

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 4th December, 1996

The House met at 2.30 p.m.

[*Mr. Speaker in the Chair*]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.428

PROVISION OF CLEAN WATER TO KASARANI RESIDENTS

Mr. Ruhiu asked the Minister for Local Government:-

(a) whether he is aware that residents of Mwiki Village in Kasarani Ward have suffered and are continuing to suffer from water borne diseases like typhoid and cholera as a result of lack of clean water; and,

(b) if the answer to "a" above is in the affirmative, what urgent action is the Ministry taking to ensure that clean water is made available to these unfortunate residents.

The Minister for Local Government (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) There have not been cases of typhoid and cholera reported from Kasarani, according to statistics held by the Public Health Department of the Nairobi City Council. The only case of water borne disease notified in June last year was dysentery, which affected many slum areas of Nairobi. Adequate measures were immediately taken to contain the outbreak.

(b) The Council is making efforts to supply clean drinking water to all residents of Nairobi, within the limits of its resources. However, unplanned settlements continue to be a major problem in this issue.

The Government, therefore, continues to stress preventive/promotive measures like good hygiene, boiling drinking water, community participation in preventive measures as proper sewage disposal and use of pit latrines. Various NGOs are actively working in these slum areas with the active support of the Government.

Mr. Ruhiu: Mr. Temporary Deputy Speaker, Sir, Mwiki Village is in Kasarani and the residents do not have any piped water at all. They use boreholes and with these boreholes, they also use pit latrines. Human waste permeates underground and pours into these boreholes. When they drink that water, they suffer from these water borne diseases. Can the Minister tell this House the logic of having piped water passing underground through that place and goes all the way to Kitengela in Kajiado District and yet, those people who pay services charge to Nairobi City Council are denied clean water? What is the logic?

Mr. ole Ntimama: Mr. Temporary Deputy Speaker, Sir, I think the pipe that the hon. Member is talking about is under the Ministry of Land Reclamation, Regional and Water Development and not Nairobi City Council. We are doing our best, but the problem, as mentioned in my reply is that, there are big carton cities developing unplanned around Nairobi. Some of these carton cities within the city are giving us a lot of problems and we cannot really be able to supply these cities with services as required. This includes of course, the water supply. As I have said, Nairobi City Council will be trying its best to see how far they can stretch their resources to be able to have some piped water reaching these unplanned and unorganised settlements.

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

The Temporary Deputy Speaker (Mr. Wetangula): Order, Mr. Kamuyu. What is it, Mr. Kamuyu?

Mr. Kamuyu: Thank you, Mr. Temporary Deputy Speaker, Sir. In view of the fact that there is emergency need because there is death looming in the air and the fact that this Question seems to be misdirected, what is your guidance? This Question should not have been directed to the Ministry of Local Government. The Ministry of Land Reclamation, Regional and Water Development is the one which has put this pipe here which is now collecting human faeces for human consumption. Can you direct that this Question now be directed to the

right Ministry?

Mr. Mbeo: Mr. Temporary Deputy Speaker, Sir, the problem of water is very perennial in Mathare Constituency, now Kasarani. Mwiki Village is right at the top Njiru Village where the pipe which has been mentioned by hon. Ruhii passes through. There is a special water project by the Nairobi City Council that has been programmed and planned to serve Njiru Village. Could the Minister tell this House when this water project will be completed and when it will be commissioned to serve the whole of Njiru area?

Mr. ole Ntimama: Mr. Temporary Deputy Speaker, Sir, I do not know about that project. One big water supply project that I know is the Ndakaini Water Supply which comes from Murang'a District. We have only completed phase one of the water project and we hope---

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister is misleading the House and the nation that Ndakaini Water comes from Murang'a District. It comes from Thika District. That is why we want the City Council to pay us money because, they are harvesting that water without giving us anything.

Mr. ole Ntimama: When the City Council negotiated for area on which Ndakaini Dam was to be built, there was no Thika District. We had Murang'a District and so our books and records and agreements are still in Murang'a District. If they are going to be changed at any time, that is another issue. But for now, we know that our negotiations were done based on Murang'a District. Anyway, that is another subject.

Mr. Temporary Deputy Speaker, Sir, I was saying that this water from Ndakaini may be leaving out the District from which it comes. It is only part of a major water supply system that is going to cover the whole of Nairobi, including the slum areas which hon. Ruhii is talking about. The first phase has just been completed and we hope the other phases are going to be completed and then we will be able to spread the water into these areas where it is required.

The Temporary Deputy Speaker (Mr. Wetangula): Next Question!

Question No.1105

AWARDING OF CONTRACT

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

- (a) whether he is satisfied with the contractors awarded contract to construct C34, Mamboleo/Chemelil/Muhoroni Road;
- (b) if the answer to "a" above is in the affirmative, whether he could name any four such projects the contractors have undertaken in Nyanza Province in the years 1994/95 and 1995/96 and their present condition; and,
- (c) if the answer is in the negative, whether he could consider terminating their contract and awarding it to a reputable contractor.

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

(a) I am satisfied with the performance of M/S Hayer Bishan Singh Construction company, who were awarded the contract for the repair and resealing of Mamboleo (Kisumu)- Chemelil-Muhoroni road C34.

(b) During the 1994/94 and 1995/96 financial years, the contractor was contracted to repair, reseal and improve drainages on Yala-Busia road, which is still on-going.

(c) The Ministry is satisfied with the performance of the contractor for Mamboleo (Kisumu) - Chemelil-Muhoroni Road and, therefore, the question of terminating the contract does not arise.

Mr. Ogeka: Thank you, Mr. Temporary Deputy Speaker, Sir. In receiving the answer to this Question, may I inform the Assistant Minister that the road which was awarded to M/S Hayer contractors that is, the Kisumu-Busia road, is currently in a pathetic condition, and the African Development Bank (ADB) which funded the road is up in arms. The users of that road can bear me witness. C34 which is Mamboleo-Chemelil-Muhoroni road, is a road that is used by heavy traffic up to 25 tonnes and above. Currently, the trailer nicknamed *nyarombo* in Muhoroni is carrying a lot of cane. Unless the work is done properly, the use of this road is not going to meet the requirements of the users.

The Temporary Deputy Speaker (Mr. Wetangula): What is your question?

Mr. Ogeka: Mr. Temporary Deputy Speaker, Sir, can the Assistant Minister confirm or deny that the previous work of M/S Hayer, starting right in Homa Bay, on the Kisumu-Busia road and currently, in Muhoroni, does not guarantee road-worthiness befitting the cost paid to the contractor? **Mr. Mwamzandi:** Mr.

Temporary Deputy Speaker, Sir, we are satisfied with the work which is being done on this road and also on the

other road. So, it is the opinion of the hon. Member that the work is not worthy.

I think he is not a professional engineer on roads.

Mr. Aluoch: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for this Assistant Minister, whose technical knowledge is below par to mislead this House that M/S Hayer knows how to make good roads? We are the ones who travel on those roads and we know that they peel off after less than six months.

Mr. Mwamzandi: Mr. Temporary Deputy Speaker, Sir, I am very knowledgeable on this matter. That is the hon. Member's opinion.

Mr. Ogeka: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to evade answering my question which is quite clear? Can he confirm or deny that M/S Hayer, who did the Kisumu-Busia road, under the ADB donor funding have not met the requirements of the contract? Can he confirm or deny that the ADB funded road, which is currently--- Any patriot of this Republic would definitely wish to support that a donor funded project must be to the satisfaction of the professional standard. That road was not done to the satisfaction of ADB and as such, M/s Hayer have even gone as far as lobbying with the ADB to justify why the road is already out of use. Can he confirm or deny that fact? He should not avoid answering the question. He should answer the question specifically.

(Loud consultations)

Mr. Mwamzandi: Mr. Temporary Deputy Speaker, Sir, we deny the opinion of the hon. Member.

The Temporary Deputy Speaker (Mr. Wetangula): Next Question!

Question No. 1205

LIVE RADIO COVERAGE OF
PARLIAMENTARY PROCEEDINGS

The Temporary Deputy Speaker (Mr. Wetangula): Is Mrs. Wanjiru not here? We will skip the Question for the moment and move on to the next Question.

Question No. 774

NUMBER OF HANDICAPPED PERSONS IN CIVIL SERVICE

The Temporary Deputy Speaker (Mr. Wetangula): Is Mr. Busolo not in? The Question is deferred for the moment. Next Question!

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

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order, hon. Members. When you are given an opportunity to ask a supplementary question and you use the opportunity to make a speech, you erode your own time.

(Loud consultations)

Order! Hon. Munyasia, ask your Question.

Mr. Ojode: Did you hear that?

The Temporary Deputy Speaker (Mr. Wetangula): I did not hear and I do not want to hear.

Question No. 654

ACTION AGAINST FRAUDULENT OFFICER

Mr. Munyasia asked the Attorney General:-

(a) whether he is aware of a case of fraud involving a senior official of the Kenya Union of Sugar Plantation Workers reported to the Commissioner of Police vide a letter dated 19th March, 1996, and in reference to letter CID/CRI/6/8/A/VOL./XX(227) of 18th October, 1995; and,

(b) why he has not prosecuted the officer(s) involved in this fraud.

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

(a) Yes, I am aware of the case of the alleged fraud.

(b) The Attorney General has not received the investigation file from the Criminal Investigations Department. The Attorney General has been informed by the said Department that the matter is still under investigations and that the main suspect has not been traced.

