enough, and we are big enough to get together and put it right. I am quite sure that we shall make big strides in development. In that regard, I would like to say one; privatisation by its very nature is not the Alpha and Omega of development.

Public corporations can be well run, can be profitable, can serve the public good as well as private corporations or private companies. But one thing is certain, whether in public or private sector, when you are managing a corporation, you must do it well. You must be committed to your work, you must hire qualified people. You must hire people on merit, you must have rules that work, and you must run your financial accounts properly. You must report things according to the law; you must not use the public corporations for private good; you must not allow the "sharks" in the Government to use that corporation to finance elections, to build houses and to marry more wives. Our Public Corporations have just become banks for the sharks in Government and this nation must realise that we will not go anywhere by privatising, if you do not remove these sharks from the Government. The sharks, whether you privatise or not, will continue ruining this nation and stopping this nation from becoming a newly industrialised nation by the year 2010.

Mr. Boy: Prof. Anyang'-Nyong'o!

Prof. Anyang'-Nyong'o: Juma Boy Juma! Mr. Temporary Deputy Speaker, Sir, let me go to a specific case.

The National Social Security Fund Project is an illustration of what I have been saying. First, in this report, there is a detailed evidence received and recommendations made regarding the contract for all the renovations of the National Social Security Fund house. That contract was unsigned. The very legal documents on which the National Social Security Fund house was to be renovated was unsigned and, therefore, irregular. Since it was unsigned and irregular, it resulted in the escalations of the cost of the project and attempts by the Committee to ensure that the escalation which the contractors and the architect received was refunded was finally defeated because the very contract was not signed.

Was that deliberate? Was this by intention, was this a conspiracy between the trustees and those who were supposed to be renovating that building? We can only hold the Chief Executive and the Government responsible for this kind of mismanagement result to tremendous loss of public funds. For Example, we did take up the case with the architect on why he was being paid some money for architectural fees and we did take up the case with the contractors on why they were being paid enormous acceleration fees, we did discuss these issues with the "Big Five", and the conclusion was that the architect did not deserve the money that he was paid nor should the Fund have paid acceleration fees, but the Funds unfortunately, did not do its homework properly because the very documents that it was dealing with were unsigned.

Mr. Temporary Deputy Speaker, Sir, the Committee wanted to go into these details because in order to put things right, you must argue from facts. Yapping in public platforms about corruptions this and that without putting the facts squarely and straight to the Government is not going to help anybody. I am not of that opinion, but I am also of the opinion that when these facts are put before the Government, they should accept it. On the basis of those facts, you begin putting your eyes and on the basis of those facts you begin removing from position of authority persons and individuals who cannot perform. But this Government has specialised in the practice of moving one incompetent Chief Executive from here and taking him to another position equally powerful, thinking that in that position he is going to perform better and continues to perform poorly and the Government never has the courage or the merit to fire him from the public office.

Mr. Temporary Deputy Speaker, Sir, I have to give the example of Singapore again. In Singapore, they hire extremely qualified permanent secretaries and chief executives so that they make sure before you occupy a senior position in the Government, you are taken to the best schools, if you have good brains in high school and in college, they will pay for your education in Harvard and Cambridge.

An hon. Member: And Oxford!

Prof. Anyang'-Nyong'o: You name it! When you come back, you are given a responsibility and paid well. But should you lift a cent from the public coffers, you are banished for life, from holding any public office. In fact, there are times when you are even caned and sent to prison and then you do not hold any public office after that. The penalty for misappropriation of public funds is extremely high, but the reward for doing a good job in Government is equally high.

Mr. Temporary Deputy Speaker, Sir, our Government is saying that it is reforming the Civil Service, but you find that a PS who retired in 1974 is earning a monthly pension of Kshs4,000. What can Kshs4,000 do today? That Kshs4,000 was fixed 20 years ago and its buying power has completely gone down. So, if you are going to retire people in the Civil Service in reforming the Civil Service, revise your pension schemes first; bring a Pension Bill to this Parliament that makes sense! Make sure that when somebody is in public office, he is not worried of tomorrow so that he begins taking money from the public because he is running his own pension programme or owning and running more houses, more bank accounts abroad and so on. Those are the pension programmes that he views, but they go beyond pension. They want to live 100 times better than what they can afford from the sweat of the public. These things are interconnected.

So, I am telling the Government that, one, the only way we shall stop this sleazy factor in public office is through having a proper reform programme of the Civil Service, proper remuneration of public officers in office, and a proper social democratic agenda for the nation, including pension programmes from the lowest to the highest cadre of employees. In this way, then many of us will contribute to the pension scheme because we know that when we retire, we shall benefit from it, but if we do not have a proper pension scheme, we are not going to deal with a sleazy factor in public office.

Mr. Temporary Deputy Speaker, Sir, 48 pieces of land were acquired by the National Social Security Fund (NSSF) at escalated prices totally Kshs17,956,608,930. Those 48 pieces of land were bought by the NSSF at what we determined as escalated prices. This constituted, and this is important, 60 per cent of the Fund's total investment. Now, I want this House to understand the economics of this. According to the NSSF Act, which this House passed and which exists in the Laws of Kenya, the NSSF is not allowed to invest more than 20 per cent of its investments portfolio on land. That makes sense because, however precious land is, it only appreciates that much. Yes, it is quite reasonable for a Minister, a civil servant or an MP like myself, to say, "I would not bother running a kiosk since I have about half a million shillings. I will buy half an acre in Runda and wait, in five year's time, it will be worth Kshs2 million". That is very irrational because you are only putting Kshs500,000 shillings there and waiting for two years.