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, that is strange. This matter was brought to the attention of the police in March, 1996. Those officers of the union who wanted this matter settled even provided giving evidence to the police. I have part of the evidence here. The fraud consisted of people drawing from cheques more than what had been authorised. There is one cheque here in particular, Cheque No.336680, for Kshs4,000 and what was drawn from the bank was Kshs40,000. There is another Cheque, Cheque No.336690 for Kshs6,720 and what was drawn from the bank was Kshs16,720. There are many other cheques like this totalling to something like Kshs1,500,000. That was in March, this year. The Attorney-General is saying investigations are still going on and the main suspect has not been found. Who is this main suspect? Is it the accounts clerk, who was keeping the cheque book or is it some bigger officer? Who is this that has not been found? I know we stay with some of these people and we could help you trace some of these people.

Mr. Nthenge: A very good question!

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, I do not dispute what the hon. Member of Parliament has said. But the investigations are going on. The investigations are going on currently and, therefore, I do not want to reveal the main suspect at this juncture because that would prejudice further investigations.

Mr. Shikuku: Mr. Temporary Deputy Speaker, Sir, arising from that reply and in view of the fact that it is now about seven months since investigations were launched, how long does the Attorney-General want to go on investigating such obvious things as cheques? How long does he want to go on investigating the case, until Jesus or Mohammed S.A.W. comes back?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, as the hon. Member is very much aware, it is not the duty of the Attorney-General to investigate such cases. The police are investigating the matter and as I said, the main suspect cannot be traced. I think as soon as the main suspect is traced, we should be able to prosecute the officers involved in the fraud.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I would like to remind the Attorney-General that in cases involving losses of large sums of money there is a lot of corruption and policemen in our country are very susceptible to bribes. There is a lot of money involved in the theft and where money is involved corruption is rampant among the police officers. Now that he is aware of this case, what steps is he going to take to make sure that the people who are responsible for this fraud are brought before the court of law?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, I became aware, not today, but a month or so ago and I have already taken appropriate action to get senior officers to investigate this matter.

Question No.1107

ILLEGAL DISMISSAL OF MR. AIKWER

Mr. Shidie, on behalf of **Mr. Imana**, asked the Attorney-General:-

(a) whether he is aware that a case between Mr. Erupe Lokademo Aikwer and Messrs. A.J. Faulkner & Sons Limited has been lodged at the Senior Resident Magistrate's Court, Nairobi (Case No.4196 of 1993), following illegal dismissal of Mr. Aikwer after having worked for the latter seven years

(b) whether he is further that the said case cannot proceed because the case file went missing since January, 1995; and

(c) whether he could ensure that the file is produced and the case is determined without further delay.

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

(a) Yes, I am aware.

(b) It is true that the original court records have been misplaced.

(c) Another court file has since been reconstructed and by consent of both parties, hearing is set for 14th January, 1997.

Mr. Shidie: Mr. Temporary Deputy Speaker, Sir, Mr. Aikwer was a very hard-working gentleman who

was dismissed from his job unceremoniously. When this case was lodged in the High Court, the file has been missing since 1993. Could the Attorney-General make sure that this case is finalized because cases of similar nature are quite common?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, the court has taken appropriate action. A new file has been reconstructed and both parties to the civil suit have appeared before the court and the hearing is due to take place on 14th January, 1997. It now, therefore, really depends on both parties to ensure that the hearing proceeds and is concluded.

Dr. Lwali-Oyondi: Mr. Temporary Deputy Speaker, Sir, what is the Attorney-General planning to do in order to get rid of the menace of files disappearing from the courts?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, I think that is a very good question. It is true that files do disappear or miss from the courts at the relevant time.

Quite a number of court clerks have been disciplined because of that. We have also instituted some investigations which are going on to find out which of the court clerks do collude with others to make the files go missing. In the long term, we have already discussed with the United Nations Development Programme, who are the co-ordinators for the donor-agencies, to computerize the registry system of the courts, not just here, but throughout the country.

Mr. Kamuyu: Is the Attorney-General aware that due to rampant corruption in the court corridors, from 31st March, 1996, no new dates have been given for civil cases? The cases have been filed and no lawyers have been given new hearing dates. The register was closed on 31st March, 1996.

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, I am not aware of that, but I can find out. What I do know is that if the diary for next year is completely full, then they will close the register for that particular year quite early. Secondly, there is now a policy by the courts in view of the many cases whose hearing has been delayed, to start a crash-programme for finalizing the cases in the order in which they were filed. Therefore, it may very well be that the cases filed this year cannot get a hearing date next year because there were cases filed in 1990 whose hearing is pending. I know that the courts are now giving priority to the cases which were earlier filed.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, these courts registries practically everywhere in the country and court corridors, are full of confusion. What is the Attorney-General going to do about this? I was there this morning and the number of files missing is enormous. Nothing is going on there. What is the Attorney-General going to do to clean-up the mess?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, I think I have already answered the question which was paused earlier.

Question No.1136

ESTABLISHMENT OF MAGISTRATES COURT IN MAKUYU

Mr. R.K. Mungai asked the Attorney General whether he could urgently consider establishing a Magistrate's Court in Makuyu Administrative Division since the residents have to travel long distances to Thika, Muranga or Kandara Courts for the dispensation of their legal issues.

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

The Murang'a District Development Committee has not recommended the establishment of a magistrate's court in Makuyu Administrative Division as a priority for it to be included in the Judiciary's Programme Review and forward budget for the year 1997/98 -1999-2000.

Mr. R.K. Mungai: I wish to thank the Attorney-General for that reply, but is he aware that the Thika District courts have a lot of work because they cover a much larger area? If this is the case, is it not a question of justice delayed is justice denied? What is the Attorney-General planning to do about this congestion?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, I am aware of that, but it is not just that court. All the courts throughout the country have that problem and that is why in the programme for development we do attach a lot of importance to the requests from the DDC as a priority. On Monday, the high court in Bungoma was being opened and I also did mention this particular problem as one that needs to be addressed; the problem of having courts closer to the people and, therefore, meaning that we must build more courts in the rural areas and so on. The Government will do something about it. I will appeal to the donor community to do something about it, but if the people themselves through the Harambee effort would put up such courts, we would be very grateful.

Mr. Nthenge: Mr. Temporary Deputy Speaker, Sir, does the Attorney-General realise that when the

existing courts were built the population was very small, but now it has increased by a big margin and if justice is not to be delayed, then he should consider increasing the number of courts? For example, in Machakos district, Bungoma district or in any other district, they have the same courts which they had during the colonial days. Today, the population is more than 20 times what it used to be. What is he doing about this and we have so many qualified lawyers looking for jobs?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, I think, I have already answered that question. Yes, I do agree with you and I realise what you are talking about and that is why the Government is trying all it can to build extra courts. But I have also appealed to the donor community to also help us put extra courts and even the people themselves have said, "Why are you not doing something through Harambee effort to put extra courts?"

Mr. Mak'Onyango: Mr. Temporary Deputy Speaker, Sir, arising from the Attorney-General's reply that his office is doing everything possible to bring the administration of justice closer to the people, can he tell the House, the specific programme he has in place to, at least, ensure that many of these facilities as possible, and how many does he propose to have in place at this time next year?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, if I am asked a proper question on that one, I will give a detailed response.

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, does the Attorney-General know the pieces of land on which these law courts stand today have already been allocated to private individuals and there is likelihood that within the next one year, most of the law courts will be pulled down by the new owners?

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, for example, in Kitale, Eldoret, Kerugoya and so on.

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, sometimes that has happened, but whenever it has come to my attention, I have gone out of my way to ensure that the property which belongs to the court is preserved.

The Temporary Deputy Speaker (Mr. Wetangula): Next Question, hon. Wanjiru.

Question No.1205

LIVE RADIO COVERAGE OF
PARLIAMENTARY PROCEEDINGS

Ms Wanjiru asked the Minister for Information and Broadcasting in view of the national importance of parliamentary proceedings and the need to disseminate these proceedings to all citizens in the Republic, what arrangements has he made to provide live radio coverage of these proceedings.

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

Since the House is in session on weekdays and during working hours when most Kenyans are engaged in various nation building activities, any live broadcasts of parliamentary proceedings will not serve any useful purpose as most of people will miss such transmissions.

Ms Wanjiru: Mr. Temporary Deputy Speaker, Sir, the answer that hon. Assistant Minister was reading says that live broadcasts of parliamentary proceedings will not serve any useful purpose as most people will miss the transmissions.

In most Commonwealth countries there are broadcasts of parliamentary proceedings because they are very important. Why can KBC not have a channel to let us air our views or why can they not tape the proceedings of the House and then they reproduce them when people go home in the evenings?

(Applause)

Mr. Nassir: Mr. Temporary Deputy Speaker, Sir, it is in recognition of the importance of the parliamentary proceedings that the KBC allocates air time for the proceedings on record. KBC radio, today, reach audience of about 20 million listeners and cover the entire geographical land measure of the country.

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is not answering the question. The question was: "Why could you not give enough time or repeat parliamentary proceedings in the mornings so that wananchi---"

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order! That was not the question. Hon.

Nassir, have you finished answering?

Mr. Nassir: Mr. Temporary Deputy Speaker, Sir, I was about, but my colleagues always like to make fun of me.

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Wanjiru, second question was, if you cannot relay live, why can you not tape and then reproduce later?

Mr. Nassir: Mr. Temporary Deputy Speaker, Sir, they have to wait for me to finish what I am reading and then ask whatever they want.

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

The Temporary Deputy Speaker (Mr. Wetangula): Order! Carry on, hon. Nassir!

Mr. Nassir: Mr. Temporary Deputy Speaker, Sir, I like the way you conduct business in this House because it makes me feel that I am a very important hon. Member of Parliament!

(Laughter)

Mr. Wamae: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Assistant Minister in order to continue reading irrelevance which is not the reply to the question. Can you give him time to go back and bring a better answer?