As an individual, the economics of scale of your investments make sense, but as a public corporation which has many other opportunities of investment, it does not make economic sense to put 60 per cent of your investment portfolio in land. Why is this? One, were you to put that money in a fixed deposit account on call under the present going rate, you would, perhaps, earn 25 to 26 per cent interest on it, and you are free to call that money any time and invest it in any other thing that is in the market, and especially when there is privatization going on. Somebody will say, "Kenya Airways has shares, and it is doing well on the Stock Exchange". You can call your money from the fixed deposit account, buy those shares which you are also free to sell any time you want. So, you have more freedom using the capital you have for investment for making more money than putting it in land whose value can collapse any time should there be a civil war. In any case, you can also not develop all the pieces of land at once in an year and make use of the profit. There is a time lag when you can invest in all that land. In any case, we can see now that the market is saturated with maisonettes and flats, but it is only that much room. It was foolish for the NSSF to put 60 per cent of its investments portfolio in land, especially when it was paying ten times more than the market rate usually for what it was buying. We have evidence to that effect in this report. The issue of this misinvestments requires more discussions, and I will come back to it before I finish talking. What is even more painful is the retirement benefits of NSSF subscribers. They cannot usually be settled because contributions are put in what is called a suspense account. We heard evidence at times when the Suspense Account had more than Kshs1 billion in it. This is a source of corruption because when money is in Suspense Account, it is earning no interest. You know the money is there and somebody can easily go to the Suspense Account, withdraw that money, and use it elsewhere provided it is returned in time. The use of Suspense Account for keeping so much money must be discouraged especially in the NSSF. Where the Government is now restructuring and retiring people, they need to have access to their retirement benefits promptly. If the NSSF argues that it has no proper computer facilities to run its affairs, this argument has been on since 1993 when I joined the Public Investments Committee and it can no longer be tenable. Let me go to the other issue; the administration of our universities. There was evidence of maladministration of the national universities and unnecessary deployment of the police in the internal disputes of the university community. This House was happy today when the Minister for Education, hon. Joseph Kamotho, said that the Government cannot force the universities to have a quota system in the universities because they are governed by their Acts; the University of Nairobi Act, Moi University Act, Kenyatta University Act and you-name-it. These Acts specify how the universities are to be run. They

should be autonomous because there is something called academic freedom. Academic freedom is not equivalent to being licentious, to say that the university can say anything. That is not the meaning. Academic freedom means that an atmosphere should be created in the university where the production and reproduction of knowledge is done by those who have been called upon by their preparation and mentioned so to do, and that the passing of this knowledge should not be encumbered by any bureaucratic ideology or state interference. That is where it is the case that universities have to deliberate on ideologies as a province of knowledge, or as what is called a pre-knowledge. They should, under Acts so established by the State and by Government, do so freely.

There is evidence of internal disputes in the universities. The universities have a system of dealing with these disputes. But before any explanation and consultation is properly done, the police are called in to settle the disputes. The police do not even have time to know who the disputants are. I remember at one time when I was teaching at the University of Nairobi, I was driving from my house to the university. I saw the police around and I stopped at the entrance of the university. I went to ask them what was happening. The first thing I knew was a baton on me. They told me: "You are one of them!". They did not even ask me whether I was sympathetic to their mission or not. Quite often, this is not the mistake of the police, but it is because they are called in without proper explanation as to what is actually happening and what it is that they are coming to settle. In the end, this results in a lot of destruction of public property in the university. Then students are sent away and called back on condition that they pay for this destruction. This is just compounding the problem. The end result is that the university is closed for many months and hours are lost for educating these students. The taxpayer finally losses. So, when the universities come before the Public Investments Committee, first of all, they explain to us that they had to spend more money replacing the equipment destroyed because of riots. Our response is to tell them that they should have prevented these riots in the first place, by good administration and consultation, and by respecting the autonomy of the universities, as by the Act established.

Secondly, regarding the universities, the Committee noticed the backlog of students intake at the universities as a result of these disruptions that I have talked about. This is causing a lot of stress to families. It is creating what I call: "false unemployment". Why do I call it false unemployment? Students graduate from high school and expect to go to the universities. They have to wait for two years during which they really do not know what to do. There is no opening in the economy that says that for two years, we have openings for those expecting to go to the universities. No employer will hire you, knowing fully well that in two years time, you are going to the university, except some NGOs and charity organisations, and they are not many. So, we have a whole backlog of young people sitting in towns, in the countryside, creating a high dependency ratio in our families, leading to misuse of savings by families because they are actually supporting unproductive people. This is poor economics. I think it is one of the things that is causing a lot of problems in our public universities. If anything, we should think twice now and address it, rather than expect it to be a continuous problem in our nation and, hence a big drawback to our attempts to develop.

Mr. Temporary Deputy Speaker, Sir, let me go to the privatisation process. The Committee observed with concern that there is no policy framework and uniformity in the privatisation process, hence, there is lack of transparency and accountability in the disposal of public assets. These words; transparency and accountability, as the great grandson of Koitalel knows, should not be used loosely, nor should we just mouth them for the sake of mouthing them. They have a meaning.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. arap Saina): Mr. Temporary Deputy Speaker, Sir, I am not interrupting the hon. Member on the Floor, but he called my name. I do not know in what connection. I did buy one of the 48 pieces of land, and I hope there is oil in one of them.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I just wanted the hon. Member to offer that useful information to the House. He has alleged that one of the reasons why land is being bought left, right and centre in this nation, is because people expect oil from anywhere. This is part of the "*mad-cow-politics*" I am talking about. There can be no oil in Upper Hill! There may be oil in North-Eastern Province, but they are not buying land there. They are just grabbing without paying anything for it. It is not part of the privatisation programme. But I am grateful for the information, and the House is equally grateful.

Mr. Temporary Deputy Speaker, Sir, I was talking about the absence of a policy framework. When the Committee asked the Government to put before us the policy framework for the privatisation process, we were given a blue document which was prepared by the Office of the Vice-President and Ministry of Planning and National Development and the Ministry of Finance in 1992, which was supposed to guide the privatisation programme.

It is that administrative document that set up the Executive Secretariat and Technical Unit (ESTU) of the Privatisation Reform Programme (PRP). The ESTU of the PRP was established by an administrative document and not an Act of Parliament. But if you go to the State Corporations Act and various Acts establishing various public corporations, you will find specific statements clarifying how public assets have to be disposed off. The Act says: "In the event that this corporation goes bankrupt, or in the event that it has to sell some of its assets, or in the

event that it has to expand its investments portfolio in one way or the other, there are certain legal procedures that should be followed".

Indeed, there are certain public corporations which require an amendment to their Acts before they dispose off their assets. The Government, rather than bringing a Bill to Parliament, amending or repealing the State Corporations Act, so that the privatisation programme does not contravene the law as established, went ahead and wrote this administrative document that created the ESTU of the PRP and gave the director or the Chief Executive of the ESTU certain powers that, for all intents and purposes, contravened the State Corporations Act, together with the various Acts establishing various corporations.

Mr. Temporary Deputy Speaker, Sir, in 1994, the Government did bring in this House various Bills that were meant to amend the State Corporations Act, The Exchequer and Audit Act and about two or three other Acts. But I remember in particular, the State Corporations Act and the Exchequer and Audit Act (Amendment) Bill, because I commented on them extensively and had an exchange with Mr. Mitine, who is the Investments Secretary.

In commenting on those Bills, my position was that they did not still make clear, first, what was going to be the relationship between the Chief Executive of the Executive Secretariat and Technical Unit and the PS in charge of investments who is called the Investment Secretary. Secondly, my observation was that the amendments, as presented to Parliament, were no substitute for bringing a Bill to this Parliament to lay a solid basis for the privatisation programme.

This position has been discussed extensively in the PIC and we have gone further to recommend that a proper Bill be brought to Parliament for privatisation. The Government should understand that this is not just a question of us trying to be difficult; we are trying to make it possible for these things to be done legally and properly. I will give you two examples where we ran into tremendous problems; one, when the Kenya Airways was selling its shares and the Government wanted the taxpayer to take over the liabilities of the Kenya Airways amounting to Kshs4.5 billion. The law requires that the Minister must bring to this Parliament a Sessional Paper which should be approved before that is done. A paper was hurriedly written, brought, but withdrawn from this House. The next time the House realised the liabilities were being assumed by the Treasury on behalf of the taxpayers and this House had no authority whatsoever to say anything more. This was plain illegal.

Secondly, when the ICDC was selling its shares in General Motors and Sameer Investments bought those shares under what was called Preferential Rights. If you read the Act establishing the ICDC in 1960s, it was established to ensure that Kenyans who did not have the capital had intermediation of the State to enter into industrial investment. That ICDC will be a body that will help the up-coming investors and will help the expansion of capital in the industrial sector, so that we would have indigenous businessmen who then did not have capital acquire that capital. So, the ICDC mission was both economic and social.

If you read the history of all countries which have industrialised, this is always done. There is no time that you expect a society coming from a pre-industrial age can enter the industrial age without the intermediation of the State. What is important is that the State should do that efficiently and with proper management. Now, the funds that the ICDC put in General Motors, the ICDC did so as a public trustee, on behalf of the public. So, when the ICDC is selling those shares to the public, the public should have preference. If the law says that the ICDC is a minority shareholder, so the other shareholders should have preference, obvious, the law must be re-examined. I know that the Minister in the last budget speech appealed and even last year appealed for companies to soft-peddle on Preferential Rights and ensure that when they are selling their shares give considerations to Kenyans. Its only the Aga Khan who has honoured that request in the matter of Serena Hotels, very few others have responded. And that is why it would have been important right from the beginning to bring a Bill to this House so that all these issues are discussed, so that we have more brains bringing in their contributions as to how we can deal with these problems.

Finally, to demonstrate how fussy the whole thing is, the recent issue that KCC, KANU Parliamentary Group met and said because of privatisation, KCC should be decentralised. Surely, KCC, as far as I understand, is owned by farmers. If they said because of liberalisation, KCC should be decentralised, that would, perhaps, be excusable. But even under liberalisation, you do not tell a private company what to do. If you want decentralisation, create your own company, enter the market and compete. Liberalisation means that the market is open for anybody who wants to compete; you do not go and grab what is already created as yours in the name of "liberalisation." That is not liberalisation, that is destruction.

Secondly, in the name of liberalisation, you do not use State power to take what somebody else has created. Companies, private concerns are created by what is called "entrepreneurship." Entrepreneurship means an individual has the skill, the imagination to put to risk scarce funds in an enterprise which that individual believes in a year or so will multiply. The process of multiplication is called accumulation. You do not get what somebody has accumulated, when it is already accumulated using State power and take it. You will find that you do not know how to run it because the process of accumulation is a management skill. And you do not just see something created and say that is

very good, you are taking it. If you do not have that management skill, if you do not have the knowledge of the market you are dealing with, you are only going in to destroy what has already been created.

Mr. Temporary Deputy Speaker, there once lived a man called Reuben Chesire. This man led a farmers' organisation called Kenya Farmers Association (KFA). Those were the days before liberalisation and privatisation. In fact, those words were not even known in the vocabulary of hon. Members sitting in front of us then. Now, of course, they are common garden facts. Somebody did not like or somehow did not fancy my dear Reuben Chesire, but wanted a piece of reaction in the KFA. So, this somebody imagined that if he changed the name of the KFA to Kenya Grain Growers Co-operative Union (KGGCU), then they would take it. So, KFA was turned to KGGCU and was taken. Many years later, and we have evidence in this Report, KGGCU was grossly in debts to everybody, National Cereals and Produce Board (NCPB), Nyayo Bus Service Company and so on. Turn anywhere, and KGGCU was in debt. "The golden egg was no longer being laid." So, they said, "in, comes KFA, out, goes KGGCU," but the wealth that KFA had created for many years was destroyed and people started regretting why they ever fancied Reuben Chesire and KFA. That is a lesson that should be learned in the matter of KCC verses others who will never come before the court.