Mr. Nassir: Mr. Temporary Deputy Speaker, Sir, it must be very clear to my colleague that I am not the type of those hon. Ministers who go back and bring other answers. I will reply whether people like it or not.

Anyway, I was---

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

The Temporary Deputy Speaker (Mr. Wetangula): Let him finish answering hon. Wanjiru's supplementary question.

Mr. Nassir: Mr. Temporary Deputy Speaker, Sir, I do not know what you will get by trying to interrupt me. It is not going to help you at all. You would not get more votes---

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Nassir! Just answer the question.

Mr. Nassir: Mr. Temporary Deputy Speaker, Sir, I was trying to answer hon. Wanjiru's supplementary question, but if they continue to heckle, I am going to tell them that I am used to it. We can have another platform for heckling, but here we will give only the reply.

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Members!

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a very important issue and not only are we not following what the Assistant Minister is saying, but I wonder whether he is in order to mislead the House with that kind of answer when in the last Parliament, a Motion was passed here which was fully accepted and supported by this Ministry and the Government that in due course, they would go live? Is he in order to mislead the House? Is he aware of that Motion?

Mr. Nassir: Mr. Temporary Deputy Speaker, Sir, we will go and check to find out whether our budget can accommodate what hon. Anyona has said. If we have money, it will be done.

Ms Wanjiru: On a point of order, Mr. Temporary Deputy Speaker, Sir. Since I am not getting a satisfactory reply from the hon. Assistant Minister, would I be in order to ask the Leader of Government Business or his deputy to answer on his behalf?

(Applause)

Mr. Nassir: Mr. Temporary Deputy Speaker, Sir, I made it very clear that I need time to check whether we have money to implement whatever was passed by this Parliament as hon. Anyona is saying. In KBC, things have to be done in an orderly manner. We have to see whether we have money to implement that or not.

Mr. Salat: Mr. Temporary Deputy Speaker, Sir, while appreciating the answer given by the Assistant Minister, is he aware that the KBC has got channel II which only plays jazz music or music for 24 hours? Why can he not take about three or four hours of the time of the KBC channel II to air the proceeding of this House?

Mr. Nassir: Mr. Temporary Deputy Speaker, Sir, I hope my colleague will understand that anything that goes on the air is a sort of advertisement that earns money that enables to cover other things.

Mr. Nassir: Mr. Temporary Deputy Speaker, Sir, I hope my colleague will understand that anything that goes on air is sort of an advertisement that makes money, so that we can be able to cover other things.

Dr. Otieno-Kopiyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has said that he wants to go and check whether they have the money to do this. Does that mean that we should

defer the Question and give him time to come back to the House?

Mr. Nassir: Mr. Temporary Deputy Speaker, Sir, I did not say so. I have said that I will work on it and if it is going to help the country, and we have a budget to do it, we will do it.

Question No. 774

NUMBER OF HANDICAPPED PERSONS
IN THE CIVIL SERVICE

The Temporary Deputy Speaker (Mr. Wetangula): Is hon. Busolo still not here? There was a request from hon. Busolo regarding his Question. Therefore, the Question is deferred.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

MEASURES TO CONTROL CATTLE RUSTLING

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, first, before I ask the Question, I want to correct an error in the first line of part (a). The Question should read: "Is the Minister aware that during" and not "that". Secondly, I have also not received the written answer.

But nevertheless, I beg to ask the Minister of State, Office of the President the following Question by Private Notice:-

(a) Is the Minister aware that during a recent incident of cattle rustling along the Kisii/Transmara border, on the 10th November, 1996, Mzee Ondara Gikenyi Moragwa of Metembe Sub-Location of Nyaribari Masaba Location near Ramasha Police Post, was ambushed and killed and his son, James Ombui Ondara seriously injured when they tried to recover stolen cattle?

(b) Is he further aware that on 2nd November, 1996, there was another incident of cattle rustling from the home of Mzee Bagwasi Machogu in the same area?

(c) What urgent measures will the Government take to control the menace of cattle rustling in the area, so that the people of Kisii and Transmara can live in peaceful co-existence?

The Minister of State, Office of the President (Mr. Kalweo): Mr. Temporary Deputy Speaker, Sir, it is true that my officers have not channelled the written answer to the hon. Member because we received this Question this morning. Besides that, I beg to reply.

(a) I am aware.

(b) I am not aware.

(c) Day and night patrols have been intensified in the area, which a view to curbing the menace.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, the Minister belongs to a clan of the Kisii people, which ran away to Meru. When he is dealing with Questions that concern his clansmen, he should display a more serious attitude than that.

We are very concerned about border problems across the country. We would like peace to prevail and our people to co-exist in peace and tranquillity.

Can the Minister, elaborately, assure Kenyans that they will go beyond border patrols? This is because security is not brought by patrols. It is brought by establishing an amicable relationship between the people. What is the Government doing to make sure that Kenyans live in peace?

Mr. Kalweo: Mr. Temporary Deputy Speaker, Sir, the Government is doing a lot. Hon. Members know very well that in recent times, we had cattle rustling and bank robberies within rural and urban areas. Both are matters of concern to the Government. Therefore, we have gone even beyond the border patrols. But the only assistance we need from the public is for the society to become loyal citizens of this land, so that whenever a crime is committed somewhere, they report to us.

Otherwise, we are trying to equip the police with better communication so that they can be faster. We are applying all the Government machinery to see to it that citizens live in peace. At the same time, let those communities which border each other conduct meetings of good neighbourliness. So, let the people preach peace. It is more important than even using guns.

Mr. Munyasia: The Minister was asked specifically to state what particular efforts he was making to

establish good relations between communities. If he is saying that people of different communities should meet, can he explain to this House, why the Government is against National Council of Churches of Kenya (NCCCK) efforts to encourage more dialogue among hon. Members of Parliament?

Mr. Kalweo: Mr. Temporary Deputy Speaker, Sir, the hon. Member is a leader. He can answer that question on his behalf.

Mr. Moiben: Mr. Temporary Deputy Speaker, Sir, what arrangements is the Office of the President making, as far as the youth of this country are concerned, in the light of the National Youth Development Programme, so that they can be able to benefit by buying livestock, rather than engaging in cattle rustling?

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear that after I had asked this Minister a legitimate question, about why he is against the NCCCK efforts to encourage dialogue among hon. Members of Parliament, he replied that I should answer that question myself? Is he in order to arrogantly, refuse to answer a legitimate question, and say that the person asking the question should answer it himself? Can he not be made to answer it?

An hon. Member: He should withdraw and apologise!

The Temporary Deputy Speaker (Mr. Wetangula): Did you say that, Mr. Minister?

Mr. Kalweo: Yes, I said that, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): Then you are out of order! Can you answer his point of order?

Mr. Kalweo: Mr. Temporary Deputy Speaker, Sir, what I have said is that the NCCCK is not an arm of the Government. They should be told to deal with religious matters. The hon. Member is a leader and he is someone who can lead his community to acquire what we call good neighbourliness. This is what I said.

Mr. Temporary Deputy Speaker, Sir, going back to hon. Moiben's question, his suggestion about the National Youth Development Fund is welcomed. The youth in different areas will be encouraged to do what they engage in. If they are cattle rearers or cotton farmers, they will be encouraged to continue with their own activities on their own accord.

Mr. Sankori: Mr. Temporary Deputy Speaker, Sir, knowing very well that of late, cattle rustling has been a menace throughout the country, and knowing very well that the cattle rustlers are none other than the cattle rearers who are the most praised people in this country like the Turkana, Pokot, Samburu, Somali and the Borana, who have all armed themselves well, can the Minister tell this House, what steps he is taking to safeguard the lives of innocent people in this country, by disarming all these people?

Mr. Kalweo: This is a good question, Mr. Temporary Deputy Speaker, Sir. During the time when these communities used their spears, swords and other traditional weapons, insecurity was not so rampant. But what has really complicated the whole issue is the infiltration of illegal arms from neighbouring countries into our country. Hon. Members know very well that we have not fenced off the Kenya borders with other neighbouring countries. So through *panya* routes, some arms get into our community.

But we have established a Government machinery to try and look at the areas where we suspect these arms are, so that we can confiscate them. While we are taking that action, I cannot reveal all the tactics that we intend to use here. Thank you.

Mr. Sankori: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister is evading my question. What I am saying is that the tribes that I mentioned have better arms now, than the Kenya Police. The police cannot dare to follow any cattle rustlers in those areas. What steps is the Government taking to make sure that innocent people will not suffer in the hands of these raiders?

Mr. Kalweo: Mr. Temporary Deputy Speaker, Sir, they are not. I remember one day I asked the police the same question, about AK47 in comparison with the guns which they normally use and they told me that this is a useless gun which cannot shoot very far and so, they are not more armed than our police officers. We have taken up the matter and we have gone deep in disarming and collecting all the illegal firearms in the country. We have several tactics which we are applying.

Mr. Anyona: On the issue of Cattle rustling definitely, very stiff sentences have been meted out on those who are arrested. I have never heard for a long time of anybody being prosecuted for having been involved in cattle rustling. What is the police doing; are they colluding with actual cattle rustlers?

Mr. Kalweo: Mr. Temporary Deputy Speaker, Sir, I do not believe that they are colluding, but we do prosecute those found guilty. I do not know whether my hon. colleague has heard of this or not. Robberies involving cash occupy the front pages of our daily newspapers and so, in most cases you read about bank robberies, but inside those newspapers you find stories on cattle rustling and so on. It is both our main concern to curb all these kinds of insecurities.