Mr. Temporary Deputy Speaker, Sir, the Executive Secretariat and Technical Unit of the Parastatals Reform Programme Committee has been constituted under very fussy legal framework and with no proper demarcation of responsibilities. One of the reasons why our Privatisation Programme is locked up in a mess is because the way the Executive Secretariat and Technical Unit of the Parastatals Reform Programme Committee were established lacked clear legal foundation, and its officers do not know what they are doing, and responsibilities are not clear. There are cases where we found out that a parastatal was being privatised, that is, the Milling Corporation of Kenya, and the two Government bodies which had shares in the Milling Corporation of Kenya did not even know what was happening. A decision was made one night to sell the Milling Corporation of Kenya to a certain company when the National Cereals and Produce Board, which is one of the then owners of the Milling Corporation of Kenya did not even know what was happening, and even the Industrial and Commercial Development Corporation (ICDC) did not know what was happening, and yet, on record it was said that:-

"The Board of the National Milling Corporation of Kenya met and decided".

How can the Board meet without the representatives of the two organisations that own the Milling Corporation of Kenya? There started a long story when the Committee ordered a special audit of the Milling Corporation of Kenya by the Auditor-General (Corporations), and that Special Audit Report was tabled in this Parliament. The Special Audit Report said quite clearly that the Milling Corporation of Kenya was not properly sold and that the selling of the Milling Corporation of Kenya to whosoever should be nullified. It was "looted"!

What is interesting, Mr. Temporary Deputy Speaker, Sir, is that the people who apparently bought the Milling Corporation of Kenya moved into the premises without paying a cent, and run it for a year, or so without paying a cent, and in the end, from what they had accumulated as profit, they now argued that they could pay for the purchase of the Milling Corporation of Kenya. Really, Kenyans are not that stupid! You really cannot come in saying you are buying a public corporation, and you do not pay even a cent; and you run it for a year, or so, and make money. The Milling Corporation of Kenya is a very profitable enterprise, it is extremely profitable. It was worthy buying, but surely, it should have been done fairly. It should have been done transparently, and the people buying it should have been accountable to the people of Kenya. The Executive Secretariat and Technical Unit of the Parastatals Reform Programme Committee should have known what they were doing. But to tell us that it was sold when the NCPB and ICDC did not know what was happening, is a travesty of justice. And when the Auditor-General (Corporations) goes on and makes a special audit and tells us that it was not properly done; and the Government does not do anything about it, this defeats all the rules of natural justice.

The Committee, Mr. Temporary Deputy Speaker, Sir, has, therefore, clearly recommended that the sale of the Milling Corporation of Kenya should be cancelled. That, as I am fond to say, we should go back to the drawingboard and do these things better. But further than that, all those public officers who were involved in this travesty of justice should be made to pay. There is an individual whose name is in this Report, I think he is a gentleman called Lawi Kiplagat, who was then the Chief Executive of the Milling Corporation of Kenya, who was promoted to be the Executive Director of ESTU, the body in charge of privatisation when he himself had messed up the Milling Corporation of Kenya, and when we questioned him, evidence was produced that there was something wrong done.

Then the Government moves him from ESTU and transfers him to the National Housing Corporation where there is a tremendous mess, as this Report shows. First, it is unfair to poor Kiplagat. Really, if he was already in trouble in the Milling Corporation of Kenya, he is also in trouble in ESTU, and you take him to National Housing Corporation where there is a "den of thieves" in the matter of Kibera Highrise Apartment, which we referred to here, surely, he does not really have the moral authority to put things right in the NHC. The story is so long that sometimes I get tired of telling it, and the Committee was so frustrated, because the hon. Members could see what

needs to be done and we have recommended in the previous Reports, but the Government does nothing, Dr. Elon Wameyo!

Mr. Temporary Deputy Speaker, Sir, can you ask my former teacher, Dr. Elon Wameyo, the renown gynaecologist whose profession I respect, to respect my speech!

Mr. Temporary Deputy Speaker, Sir, the matter of the Milling Corporation of Kenya which was sold to Premier Flour Mills Ltd. at Kshs150 million instead of the highest bidder, the Kitale Industries which bid for Kshs195 million led to, at least, a loss of Kshs45 million to the Exchequer.

Mr. Temporary Deputy Speaker, Sir, let me go to the matter of corruption through procurement and tendering procedures. I have already referred to Nzoia Sugar Mills as a case in point, but I would like to make Nzoia Sugar Mills have company with other corporations which have done the same. The Committee observed with deep concern and deplored the manner in which certain State Corporations awarded tenders for goods and, services to what we called "dubious companies". They are really dubious companies. These are companies whose business profiles are unknown, and companies which got these tenders, because these parastatals did not invite open tenders in total disregard to the laid down tendering and procurement procedures.

Mr. Temporary Deputy Speaker, Sir, if you look at the State Corporations Act, and if you further looked at all the Acts establishing the various State Corporations, it is clearly stated that in the matter of tendering, it must be open tendering. But there are also provisos which are very clear. The various Acts do state that if the parastatal is making purchases up to a certain amount, then the Chief Executive can do it, in consultation with the Board. There are limits to the extent to which the Chief Executives, or their Boards can have qualified tendering, invited tendering and can identify a supplier for a certain limited sum of money. These are very clear, but there is a practice in State Corporations where open tendering, which is a method to limit and stop abuse of public funds and public offices has almost been forgotten.

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

[Mr. Speaker resumed the Chair]

Mr. Speaker, Sir, the following cases are outstanding examples where such underhand deals have no doubt been undertaken with fraudulent intentions. I will mention them. The National Housing Corporation (NHC), Kenya Industrial Estate (KIE), National Social Security Fund (NSSF), National Cereals and Produce Board (NCPB), Nzoia Sugar Company, National Council for Science and Technology (NCST), Kenya Tea Development Authority (KTDA), Kenya Airports Authority (KAA), Kenya Ports Authority (KPA). These are but the very outstanding cases. We indeed have other cases as indicated in the Report, but I would just like one, to highlight what I call the major cases. Let me begin with the National Housing Corporation. In our Report, on page 169, I want to refer to two cases involving the National Housing Corporation. These cases regard the sale of Lower Hill plots and buildings and the Kibera Highrise Phase Two Extension.

With your permission Mr. Speaker Sir, I would like to read:-

"On 26th November 1992 the National Housing Corporation sold through agents plots LR. No.209/7148 comprising of sixty two flats, two bungalows and twenty-seven staff quarters to the Corporations' consultants for Kibera Highrise Phase one, Two and Three at a price of Kshs52 million without the authority of the parent Ministry and without inviting open tenders".

Let me explain this. The National Housing Corporation hired what they called a consultant. The consultant happened to be a previous employee of the Corporation; somebody who resigned the day before the deal was made. He was an employee of the Corporation who resigned to set up his own consultancy firm to consult on the matter of Kibera Highrise Phases One, Two and Three and the deal was that the National Housing Corporation sells him plot LR. No. 209/7148 comprising 62 flats, 2 bungalows and 27 staff quarters at a paltry price of Kshs52 million.

So, Mr. Speaker Sir, we know Upper Hill where even Her Majesty's High Commission now is. If you are buying 62 flats there, 2 bungalows and 27 servants quarters first, you have to imagine what is the size of land that you are talking about. Surely, it is inconceivable that 62 flats, 2 bungalows and 27 servants quarters could sit on anything less than an acre. Now, the going rate of land alone in Upper Hill is that to buy one acre there, whether through Tysons without Habenga or Mugo and other real estate agents, I doubt very much whether you will pay anything less than Kshs50 million. I doubt. But the National Housing Corporation which is a public corporation sold 62 flats, 2 bungalows and 27 staff quarters to pay for consultancy for Kshs52 million. It is not that the Kshs52 million was coming into the coffers of the National Housing Corporation, but that Kshs52 million was in lieu of consultancy fee to this individual. Let us go further because the plot thickens. No valuation report from a firm of qualified valuers has

been made available for audit in order to confirm how the selling price of Kshs52 million was arrived at. Now, although this sale was to be in cash in order for the objective of creating a revolving fund to be achieved the Corporation later accepted to assign and set off Kshs28 million in respect of consultancy services on Kibera Highrise Phase III project which has yet to start from the Kshs52 million. It has not been explained why debts owed to the consultants on the Kibera Highrise scheme should be set off against this sale when Kibera Highrise Scheme is a Government-funded project whose funding is done by the Treasury. Now, you see the fraud.

First, the Kibera Highrise Scheme is a Government scheme. There is no sense whatsoever why the National Housing Corporation, even if it was asked by the Government to be the executing agency for the Highrise Scheme, should then hire a consultant for any services for the Kibera Highrise scheme. But what is worse is that this money was being paid in lieu of a consultancy fee for the Phase Three project which had not even started. In other words, this particular individual made an internal arrangement with the officers of the National Housing Corporation to be paid this money and, of course there must have been an understanding on who was going to get what cut. This is what is not spoken but if you are a sensible Kenyan then you know exactly what is happening. In the absence of open tenders and valuation reports, the Auditor-General(Corporations) concluded that " I have been unable to determine whether the Corporation obtained the best price in the market for the sale of the property". It was the opinion of the Committee that the Auditor-General (Corporations)(AGC) was being modest. We were of the opinion that it was not just the case that the corporation did not obtain the best price for the property in the market. We were of the opinion that the officers of the corporation deluded the Ministry and the people of Kenya and acquired this property for themselves under the guise of paying for consultancy. This is a fact. What is surprising is that our Government prides itself in having a very good intelligence system and having informers everywhere; it always tells us that the arm of the law is so long that you might be doing wrongs in a hole, but you will be found out. Our Government tells us this. But in broad daylight - indeed, even newspapers said it when it was happening - this was going on in the National Housing Corporation (NHC), and nothing was done to them. These individuals are walking scot-free in the streets, after pocketing precious money of the tax payer in this nation to the tune Kshs52 million!

Mr. Temporary Deputy Speaker, Sir, the NHC used to have a very good project, which was called: "The Rural Housing Development Project". This project was meant to give loans to school teachers, clergymen, university lecturers and ordinary Kenyans to build houses in rural areas. That project has been discontinued for the reason that the NHC no longer has funds for that kind of a thing. The question is: Why is it that the NHC does not have funds? The answer is that corruption is being practised by the people working in the corporation at the higher echelons, and not by the ordinary worker. This corruption is condoned by the parent Ministry. This corruption has the security system turning its eyes away from it. This is because it has become a culture in our Government that you "eat" where you work. It is even said that if you have been appointed a chief executive of whatever corporation, and you live like my friend Mr. Chemai, who was trying to do a good job in the Kenya Posts and Telecommunications Corporation, without putting something in your pocket, people on the other side of the world will say that you are foolish. I did not say that you said this, but I said that "it is said". Indeed, this is said.

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am rising on a point order to request hon. Prof. Anyang'-Nyong'o to tell us who has told people to "eat" where they work because as far as I am concerned, that is a policy of the Government. If he does not prove this, I would request that he withdraws the remark.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I am quite prepared to withdraw, but I would request the hon. Member to appreciate some knowledge of English. There is something called "indirect speech". In indirect speech you do not say: "I am going home". Instead you say: "Prof. Anyang'-Nyong'o said that he was going home". You can also say, without mentioning Prof. Anyang'-Nyong'o: "It was said that he was going home". So, I was referring to indirect speech.

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): On a point of order, Mr. Temporary Deputy Speaker, Sir. Right from the outset, I want to assure Prof. Anyang'-Nyong'o that, at least, I went to school and know that bit of English. But now we want to be explicit: Who said: "Go and eat where you work"?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I did not say it is a Government policy: I said that it has become a common saying in Kenyan parlance.

Dr. Lwali-Oyondi: On a point of information, Mr. Temporary Deputy Speaker, Sir. Thank you, hon. Prof. Anyang'-Nyong'o. We have observed from prof. Prof. Anyang'-Nyong'o's long speech that whenever one of the chief executives has looted a given corporation he is rewarded by the authorities by being allowed to go and do further looting, and perfect it even more, in another corporation. One example, is Mr. Lawi Kiplagat. Another one is Mr. Chelashaw, who has looted five or 10 state corporations. That is what they are told: "Eat where you work!"

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): Mr.