Mr. Farah: Mr. Temporary Deputy Speaker, Sir, the Minister is making an assumption that the G3s which are used by the Kenya Police are only available to the Kenya Police and not available to the bandits, which is not the case. Can the Minister tell us now whether he is prepared to avail security that is perfect and which will defend everybody before he starts collecting these guns haphazardly because what happens quite often is that they disarm one small clan and then another sub-clan comes and takes the cattle and then they go back and buy more guns for revenge purpose and the thing goes back and forward like that? While you are collecting arms in Trans-Mara and these other areas, can you first of all make sure that you have a machinery in place which is perfect and which has got information gathering system to enable you to even know the names of cattle rustlers themselves? This is possible because it has been done in the past during the colonial times. So, do that first.

Mr. Kalweo: Mr. Temporary Deputy Speaker, Sir, what the hon. Member is saying is exactly what we are doing, but he is referring again back to the colonial time. That time people were not sophisticated as they are today.

TENDER FOR SUPPLY OF ACARICIDE

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Agriculture, Livestock Development and Marketing the following Question by Private Notice:-

(a) Is the Minister aware that the Tender No. SWIPCO/MOALD M/1/95/96 for the supply of Acaricide (dip chemicals) for the Agricultural Sector Operation II has not been finalised?

(b) What has the total tender value and which firms tendered?

(c) Could the Minister, as a matter of urgency, finalise the tender so that livestock farmers may be supplied with Acaricide?

The Assistant Minister for Agriculture Livestock Development and Marketing (Mr. Maundu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the tender has not been fully finalised.

(b) The total tender value was German marks 10 million which is equivalent to Kshs370 million. The following six firms tendered: Unga Feeds Ltd, Coopers (K) Ltd, Hoechst Ltd, Agromed Kenya Ltd and---

Mr. Temporary Deputy Speaker: Mr. Assistant Minister, I can hardly hear you.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Maundu): On part (c) Mr. Temporary Deputy Speaker, Sir, I have already contacted the donor, KFW---

Mr. Nthenge: On a point of order, Mr. Temporary Deputy Speaker, Sir. Can the Assistant Minister start again and speak through the microphone so that everybody can hear.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Maundu): Mr. Temporary Deputy Speaker, Sir, for those who could not possibly hear, I will start again.

(a) I am aware that the tender has not been fully finalised.

(b) The total tender value was German marks 10 million which is equivalent to Kshs370 million. The following six firms tendered: Unga Feeds Ltd, Coopers (K) Ltd, Bayer(EA) Ltd, Hoechst Ltd, Agromed Kenya Ltd and Aunch Ltd.

(c) I have already contacted the donor KFW of Germany and SWIPCO the procurement agents contracted by the donor, to have the tender awarding process finalised as soon as possible. The acaricide shall be delivered to the farmers as soon as the tender is finalised.

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, was this a grant or a loan? Whatever it was, what was the role of Kenya Government in this procurement procedure? Who won the tender among the six tenderers he has mentioned here because he has not told us that? He has just listed them!

Mr. Maundu: Mr. Temporary Deputy Speaker, Sir, the Questioner is asking whether this was a grant or a loan but unfortunately, I am unable to clarify that right away. But I will find out whether it was a grant or a loan. With regard to the second part of his Question, the Ministry of Agriculture, Livestock Development and Marketing facilitated this arrangement by organising the tendering process to be done locally.

Several hon. Members: Who won the tender?

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has not answered any of the questions. He has not said whether it was a grant or a loan. Who won the tender and what role did the Kenya Government play? Facilitating just means providing an office!

Mr. Maundu: Mr. Temporary Deputy Speaker, Sir, the tender has not been finalised and as soon as it is finalised, we will deliver the acaricide to the farmers.

Mr. Wamae: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon.

Assistant Minister to refuse to answer the question? Who was the lowest tenderer because you do not need to finalise the agreement? Who was the lowest? Give us how much each tendered for?

The Temporary Deputy Speaker (Mr. Wetangula) That was not hon. Sambu's question.

Mr. Achieng'-Oneko: Since this case involves a lot of money and realising that the Assistant Minister is unsure whether it was a loan or a grant, could we skip this Question until tomorrow, so that he can get the correct answer to this Question because it is a very serious matter?

The Temporary Deputy Speaker (Mr. Wetangula): Mr Maundu, are you able to get better facts tomorrow?

Mr. Maundu: Mr. Temporary Deputy Speaker, Sir, we will be able to get better facts. I think, the only outstanding issue is whether it is a grant or a loan, but with regard to the person who won the tender or the lowest tenderer, that has not been finalised.

Mr. Sankori: Mr. Temporary Deputy Speaker, Sir, this tender involved a grant or a loan of Kshs400 million. Acaricide as we know, is a dipping chemical for livestock. When the Government orders such a huge amount of acaricide, is it going to give the farmers free or the farmers are going to pay for them. If the farmers are going to pay for the acaricide, what is the use of the Government bringing this acaricide when there are private companies that can bring the acaricide?

Mr. Maundu: Mr. Temporary Deputy Speaker, Sir, the Ministry of Agriculture, Livestock Development and Marketing realised that as a result of liberalisation, there was a programme of opening more dips and particularly for livestock in the country. So the Ministry approached this particular donor who agreed to assist in providing the dipping facilities in the country and the prices that would be given for this particular acaricide would to a very great extent, be subsidized and the farmers would have a scheme whereby they can even pay in instalments in the event that they are provided with this acaricide.

FORCED PARTICIPATION IN MASS CHOIR

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

(a) Is the Minister aware that students who participated in School Choirs which won particular disciplines during the recently concluded 1996 Music Festivals at the Kenyatta International Conference Centre, have been forced to assemble at Chief Koinange High School, Kiambu, starting Sunday 24th November, 1996?

(b) Is he further aware that these students are being forced to participate in a Mass Choir which is preparing to entertain dignitaries during the festivities in the month of December against the wish of their Headteachers and parents and of their own?

(c) Is he further aware that those Headteachers who have refused to co-operate in this forced exercise have been threatened by Ministry officials with disciplinary action?

(d) Why are the pleas by parents to release their children for start of their holidays being ignored by the Ministry's officials?

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

(a) I am not aware.

(b) I am not aware.

(c) I am not aware.

(d) Mr. Temporary Deputy Speaker, Sir, no students have been held in any of the seven schools which have volunteered to provide participants for the mass choir.

As soon as schools were closed, students were all released to go home and instructed to report on 3rd December 1996. The question of pleas by parents to have their children released therefore does not arise.

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, I have two sets of answers in my hands. The first one is the one which the Assistant Minister has just read and the second one reads as follows:

"(a) Mr. Temporary Deputy Speaker, Sir, it is not true that students who participated in school choirs which won particular disciplines during the recently concluded 1996 music festival at KICC have been forced to assemble at Senior Chief Koinange High School starting last Sunday, 24 November, 1996.

(b) Mr. Temporary Deputy Speaker, Sir, no student is being forced to take part in the mass choir. In fact, the Headteachers are asking only the students who can be available to go and form the mass choir on a purely voluntary basis."

Mr. Temporary Deputy Speaker, Sir, this shows the confusion that is in the Ministry in answering these questions. The fact of the matter is that I have personally spoken to four of the school teachers whose students have been forced to go and participate and they went, not on 3rd December but on the 24th November. Some of these teachers have complained and they have shown me letters written by some parents of these school children and these children are supposed to sing at State House and at the Nyayo National Stadium on December 12th which is Jamhuri Day. The question is: Where is the sincerity of the Assistant Minister and the Ministry if the can be able to deny this when the teachers themselves and the parents have had to meet in schools to deliberate on this issue and some of the parents have been forced to leave their children behind? Where is the sincerity in this issue? Why are you consulting the parents and asking for their permission to have their children participate in the mass choir? Why are you maltreating our young children at the same time?

Mr. Komora: Mr. Temporary Deputy Speaker, Sir, in fact, the hon. Member should have been very happy that I did not request you to postpone the answer to this question because I was not satisfied with what he was provided with before. The answer that he has read has been substituted by the answer I have read. The answer I have read, therefore, is the official answer of my Ministry.

Mr. Icharia: Mr. Temporary Deputy Speaker, Sir, Senior Chief Koinange High School is in my area and what the hon. Mulusya has said is true. The parents are complaining. The Headmasters are complaining. The children, particularly the girls are being held incommunicado against their wish and that of their parents. Could the Assistant Minister confirm or deny that this matter has been done without reference to the headmasters and the parents and that the children are actually being forced to stay at that school?

Mr. Komora: Mr. Temporary Deputy Speaker, Sir, the Government does not have to consult or get the permission of any educational institution in carrying out a national task.

Mr. Mak'Onyango: On a point of order, Mr. Temporary Speaker, Sir. Arising from the Assistant Minister's reply which is that he is not aware of the difficulties that most school children participating in the Kenya Music Festival encounter, the truth of the matter is that most schools do not have proper arrangements to take care of the children here in the City.

What is the Ministry doing to bring an end to this perennial problem that faces many of our children? What arrangements do you have to ensure that at least when children come from as far as that end of the country, they will get proper accommodation, proper food and everything which they do not get right now?

Mr. Komora: Mr. Temporary Deputy Speaker, Sir, this question is basically not in relation to the Kenya Music Festival. We have a national celebrations day which is Jamhuri Day and all citizens of this country will celebrate that day including the schools.

Mr. Temporary Deputy Speaker, Sir, with regard to the Music Festival, we have no doubt that the Ministry has taken care of all the key weaknesses and the festivals will continue.

Mr. Munyasia: On a point of order Mr. Temporary Deputy Speaker, Sir. The mass choir, as we know it, has been an effort in the past to develop personality cults. Could the Assistant Minister tell this House of what value to the Kenyans this mass choir is, that you can go ahead and force our children to participate in it?

Mr. Komora: Mr. Temporary Deputy Speaker, Sir, in the first place no child is forced into the choir. I have made it clear in my reply that we have asked for volunteers. Secondly, it is a national celebration and the bigger the choir we have, the better.

TRANSLOCATION OF HIROLA

Mr. Shidie: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following question by Private Notice:

(a) Is the Minister aware that the people of Garissa District are deeply concerned with the transfer and safety of the rare hirola from its natural habitat to Tsavo National Park.

(b) Could the Minister state as to what happened to a number of hirola which were translocated way back in 1960s.

(c) What are the costs in translocating this endangered hirola from Garissa.

The Temporary Deputy Speaker (Mr. Wetangula): Anybody here from the Ministry of Wildlife and Tourism? Hon. Kisiero, are you the one answering this Question?

The Assistant Minister for Wildlife and Tourism (Mr. Kisiero): It is not me. The Minister is supposed to answer the Question.

The Temporary Deputy Speaker (Mr. Wetangula): Where is he?

The Assistant Minister for Wildlife and Tourism (Mr. Kisiero): I believe he must be on his way.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Shidie, your Question is deferred to tomorrow.

(Question deferred)

MINISTERIAL STATEMENT

FATE OF MISSING UNIVERSITY STUDENT LEADER

The Minister of State, Office of the President (Mr. Kalweo): Mr. Temporary Deputy Speaker, Sir, I rise to make a Ministerial Statement that I promised the House this morning which was requested for by hon. Muite, who used to be the lawyer for all parastatals in the country and they collapsed.

On 28th November, 1996 at about---

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

The Temporary Deputy Speaker (Mr. Wetangula): Order! Is he not responding to your point of order? Hon. Muite, the correct thing for you to do is to listen to him and then I will give you an opportunity to seek any further clarification.

The Minister of State, Office of the President (Mr. Kalweo): Mr. Temporary Deputy Speaker, Sir---

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

The Temporary Deputy Speaker (Mr. Wetangula): Order Minister! Yes, hon. Muite!

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Minister opened his Ministerial Statement by referring to me as the "lawyer for all the collapsed parastatals." Should the Minister really proceed to give his Ministerial Statement before substantiating that grossly insulting and incorrect statement? This House and I are entitled to substantiation and I demand that he substantiates or withdraws and apologises.

The Minister of State, Office of the President (Mr. Kalweo): Mr. Temporary Deputy Speaker, Sir, there is nothing to be withdrawn.

The Temporary Deputy Speaker (Mr. Wetangula): Order, Minister! Did you say what hon. Muite is complaining about?

Hon. Members: Yes, he said!

The Temporary Deputy Speaker (Mr. Wetangula): You withdraw and apologise.

The Minister of State, Office of the President (Mr. Kalweo): Do I withdraw now or later? Because this morning, he said I was holding a road block and I am not---

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Minister! Just withdraw and apologise to hon. Muite and carry on.

The Minister of State, Office of the President (Mr. Kalweo): Mr. Temporary Deputy Speaker, Sir, I withdraw.

Mr. Mak'Onyango: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Minister of State, Office of the President (Mr. Kalweo): Wee Jaluo! I have withdrawn, Mr. Temporary Deputy Speaker, Sir. What else does he want me to do?

The Temporary Deputy Speaker (Mr. Wetangula): Order, Mak'Onyango! Order, hon. Members! Hon. Minister, the order was, you withdraw and apologise and then carry on with the Ministerial Statement.

The Minister of State, Office of the President (Mr. Kalweo): Mr. Temporary Deputy Speaker, Sir, I apologise.

On 28th November, 1996, at about 8.30 p.m. a University of Nairobi, Kikuyu Campus student by the name of Solomon Muruli Mwerule was allegedly picked from the halls of residence by people who he claimed to be his relatives. When Muruli was not seen that evening, a missing person report was made at the Kikuyu Police Station. A thorough check was done at all stations just in case, he was being held by the Police. Our records showed that he was not held by the Police.

Yesterday, 3rd December, 1997 at 7.30 a.m., Solomon Muruli Mwerule was found within a church compound by a Catholic priest at Kiambu who took him to hospital. When asked what had happened, Solomon Muruli claimed that he had been beaten by the Police. He was too unwell to give proper account about his ordeal, as at the previous night. The Police have launched investigations into the circumstances leading to the disappearance of Solomon Muruli and all the accompanying allegations. There are allegations that there is a group of persons posing as Police officers who could have abducted Mr. Muruli with a view to embarrassing the Government of Kenya. However, this is under investigation as well. Thank you.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, time has come for this Government to take insecurity in

this country seriously. This student sick as he was - he is from Kimilili Constituency -was able to state that during the five days he was held by the Police, he was taken to various Police stations and tortured in these various Police stations including Kikuyu Police Station. Is the hon. Minister really to be taken seriously when he now denies that the people who were holding this University student and they actually held him in various Police stations, were not Policemen? Who else would have access to Police stations and order Policemen to open the cells and hold the student in?

Mr. Temporary Deputy Speaker, Sir, this is a serious matter where a Kenyan has been very seriously tortured, and if this is the Government that is going to undertake investigations against itself, can the Kenyan public or this House expect any serious investigations at all? Is the hon. Minister really serious in undertaking that, investigations are going to be conducted? It is quite clear that the young man was arrested by Police officers, held for five days by the Police and tortured by the Police. Is the Police in a position to investigate itself?

The Minister of State, Office of the President (Mr. Kalweo): Mr. Temporary Deputy Speaker, Sir, I stated as the hon. Member says, we must do investigations and that is what we are doing. When somebody alleges that so and so is a relative of his, nobody can doubt because there is nobody who does not know their own relatives. Therefore, this boy was found yesterday and we are waiting for him to be more audible, so that he can at least tell where he was taken so that we can follow up the matter. But, up to now, we are very serious to know the circumstances that led to that situation.

POINTS OF ORDER

DISCONNECTION OF TELEPHONE LINES

Mr. Kamuyu: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to seek a Ministerial Statement from the Minister for Local Government who fortunately is in the House right now, regarding the position of communication at Nairobi City Council Hall and all its outside establishments where telephone communication has been completely cut off for the second week running now. Services to Nairobi residents have stalled because there is no communication whatsoever. We hear that the City Council owes Kenya Posts and Telecommunications Kshs74 million. We have also heard that the Nairobi City Council is owed Kshs700 million by lawyers. This position is critical because, at the moment, we need to know whether this position is going to continue and up to when. All telephone lines including the Mayor's line have been disconnected.

The Temporary Deputy Speaker (Mr. Wetangula): Order, you have made your point! Anybody from the Ministry of Local Government?

The Minister for Local Government (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I think the hon. Member wants to take me on the wrong foot but---

The Temporary Deputy Speaker (Mr. Wetangula): You can respond tomorrow if you are not ready!

The Minister for Local Government (Mr. Ntimama): No, I think he is right that the telephones were disconnected the other day, but that is not the kind of figure that they are talking about there. In the next two days, I think, the Nairobi City Council will be back to normal as far as communication is concerned.

ARREST OF MUSLIM PREACHERS

Mr. Farah: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am seeking a Ministerial Statement from the Minister in charge of Provincial Administration. In Garissa yesterday, Muslim preachers who were preaching in the mosques and also to congregations outside were arrested by the acting DC and taken to the Police Station. They were told to go back to their own Districts. These are Muslim preachers from Mombasa and Lamu. It is apparent and it is in the newspapers today that these Muslims are being denied their own constitutional right to preach to their own congregations from their own faith. Since Garissa is a predominantly Muslim town and that is already creating very big tension, can the Minister bring a Ministerial Statement to this House as urgently as possible, explaining why this has happened and what led to this?

The Minister of State, Office of the President (Mr. Kalweo): Mr. Temporary Deputy Speaker, Sir, my Office will do that.

COMMUNICATION FROM THE CHAIR

UNCEREMONIOUS ADJOURNMENT OF THE HOUSE

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Members, last evening the House adjourned unceremoniously because of events beyond the control of the Chair. I now wish to deal with these events, which preceded that adjournment.

The Assistant Minister for Finance, Mr. John Koech, moved, under the provisions of Standing Order 46(3), amendments to the Motion on the Report of the Public Investment Committee (PIC). The question of the proposed amendments was thereafter proposed from the Chair. However, as the Member for Kisumu Rural debated the issue of the amendments an Assistant Minister in the Office of the President, Mr. Sunkuli, claimed to move that "the Mover of the amendments be now called upon to reply". The Chair acceded to the claim in the confusion that arose at the time.

Now, that decision by the Chair to put that question was procedurally deficient because, within our practices, the question of a Mover of an amendment responding does not arise. The correct procedure would have been simply to put the question to dispose of the amendments. Consequently, I rule that the question claimed by Mr. Sunkuli was inadvertently put and, therefore, it is null and void. That means that hon. Anyang'-Nyong'o will have the Floor to continue with the debate on the proposed amendments until other questions that are procedurally correct are raised and the House takes an appropriate decision. Thank you.

(Applause)

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

[Mr. Speaker took the Chair]

Mr. Speaker: Hon. Members, just following the communication from the Chair by the Temporary Deputy Speaker, I wish to add the following on last evening's events.

I refer to the provisions of Standing Order 93(2) which provide as follows:-

"In the event of grave disorder arising in the House, Mr. Speaker, may, if he deems it necessary so to do, adjourn the House forthwith or suspend any sitting for a period to be named by him".