Temporary Deputy Speaker, Sir, he is alluding to the fact that the Government has not taken any action, but the Government would not have taken any action before the House adopted this report and its recommendations. After this report is adopted the Government will take action, otherwise it is not too late.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I appreciate the hon. Member's concern. But I would also like to inform him that this is the Sixth Report, which means there are other five reports before it. This House is amazed to hear that in spite of the five reports that we adopted the Government was waiting for the adoption of the sixth one so as to take action. This is what amazes us. If the Government would have, at least, acted on one of the previous five reports then its track record would have been good. The only track record we have is that the Government has acted in the case of Mr. Alfrick Birgen. Before hon. Kagwima came in, I had congratulated the Government for dealing with Mr. Birgen. But it should not let Mr. Birgen be the sacrificial lamb: There are many Birgen's mentioned in the Third, Fourth and Fifth Reports. We appreciate the stern action the Government has taken against Mr. Birgen. But in the name of the Kenyans, who are the tax-payers, let the Government act on the recommendations of the Third, Fourth and the Fifth Reports before it waits for the Sixth Report. Going back to the sale of Lower Hill plots and buildings, let me say that after we had very carefully received our evidence we made the following observation:

"Mr. James Nderitu Gachagua, who was the proprietor of Njaga Consultants that bought the houses, was a former employee of the corporation and was irregularly appointed the corporation's consultant during his tenure of office".

So, Mr. Gachagua, an employee of the corporation, made a deal with the corporation to transform himself into a consultancy so as to buy the public property at throw away prices in exchange for what he called his consultancy. He did this in a project that was not yet implemented, and thereby sadly defrauded the Exchequer of Kshs52 million.

The Temporary Deputy Speaker (Mr. Wetangula): Prof. Anyang'-Nyong'o, has this matter not gone to court?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I am presenting the report as it is written. This document was tabled before this House and is a public document. As far as the Committee is concerned, when we were sitting and making this recommendation, neither the Attorney-General nor the Speaker of the House informed us that this matter is before a court. So, I have no knowledge whatsoever that this matter is before a court. I have absolutely no such knowledge.

Secondly, and this is very important, there was absolutely no Board minute which authorised M/s Njaga Consultants to be consultants for the Kibera Highrise Scheme.

The Act establishing the National Housing Corporation requires that to undertake such a venture in the name of the National Housing Corporation, the Board had to approve the consultancy, because it involved an enormous sum of money. Instead of taking the issue to the Board, Mr. Gachagua made arrangements with the Chief Executive of the Corporation to undertake this so-called "consultancy." This was irregular.

Thirdly, Mr. Temporary Deputy Speaker, Sir, as a result of offsetting the debts owed to the consultants, the Corporation did not realise its objective of having a revolving fund. Let me explain this matter of revolving fund, because it is very important. The Corporation wanted to establish a revolving fund which would be beneficial to the Corporation's workers. A fund that would be used within the Corporation for various projects, including, loaning money to its own workers. This had an economic and social welfare aspects to it. Now, this very good project was derailed because of a certain Mr. James Nderitu Gachagua and the officers of the Corporation who, on seeing money which was to be used for a very good welfare social enterprise, created a consultancy. Then, a fictitious consultancy firm called Jaggar Consultancy. Even the name Jaggar connotes hunger, it connotes not greed or a terrible disease we know in Kenya as "grabbiosis." Jaggar like jaguar, denoting grabbing.

The Temporary Deputy Speaker (Mr. Wetangula): Professor Anyang'-Nyong'o how do you want the HANSARD to write that?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I will give you a story, once upon a time, there was the ambassador of Ghana at the United Nations who was representing Nkrumah and he was giving his maiden speech. He said: "The imperialists came to Africa, they took our resources, phew! They harassed our people sheew! I do not know how the United Nations recorded that, but, I think, we could perhaps go to the HANSARD of the United Nations.

Mr. Ruhii: On a point of information, Mr. Temporary Deputy Speaker, Sir. Jaggar in Kikuyu language means, naked or complete nudity. Therefore, you understand what it means.

Prof. Anyang'-Nyong'o: Thank you, Mr. Temporary Deputy Speaker, Sir, for the hon. Ruhii. You understand what was at stake. The National Housing Corporation was to be "eaten" naked.

Fourthly, the Corporation flouted the financial regulations with full knowledge of the then Managing Director, Mr. Erick Andwati. It is important for us to mention these names because we want these individuals to be

held responsible. Because, the State Corporations Act, says very clearly, that:-

"The management and good health of the Corporation shall be guaranteed by the Chief Executive and the Board."

And, the Government knows this. So, we do not want anybody given the responsibility of running this Corporation to flout the law and engage in corruption, thinking that when they leave that position, they will be excused. In this report, we want to record quite clearly, that, it was with the knowledge of Mr. Erick Andwati, the then Managing Director of the National Housing Corporation, that these regulations were flouted.

Finally, Mr. Temporary Deputy Speaker, Sir, arising from the above observations, the Committee was of the view, that, there was collusion and fraud in the sale of the houses and, we made these recommendations to the "Big Five" and asked the Attorney-General to intervene. The Committee directed the present Chief Executive to submit all the relevant documents relating to the sale of the houses to the Attorney-General, to enable him to institute further investigations and take appropriate legal proceedings against Messrs Erick Andwati, Mr. James Nderitu Gachagwa and any other officer or officers involved in the fraud. The Committee further recommends that the Corporation should institute legal proceedings with a view to annulling the transfer of the houses to the purchasers. We think that the best that can be done to the Kenyan people is that, that sale should be annulled, and that [Prof. Anyang'-Nyong'o] a fresh beginning is needed so that the Kenyan taxpayer gets the value for his investments in those houses.

Mr. Temporary Deputy Speaker, Sir, I will not go to the matter of---

*(Messrs. Obwocha and Mulusya stood
on points of information)*

The Temporary Deputy Speaker (Mr. Wetangula): Which one are you taking from those hon. Members?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I will take both. First, from my dear friend, Henry Obwocha.

The Temporary Deputy Speaker (Mr. Wetangula): So, hon. Mulusya is not your friend? Carry on, Mr. Mulusya.

Mr. Mulusya: On a point of information, Mr. Temporary Deputy Speaker, Sir. I have further information to give you that even with those recommendations which the Attorney-General, Amos Wako accepted to take and make sure they are implemented to the letter--- Those flats now have been sold and some of the purchasers of those flats are State Counsels in the Attorney-General's office.

An hon. Member: Oh, dear, what a shame!

Mr. Obwocha: On a point of information, Mr. Temporary Deputy Speaker, Sir. I also wish to state that the Attorney-General does not need any further information. The information that has been brought forward in that Report, is out of the examination of payment vouchers, vouchers and several other documents in this Corporation. Therefore, the Attorney-General should not ask for any additional information. All he needs to do is to get the Auditor-General (Corporation) to avail those vouchers and payment vouchers to prosecute these culprits.

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. It has just been stated here that State Counsels from the Attorney-General's office, who are supposed to help us in this matter are the ones who have bought those houses. Could the hon. Member substantiate that allegation, which is very serious?

The Temporary Deputy Speaker (Mr. Wetangula): There is no need. Carry on!

Dr. Lwali-Oyondi: Mr. Temporary Deputy Speaker, there is a lot of need.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I deeply appreciate the points of information brought to the House by the two hon. Members. I would like to reiterate the points that hon. Obwocha has made. Whenever there is *prima facie* evidence of fraud or corruption, and whenever the Attorney-General or any Kenyan citizen is aware of fraud, the law says that once you see a wrong done, you must be responsible for reporting it to the law enforcement agent. So, I agree with hon. Obwocha completely because, as a citizen of Kenya, if I see a wrong being done, I am entitled by the laws of Kenya to arrest that person and take him to the authority, if I can substantiate that something wrong is being done. Here is a case where the Auditor-General (Corporations), with all the qualified staff has said that this should be done. The Committee has said and interviewed these people, and we have already had a meeting with the Attorney-General and the "Big Five". So, investigations should have started immediately.

Mr. Temporary Deputy Speaker, Sir, investigation, mean that you are innocent until you are proved guilty in a court of law. So, this people should be in the process of facing the law by now. Mr. Temporary Deputy Speaker, Sir, in the matter of Kibera Highrise Phase II extension which is also an illustration, of how procurement and contract awarding, when done irregularly, leads to corruption and mismanagement of public funds. On the 16th November,

1992, the National Housing Corporation awarded a contract for the construction of Kibera Highrise Phase II Extension to the contractor of Phases I and II, at price of Kshs104, 200,000 without inviting open tender and without the prior approval of the Board and the Treasury as required by the financial instructions. No authority, no open tender and no proper procedure, but the contract to build Phase II Extension is given when even in case of Phase I Extension there were doubts as to how it was done and this contract is given to the same person. On 11th December, 1992, the Corporation revised the contract sum from Kshs 104,200,000 to Kshs108,546,243 and then later to Kshs114,484,434. Now what is important is that available information indicated that the amount of Kshs104,484,434 was merely provisional, subject to a further variation of 25 per cent as the project progressed.

According to the Auditor-General (Corporations), the contract would appear to have been awarded before proper planning of the project was done and, therefore, likely to cost the Corporation substantial amount of money by the time it is completed. Now according to the Auditor-General (Corporations) in the absence of proper tendering procedures, he was unable to confirm that the services were procured from the most economic source.

Mr. Temporary Deputy Speaker, Sir, you know the story of the NSSF Extension which was done in the same way. Variation orders were given and rather than spending Kshs800 million in that extension, we ended up spending like Kshs3.4 billion in the end because of poor planning, poor tendering procedures, and for trying to get money under-hand and so on. Let me say once more that rules are there to be obeyed, standards are there to be kept, especially when the rules and standards are meant to improve the performance of public corporations and guarantee the proper expenditure of public monies, anybody flouting them should face the law squarely.

After the Committee heard the evidence from the Chief Executive, and abhorred the haphazard manner in which the Corporation awarded the contracts for the construction of Kibera Highrise without inviting open tenders or without getting prior approval from either the Board and the Treasury. The Committee recommended that the Chief Executive of the Corporation did not adhere to laid down procedure and he should be held fully responsible for whatever losses the Treasury, the Exchequer and the taxpayer incurred as result of this.

Finally, in the National Housing Corporation, I would like to mention the case of the sale of Runda plots. The National Housing Corporation like other Corporations has been in the business of buying plots. But unlike other corporations the plots that the National Housing Corporation had bought in Runda were meant to be part and parcel of the public housing programme whose portfolio falls under the National Housing Corporation.

Finally, in the National Housing Corporation (NHC), I would like to mention a case of the sale of Runda plots. The NHC, like other corporations has been in the business of buying plots, but unlike other corporations, the plots that the NHC had bought in Runda were meant to be part and parcel of the public housing programme whose portfolio falls under the NHC. Rather than use these plots that had been bought to develop public housing for a certain income group in our society, houses which could have been affordable to this income group and which could have been of great social benefit to this income group, the Board of Directors authorized the sale of some of these plots. Plots totalling 17 were sold to some senior members of the Corporation and to members of the Board of Directors at Kshs350,000 each. You know the plots in Runda. They are half an acre each, and at this point in time you cannot get those plots for anything less than Kshs2.5 million. Now it even costs Kshs3 million.

At the time that they were sold, that is 1992, I am sure you could not get them for less than Kshs1.2 million. That was the going market price then, but the Corporation, rather than develop the 59 houses for which the plots were acquired, proceeded to sell 17 of the plots to some senior members of the Corporation staff and members of the Board at a price of Kshs350,000 each. Now, what is interesting is that after they had bought theirs, the rest of the plots were then sold to the public at Kshs700,000. In other words, Members of the public paid twice as much as members of the Board and the staff of the Corporation. I do not know what law they were using. I do not know what principle of justice they were using. I do not know how they were rationalising the whole thing, but surely somebody needs to explain why this happened. The sale of the plots to the staff and members of the Board was half the market price.