Further provisions of Standing Order 88(2) define conduct being grossly disorderly not only if the hon. Member concerned creates actual disorder, but also if he knowingly raises a false point of order, or commits any serious breach of these Standing Orders, or persists in making serious allegations without (in Mr. Speaker's opinion) adequate substantiation or otherwise abuses his privileges, or deliberately gives false information to the House or refuses to answer a legitimate Question or acts in any other way to the serious detriment of the dignity or orderly procedure of the House.

Hon. Members would, therefore, accept that whatever happened last evening, where the Chair was forced to adjourn the proceedings of the House prematurely within the provisions of that Standing Order, was as a result of gross disorderly conduct by a few hon. Members of this House. In this particular case, I make reference to the conduct of hon. Ruhiu, the Member for Embakasi, hon. Icharia, the Member for Kiambaa, hon. Karan, the Member for Nyando and hon. Otieno-Kopiyo, the Member for Kasipul/Kabondo. The attempt to tamper with and remove the Mace from its position was not only contemptuous of the authority of the Chair but also borders on criminality. This House should never, at any time, allow itself to be influenced by such unbecoming behaviour. It is rather unfortunate that serious disciplinary action was not immediately meted out to them in accordance with the provisions of the Standing Orders.

However, I take this opportunity to reprimand very severely, for that action, the hon. Members concerned.

I warn them, and others who might be of similar thinking, that this House, and the Kenyan society in general, would not allow any hon. Member to mess up with the authority and dignity of this House. Anything else is acceptable or tolerable, but the lowering of the dignity of this House, as symbolised by the Mace, will not be accepted by the Chair. Prof. Anyang'-Nyong'o, you may continue.

MOTION

ADOPTION OF PIC REPORT

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.

(Prof. Anyang'-Nyong'o on 3.10.96)

(Resumption of Debate interrupted on 3.12.96)

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. I just wanted to inform the Chair that I was nowhere near the Mace when those events took place.

Mr. Speaker: Order! As you also know, Dr. Otieno-Kopiyo, I was also not here. But that is the report I got. If you are right and the Chair is wrong, take my apologies. Prof. Anyang'-Nyong'o, you have the Floor.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, let me thank hon. Wetangula for coming back to the law. As I was speaking yesterday, I will continue to debate the amendment by making what I called "my last points", which were interrupted. The amendments to the Report are extensive, and I am glad that I am now allowed to complete my response to the them.

Yesterday I said that the amendments proposed regarding our recommendations on Nzoia Sugar Company, which is referred to on pages 238 onwards, are what I will discuss now. Nzoia Sugar Company entered into a contract, in September, 1990, with a foreign firm, Arkel International Incorporated, for the construction of phase two of the rehabilitation and expansion of the Nzoia Sugar Factory, without the invitation of open tenders before phase one of the said project was completed. The contract sum was US\$66.8 million and Kshs203.3 million. This sum was varied upwards to US\$75.5 million and Kshs220 million. The equipment that was ordered, and which was financed by the Exim Bank of New York, was never installed. Money was, therefore, paid but no proper investment was done. This equipment is still lying in the yards of Nzoia Sugar Company.

The Committee, therefore, ordered an inter-ministerial committee to investigate the matter and report to it.

Mr. Speaker, Sir, the report and the terms of reference for that Inter-Ministerial Committee is found on the 5th Report. Our recommendations were based on the following findings:- One, on page 251---

Mr. Kamuyu: On a point of order, Mr. Speaker, Sir. There are loud consultations going on on the KANU side. Could you, please, assist?

Mr. Speaker: Order! Proceed, Prof. Anyang'-Nyong'o.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, our recommendations were based on the findings on pages 251, 254, 260 and 263. To show the gravity of the offense, I would like to read out an extract from page 251:

"The Committee heard the evidence given by the Chairman of the Inter-Ministerial Committee that a total of four international firms, including Arkel International Inc., were invited by the Ministry of Agriculture to quote tenders for the rehabilitation and expansion of Nzoia Sugar Company. The Committee was informed that after the tender was awarded to Arkel International Inc., which had also promised to source for the funds, Parliament was immediately dissolved in preparation for the 1988 General Election and, as such, the necessary Parliamentary approval for the Government to guarantee the borrowing for the Company to finance the projects could not be obtained. The Committee was concerned that the Attorney-General's advice against awarding the whole tender consisting of; 1. consultancy and supervision, 2. to supply its procurement. 3. construction and installation. 4. financing, was ignored. The Attorney-General's advice was ignored. The Committee was further concerned that even after awarding the tender against the Attorney-General's advice, the Ministry went ahead to draw and sign a contract with Arkel International Inc., without involving the Attorney-General's Office. The Committee was perturbed that the 16 months' delay in the implementation of the project occasioned a variation in the contract price involving additional foreign borrowing of \$US437,069 which was never taken to Parliament for approval as required by law".

So, two things happened. One, the Attorney-General's advice was ignored, because a contract should not be awarded to the same person that has done the consultancy. Secondly, a variation was ordered 16 months later of over \$US437,000 without seeking the approval of Parliament. It is in that context that the Committee recommended that the then Minister for Agriculture, Mr. Elijah Mwangale, the Permanent Secretary, Mr. Charles Mbindyo, the Permanent Secretary, Ministry of Agriculture, Dr. Karuga Koinange, the Company's chief executive and chairman, be personally held responsible for the mess that occurred in the Company and be made to repay all

the money they misappropriated.

Mr. Speaker, Sir, as the evidence accumulated, on page 254, we found that the Minister and the Permanent Secretaries and the Board, did not only ignore the Attorney-General's advice and continued to expend money without the approval of Parliament, but they even accumulated more offenses. The second offense they committed is:-

"The Committee heard the evidence given by the Chairman of the Inter-Ministerial Committee and noted with concern that although the project was a turnkey project, Arkel International Incorporated, hired M/S Shiv Contractors as project director, but subsequently dismissed M/S Shiv Contractors in collusion with Mr. Mwangale, the then Minister for Agriculture, thereby jeopardising the effective implementation of the project which necessitated the Company to hire the services of Apcone Industrial Consultants to attain effective implementation of the project. The Committee observed with great concern that despite Apcone's professional and technical criticism of Arkel's performance, the latter responded negatively and continued to disregard its contractual obligations in the turnkey project. The Committee recommends that Arkel International Inc. be fully held responsible for the non-performance of its contractual obligation and compensate the Company accordingly".

Mr. Speaker, Sir, after Arkel International Inc., had received the valuation and received \$US43,069, the Minister for Agriculture, having been advised to get a consultant to evaluate what he was doing and got Apcone Industrial Consultants to evaluate the project properly, the Minister went ahead to dismiss the professional advice of another consultant, and continued with the project with Arkel International Inc., contrary to the professional advice now received. You see that these offenses are accumulating, necessitating us at the end to recommend to the Government a very severe penalty to stop this kind of thing. On page 260, again on the findings of the Inter-Ministerial Committee:-

"The Committee heard the evidence given by the Chairman of the Inter-Ministerial Committee and was surprised that despite all the problems Arkel International Inc., had encountered in Phase I of the project, which was meant to increase the capacity of the factory from 2,000 tonnes of cane per day to 3,000 tonnes of cane per day, the Minister for Agriculture, yet, again went ahead and awarded Arkel International Inc. without competitive tendering the Phase II project, to carry on its own feasibility study to expand the capacity of the factory to 6,000 TCD or 7,000 TCD before Phase I was even completed. The Committee noted that Phase II was to cost over \$US66,759,900 and with a variation to over \$US70 million. The Committee was appalled at the irregular and illegal manner in which the then chief executive, Mr. Dan Eshitemi and his Chairman, Mr. Fred Wafula, in 1991, single-handedly approved the change of sugar production technology at the factory, which Arkel International Inc. estimated would cost another \$US8 million plus. The Committee disapproved the action taken by these two officials to unilaterally sign this contract variation with Arkel International Inc. without providing any detailed components by components, a breakdown to show how these figures were arrived at, and was concerned that the necessary Government approvals and guarantees for the additional financing had not been obtained as by law required".

Mr. Speaker, Sir, this is another sad thing, that now, the chief executives approved change in technology requiring another further expenditure of \$US8 million without seeking approval from the parent Ministry nor the Treasury. This was a third offence, and this is why, finally, we had to recommend that a very severe punishment be vested on these people".

This is where the word "banning" from public office now comes in.

"The Committee finally recommends that the award of Phase II to Arkel International Inc. be held as null and void. The Committee further recommends that the then Minister for Agriculture, Mr. Elijah Mwangale, and the then Permanent Secretary, Ministry of Agriculture, Dr. Karuga Koinange, be held responsible for defrauding Nzoia Sugar Company. The Committee also recommends that the said officers, Messrs Elijah Mwangale, Wilfred Koinange, Fred Wafula and Dan Eshitemi be "banned" from holding public office in the Republic of Kenya".

Mr. Speaker, Sir, we had very good reasons for doing this, not because, we meant to be bad to these people, but the evidence given by the Inter-Ministerial Committee showed quite clearly that these people were not ashamed at all to flout the laid-down law of the Republic of Kenya and to run Nzoia Sugar Company and the Treasury in tremendous debts without fulfilling the expansion of Phase II of the factory.

Mr. Gatabaki: On a point of information, Mr. Speaker, Sir. The Committee should not have stopped at the recommendation that those individuals should not hold any public office. The Committee should have gone further and recommend to the Attorney-General that in view of the magnitude of theft of public funds, those individuals should be prosecuted and jailed for stealing public funds.

Mr. Speaker: Order! Order, hon. Members. By the way, Mr. Gatabaki, that is a suggestion. There is a lot of difference between a suggestion and information. You are therefore, out of order. Proceed prof. Anyang'-Nyong'o.