The management should have required the approval of the parent Ministry, but the Corporation did not even obtain the approval of the parent Ministry. In other words, either the parent Ministry decided to close its eyes and forget something was going on because they did not want to know and they had reasons not to know or the Corporation just became rebellious and did this thing knowing fully well that the Ministry would not do a thing because according to the popular saying in Kenya, "You eat where you work". This is why we came up with this phrase because if it was not true, things like this would not happen.

Surely, a Government with a good information system, a Government that prides itself as having a very good intelligence system, a Government which says that it is serving the people of Kenya with peace, love and unity cannot do that kind of thing. You get all the superlatives, they have it, but 59 plots in Runda, 17 of which were grabbed at half the market price! Now in the absence of the approval of the parent Ministry, the Auditor-General(Corporations) concluded that he was unable to confirm the legality of the sale to the staff and the members of the Board at half the price and that the sale of the 17 plots at half the market price cost the Corporation Kshs6 million. That Kshs6 million, if

it was put in a rural housing fund, it would have been a loan to so many school teachers, policemen, workers in Kericho Tea Factory, fishermen in Mombasa and so on. The Kshs6 million would have gone a long way to improve the rural housing standard in our nation.

The Committee, after going through the evidence, together with the Chief Executive, the Ministry and other people who were involved, while abhorring the under-hand manner in which the whole deal was undertaken, recommended that the Government should take appropriate action against the people responsible to ensure that proper monies are paid by people who bought those plots, so that the National Housing Corporation (NHC) can get what was due to it. Further, it was recommended that in future, no such irregularities in the sale of public assets should be tolerated and that the parent Ministry should be alert all the time. It is shameful that the Ministry could sit in front of us and say that they did not know. What are they parenting? You child goes out and he is mauled by a lion, and you say that you did not know. The Ministry is informed too late. The Ministers, Assistant Ministers and the Permanent Secretaries are paid by the people of Kenya to be alert. But if they spend all their time following the President, when do they get time to be alert? When the President goes to Mombasa, Kisumu and Baringo, they are there. When the President goes overseas, they are at the airport. When he goes to sell goats in Baringo, they are there and yet they do not even buy any goats themselves.

Actually, these people are being a burden to the President. The President is just too humble not to tell them. If I am going somewhere and there is too much dust behind me, I will get headache and colds. So, they should leave the President alone. He has his escorts and State House staff. They are enough to accompany him around. When he goes to the provinces, the Provincial Commissioners together with the provincial staff are there. In fact, the PC is the Presidential ambassador in the provinces. When he goes where his ambassador is, he does not need his Ministers. The ambassador will arrange everything. By the way, the word "Commissioner" should be changed. It was a colonial word. What are they commissioning? The words "provincial commissioners" and "district commissioners" are out of date. 30 years after Independence, we still have the governor's commissioners in the provinces. What they were commissioning was finished when we got Independence. I do not know what they are commissioning now. So, they should have an appropriate name. I think that is why when the President is going there, they have to follow him because they think they are going to seek independence afresh in the provinces. That kind of behaviour should stop.

Mr. Temporary Deputy Speaker, Sir, we have clearly recommended the action that the Government should take. We hope that in the Treasury Memorandum that will show the implementation of this particular Sixth Report, this thing will not be shown again in our Report. Mr. Temporary Deputy Speaker, Sir, I would like to take the case of National Cereals and Produce Board (NCPB) on page five of our Report. The NCPB also had a case that involved poor tendering procedures and which led to great loss of public funds. It is covered in page five of our Report under other trade debtors.

With your permission, Mr. Temporary Deputy Speaker, Sir, I would like to quote from the Auditor-General (Corporations) Report so that the House has the facts before it.

I quote:-

"As indicated in Note 7 to the accounts, there were other debtors amounting to K£580,627,349.00 as at 30th June, 1989. This amount represents an increase of Kshs313,609,344.00, or approximately 161 per cent over and above the previous year's figure of Kshs195,018,005.00. The increase is mainly attributable to seven major debtors which were classified under stock and sundry debtors in 1987/88 totalling Kshs261,171,314.00. The amount of Kshs99,865,548.00 owed by a company and its subsidiaries has previously been referred to in audit reports as "stock with third party" since 1985/86. It is understood that the Board has registered a claim with Official Receiver since the Company has gone into liquidation."

"Other two amounts of Kshs5 million and Kshs18 million owed by two companies transferred from sundry debtors were in respect of a case recently concluded in court relating to gunny bags paid for but not received.

This case have been concluded in court, so we are not on dangerous ground.

"In addition, there were five significant debtors balances totalling Kshs43,080,504.00 that have remained unsettled for periods ranging from two to five years.

After the Committee heard evidence given by the Chief Executive and was perturbed to note that the Board was owed by various debtors, a total of Kshs508,627,349.00 as at 30th June, 1989, the Committee deplored the general laxity perpetrated by some Board employees which resulted in uncollection of such huge outstanding debts. The Committee was informed that:-

- (i) The Board had instituted legal proceedings in order to recover Kshs99,865,548.00 owed by the East African Bag and Cordage and its subsidiary company KENSAC. Mr. Temporary Deputy Speaker, Sir, this is what I was coming to, in the matter involving the East African Bag and Cordage

and its subsidiary company KENSAC, you will notice that the NCPB paid money without ascertaining whether the company which was supposed to supply these bags was a bona fide company. What is worse, had NCPB followed proper tendering procedures, they would not have gotten into this mess. Precisely, because somebody was trying to cut corners because of "kick-backs" they were getting, not only did they end up losing a lot of money and not procuring what they wanted to procure, but what is more important, it then involved the NCPB in a legal battle which cost the Board even more money. The fact that the company then took these people to court to recover whatever, is no remedy to the original sin that was committed, flouting the laid down procedures because somebody wanted to get a kick-back. Out of the figure owed, an amount totalling Kshs32 million was obtained fraudulently.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Wetangula): Professor, you will carry on on Tuesday. Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 8th October, 1996, at 2.30 p.m.

The House rose at 6.30 p.m.