Prof. Anyang'-Nyong'o: Finally, in the case of Nzoia Sugar Company, this offense that the Inter-Ministerial Committee found after we had discussed it extensively in our Committee, related to the proposed Sugar-cane Development Programme. This was a programme meant to expand the area of growing sugar-cane, to enable most farmers benefit from sugar growing so that the factory could have an expanded area of cane, to justify the expansion of phase two. When this money was made available to the Chief Executive of Nzoia Sugar Company as the Inter-Ministerial Committee found, this money was awfully misappropriated. So, the recommendations we made, were based on the information given by the Inter-ministerial Committee which included the CID and the Police. Money meant to benefit farmers and the factory was not properly used. I will just read the recommendations based on the evidence, which reads as follows:

"The Committee heard the evidence given by the Chairman of the Inter-Ministerial Committee and noted that appropriate vanguard tractors and trailer units manufactured in the USA were delivered to the factory without considering their compatibility with the type of local feeder roads, narrow bridges, availability of spare parts, locally trained mechanics and the cost-effectiveness of spares."

As part of this expansion, the factory was meant to have the equipment that would not only farm the land but also deliver the cane to the factory. Rather than sourcing these equipment appropriately, the management sourced this equipment from the USA but the equipment was inappropriate for our conditions. It therefore, arrived in Nzoia Sugar Company and it was never used. The Inter-Ministerial Committee found out that the sourcing of this equipment was irregular and there was *prima facie* evidence that the officers concerned could have "eaten" something. It continues to say:

"The Committee was concerned that the Chief Executive of the Company, Mr. Wabuke, went on a visit to the USA to inspect these tractors and accepted to bring them to Nzoia Sugar Company.

The Committee recommends that Mr. Wabuke be fully held responsible for ordering inappropriate tractors which were over-priced and unsuitable for use in Kenya and that he be made to repay in full to the Company, the money lost in this transaction. The Committee further recommends that Arkel International Inc. be sued for giving a false promise that they will establish a back-up system for the servicing of the tractors. The Committee also recommends that Mr. Wabuke be banned from holding public office in Kenya."

Mr. Speaker, Sir, that is our word on the Nzoia Sugar Company saga. I would like to add finally that in the USA, there is a law that makes it possible for both the US Government and other foreign Governments to take American companies involved in such fraudulent activities to court and we drew the attention of the Attorney-General and the PS Treasury to this matter and I hope that the Government will take appropriate steps to ensure that Arkel International Inc. is brought to book, in accordance with the laws of the USA and in accordance with the laws of natural justice.

Mr. Speaker, Sir, finally, in the case of the NSSF, for which amendments are also proposed, I would like the House to note that we had six sittings with the NSSF. We informed the NSSF that the problems they are facing should be fully reviewed by the Government. One of the problems was the issue of buying land at exorbitant prices. The NSSF had bought 48 pieces of land which the Committee felt were over-priced. We therefore, requested, in accordance with the National Assembly Powers and Privileges Act, Cap.6 of the Laws of Kenya, Sections 14-20 which deals with evidence before the Committee, the Commissioner of Lands to bring to the Committee the valuations of these 48 pieces of land. On 21st November, 1995, we wrote a letter to the Commissioner of Lands which stated as follows:

"The Managing Trustee of the NSSF appeared before the PIC on Wednesday, 13th September, 1995 and gave evidence on the accounts of the NSSF. Arising from the evidence, the Committee required additional information from your office on matters relating to queries by the Auditor-General(Corporations). In the table provided, please insert the market price of every piece of land or building at the time when it was sold, then, submit the document to the Auditor-General (Corporations) urgently. This will assist the Committee to form a fair judgement and conclusion on queries therein."

Mr. Speaker, Sir, the Committee was very particular to follow the law. We know that the Powers and Privileges Act entitles Parliament or any Committee of Parliament to call anybody to give evidence. The Powers and Privileges Act states very clearly that, when one is called to give evidence, one has no other alternative but to appear before the Committee. Section 18 of the Powers and Privileges Act says: "Except with express permission of the President, nobody can fail to appear before a Committee, produce any documents, any paper and any information."

It is in that light that we wrote to the Commissioner of Lands because he is the most senior Government officer who deals with land transactions in this Republic. Nothing happened. The Clerk to the National Assembly sent various people to the office of the Commissioner of Lands and on several occasions, these messengers were told that information was going to be made available but it was never made available. The Committee was so frustrated by what was happening that in the final analysis, we had to write to the PS Ministry of Labour and Manpower Development and the PS Ministry of Lands and Settlement before we could get anything done. When Mr. Gachanja appeared before us, he contended that he had failed to undertake the exercise due to lack of funds. But under cross examination, he admitted that he would continue with the exercise. What surprises us is that although the letter went on the 21st of November, 1995, it was not until the 26th of January, 1996, when Mr. Gachanja finally appeared before us that he realised that the exercise was urgent. He, however, contended that when he received the letter, the Chief Valuer was on holiday. When the Chief Valuer, Mr. Mwaniki, appeared before us, he told us that he never went on holiday except two weeks after the letter had arrived in his office. I quote from him: "When Mr. Mwinzi called me, I told him to check with Mr. Muchai, who is a Valuation Assistant. That is why on the copy of the letter that we had, they had actually scribbled valuations for eight pieces of land." This copy of the letter arrived in our hands by accident, and we produced it as evidence that work had actually started to get the valuation, although the Commissioner was contending that nothing had been done.

Between November 27th, 1995 and January 29th, 1996, the Commissioner of Lands, who insisted that he needed the permission of the Permanent Secretary do to the work, never spoke to the Permanent Secretary, according to the PS. It appeared to us very clearly that the PS, Ministry of Lands and Settlement, and the Commissioner of Lands were both committing perjury before the Committee. On that 29th day of January, 1996, when they appeared before us, they promised that within two months, they would get the job of doing the valuation done. When they came back on the 29th day of February, 1996, when the PS, Ministry of Labour and Manpower Development, Mr. Murage, was there, the PS, Ministry of Lands and Settlement, Mr. Sang, now told us that he needed three months to do the valuation. So, from November, 1995 to 29th February, 1996, which was already over three months, nothing had been done. If you read the HANSARD, you will find how frustrated we were with this kind of procrastination, and the HANSARD is available here. Mr. Sang, sitting after sitting, refused to make this evidence available to us.

Mr. Speaker, Sir, when we finally met the Big Five, that is Prof. Mbithi, Head of the Civil Service and Secretary to the Cabinet, Attorney General, Mr. A. Wako, Mr. B. Kipkulei, PS, Treasury, Mr. B. Makau, PS, State Corporations and Mr. G. Avedi, Directorate of Personnel Management, we put this matter to them. The five Permanent Secretaries, were astonished at the behaviour of both the PS, Ministry of Lands and Settlement and the Commissioner of Lands. Indeed, when we brought the matter to the Attorney General, that we think that these economic crimes should be punished severely, this is what the Attorney General said, and I quote. "As to whether our laws are sufficient on these matters, i.e., the matter of economic crimes, I think, and I have expressed this before this Committee before, that our criminal law, in much as what would be termed economic crimes, is extremely weak. We are operating as if our society was a simple society of the 1940s and 1950s, without taking into account that our society is far very modern, international, computerised, with people who are so educated that they can commit these crimes without others knowing. So, we really need to strengthen the Penal Code provisions that relate to economic crime. Even last week, I was talking to Justice Luta, who is the Chairman of the Task Force on Penal Law and Procedures, and I have told him that the Task Force has to focus on giving me a draft Bill on economic crimes. I gave a deadline by the end of this year because it is very difficult even to define it and so on. But we need that one in our books today. Our law today on economic and environmental crimes, is weak. We need to strengthen the law."

Mr. Speaker, Sir, the Attorney General himself admitted before the Committee and emphasised that the law on economic crimes is weak, and that he himself has instructed Justice Luta, to submit his report so that the Attorney General can come up with better law dealing with economic crimes.

Now I would like to refer to Prof. Mbithi. Prof. Mbithi, Head of the Civil Service and Secretary to the Cabinet, speaking on the same issue, but with regard to Kenya National Trading Corporation (KNTC), said the following: " Mr. Chairman, the hon. Member is describing a very disturbing situation which the Government is

actually very concerned about. We are finding that even getting rid of officers is not enough". Listen to this "We are finding that even getting rid of officers is not enough. For example, Tirop, Magut and Maganga went away. But we find that, that does not help the problem at all. We thought going away of some of these people would actually signal that crime does not pay. We find that we have got to go deeper into what we are doing. The hon. Member is describing a crime. It is not even collusion because in such cases, even the Board of Directors does not know what is going on. Somebody decides to go under-ground and does all these things. However, we have now strengthened the State Corporations Inspectorate as provided for in Cap 446 which is under Mr. Makau, so that it looks at some of these contracts and starts giving us early warning. Unless we get early warning so that we stop the decay, and take action against the officers, to a great extent, it will be very meaningless to say that we want to recover Kshs500 million from a simple officer, when he might have got only Kshs10,000. He may have created all the mess because he wanted to eat only that little amount. So, we are very concerned about this. We can only inform the Committee that the Inspectorate of State Corporations is now being strengthened with economists so as to get rid of notorious cases because some of them are very well known. These are the words of the head of the Civil Service, Prof. Mbithi, who a week after he had said these things to us, was retired unceremoniously. I do not know whether he was retired because he said these things so candidly and so honestly, but what happens in this Government is that when you do something good, the next day you get "ahsante ya punda ni mateke."

Mr. Speaker, Sir, that is the seriousness of the matter. The matter has been recognized by the Attorney-General and the head of the Civil Service. I do not know why some individuals in this Government are trying to undermine the Attorney-General, the head of the Civil Service and the Minister for Finance. The Minister for Finance is on record recently as saying that the Government must be cleaned of corruption so that this country can have economic growth. Therefore, rather than procrastinate, I would ask this Government to take courage and move a step ahead and tell this nation, once and for all, that somebody in this Government can dream of a better future for this nation. If, indeed, they cannot dream of a better future for this nation, they have no reason whatsoever calling themselves hon. Ministers. Finally, I want to talk on the law. The hon. Sunkuli and hon. Koech said that they were moving the amendments because our recommendations contravened the Constitution. I would like hon. Koech and hon. Sunkuli to tell this House which section of the Constitution is being contravened. I have looked at the Constitution and hon. Paul Muite will come on record that there is no section of the Constitution whatsoever that is contravened by our recommendations. Before these two can stand and say that somebody is contravening the Constitution, I would like those who speak on this amendment, particularly with regard to NSSF, to declare their interest because as, Mr. Ndoria Gicheru, who has written on parliamentary practice in Kenya says on pages 73-74, and as Mr. Gicheru is borne out by both the Constitution and our Standing Orders, it is incumbent upon each and everyone of us if he wants to move this amendment to declare his interest, particularly if has been given land by the Commissioner of Lands, Mr. Gachanja.

Mr. Ndoria Gicheru says the following, and I quote:

"The Constitution of Kenya stipulates that, a Standing Order may make provision under which a Member who votes upon a question on which he has a direct pecuniary interest shall be deemed not to have voted. This permissive power is based on the principle that a man cannot be a judge in his own case. However, the Standing Orders only require a Member who wishes to speak on any matter in which he has personal interest to declare that interest unless it is obvious. Thus, the principle has long been accepted that a Member should put his fellow members and the public in possession of the full facts about any pecuniary interest which may be relevant to his speeches or actions in Parliament. But this general proposition invites two questions, first, what constitutes a pecuniary interest for purposes of declaration? Secondly, when should that interest be declared? The main criterion for declaration is relevant to debate or other activity in which a Member is taking part. An interest should be declared whenever a specific and relevant financial connection exists which might reasonably be thought to affect the expression of a Member's views on the matter under debate or other activity. The interest must be a direct pecuniary interest and separately belonging to persons, that is, not being jointly owned with the rest of the community or on a matter of state policy. That Members may vote to increase their own salaries and a director or a shareholder of a public company may vote for or against the public Bill regulating that company. In both instances, though the pecuniary interest is private and individual, the matter relates to public policy".

Therefore, if any Member wants us to amend our recommendations especially with regard to the fact that NSSF bought land at exorbitant prices from certain individuals or companies belonging to individuals, those Members must first of all declare their interest because I suspect they are trying to protect these people from being banned

from public office because they know that they benefited from these acts of fraud that deprived this nation of billions and billions of dollars. If any Member wants us to amend our report in defence of Nzoia Sugar Company, they must declare their interest with reference to Exim Bank of New York, Arkel and all the contracts that the Nzoia Sugar Company had when Arkel was implementing that project. If you do not declare your interest today and you continue voting for this amendment, we shall do our research and bring these facts before the House and such a Member will no longer be justified to sit in this House as an hon. Member.

Standing Order No.75 stipulates the circumstances under which Members who have interest on matters being brought before the House should proceed and that in cases where they have such interests, they should declare. Standing Order No.161 talks about voting in the Select Committee and makes provisions under which Members should vote. Under that Standing Order, in our committee, we never voted. Everything was arrived at unanimously. Therefore, the governing party cannot come to this House when a report has already been submitted to the House and deny that report because the governing party was fully represented in the Sixth Public Investments Committee.

Just the other day, the Leader of the Government Business came to this House and said that Members from the opposite side should not stand in this House and deny what was said in the Sessional Committee because they were represented in that committee. The same principle should apply to the adoption of this report. Therefore, having referred to the pecuniary interest and having also referred to the fact that Standing Order No.160(1) was observed by the Public Investments, I as the Chairman of that Committee, do not see any reason whatsoever why this amendment should be moved.

Finally, this is, but a recommendation to the Attorney-General for implementation by the Treasury and the Treasury is going to bring to this House a Treasury Memorandum where they will say! "We implemented this recommendation to this effect or we did not implement this recommendation at that point in time". The Minister for Finance will have the opportunity to explain to the House why the banning of these people from public office is not possible and that there are other measures that the Attorney-General, together with the established courts of this land, can take which this House will appreciate, but at this point, it is grossly immature for the governing party to submit any amendment to the report.

I beg to oppose the amendment.

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, thank you very much for giving me a chance that I may also make a few points on the amendment before the House. First of all, I want to declare my interest as Prof. Anyang'-Nyong'o says. My interest is that anybody who is corrupt and has done anything wrong, as has been eloquently elaborated in the document which has been put before us, must be punished for it. This amendment is not an attempt to protect anybody. Anybody who has been found to have misappropriated money, indulged in corrupt practices that the Chairman of PIC has elaborated, should face the law. Those people should face the law in the proper manner.

The amendment before the House is not an attempt to cover up or protect anybody. It is very obvious and clear that we have not created a false statement, a statement that an amendment is an attempt to protect wrong-doers. And then this has been belaboured since yesterday, it is being argued all the time when, in fact, we have agreed on both sides that anybody who has done those things which are so eloquently elaborated must be punished.

Mr. Speaker, our difference---

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. The Minister has just said that we have created a false statement that the Government is out to cover up somebody. Could he declare his interests, whether he is one of those fellows who had grabbed property or not? Or who are the beneficiaries he has not so far told us?

Mr. Speaker: That is your opinion! Proceed!

The Minister for Health (Mr. Angatia): Thank you, Mr. Speaker, Sir. They are spending so much time talking on a matter on which all of us have agreed to. It is a matter which is very obvious. The amendment we are moving here is that PIC---

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Is the hon. Minister in order to mislead the House that we have all agreed to? When did we agree? I think Prof. Anyang'-Nyong'o is the first one to speak from this side. Where was this agreement? In his kitchen or where?

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, obviously, the hon. Member for Butere was not here yesterday and he wants to shine even where he is not supposed on matters where people do not shine.

Mr. Speaker, Sir, this is a document of this House---

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. I think I raised a very valid point of order that

the Minister was misleading the House that we were in agreement. I read the HANSARD and I saw nowhere we had agreed. As a matter of fact, I read that somebody attempted to remove the Mace. Is that the type of agreement he is talking about?

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, the PIC has done its work and it has brought its recommendations to the House. The House can adopt these recommendations, amend them or reject them. An amendment is a proper duty of this House and it should not be looked at, as if it is anything sinister, or anything that is calculated to undermine the proper role that this House plays in the Government. Therefore, this amendment is properly moved, let us debate it and argue whether it is a fair amendment, considering the seriousness of the matters in this document. But to insinuate and then concentrate dwelling on insinuations that is not true that Government is blocking an attempt to punish wrong-doers is totally wrong and, therefore, we should not be spending time arguing on that issue.

Secondly, Mr. Speaker, Sir, we can ask the competent institutions of this country to deal with the wrong-doers in the proper manner. This Parliament is the complainant. It will make recommendations, but this Parliament cannot also be the judge and pass judgement which we know we cannot implement. It is obvious not a proper thing to say here even by the resolutions of this House that these people should be banned for life from holding any public office. That kind of judgement and ruling is made by our courts and we are justified to ask that the courts go and do that job. We cannot ourselves sit here and say we are banishing anybody for life. Under what law? We are the complainant and probably will be the prosecutors, but we cannot also be the judges.

Mr. Speaker, I am not sure that this House---

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. Is the Minister not misleading the House by saying that the courts can actually decide to ban somebody from occupying such and such office for life? I do not think that is true. They can banish somebody, but they cannot ban somebody from occupying an office.

Mr. Speaker: By the way, you are not quite right! What about when the court declares you bankrupt? Proceed, Mr. Minister!

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, I am, in fact, grateful to him because we are saying exactly the same thing that nobody is allowed to ban anybody from anything for life. So, if the courts cannot do it, then who else can do it? So, he is supporting me and this is exactly what I am arguing is wrong.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the Minister for Health should know the law, Cap.65 of the Laws of Kenya, the Prevention of Corruption Act, actually provides for such law:- It states "A man or woman who has committed fraud in public office can be banished from holding public office."

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, that is exactly what I am saying that this House had done its job by passing that law. This House cannot now take that responsibility from the courts and do it here. Why should we now go and take away that responsibility of the courts of passing judgement? Why do a thing that we cannot implement anyway?

If hon. Shikuku was waiting to hear where we are in agreement, and here we are. We are now in agreement with hon. Lwali-Oyondi and hon. Prof. Anyang'-Nyong'o. That is the agreement I am talking about. There is no difference, nobody is saying that we should condone corruption. Hon. Shikuku, may remain outside, but I am sure then we are in agreement.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Speaker, Sir. I know the hon. Minister is used to "ambushing" people. But, surely, what we are saying here is that I am drawing your attention to the law. When the Committee recommends, these recommendations would be taken to the Attorney-General for implementation. The Attorney-General cannot implement these things in his office, Sheria House, but he takes them to court. So, our recommendations are for the Attorney-General to take to court in cognisance of Cap.65 of the Laws of Kenya.

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, that is a different recommendation from the one in the Report. If we are recommending to the Attorney-General to take these people to court, then why are we then having this recommendation; "Committee further recommends that these people be banished from holding any public office in the Republic of Kenya?" We should be urging the Attorney-General to take stern action against these people. Suppose I say from this side that these people should be hanged, I would not be saying anything that can be implemented until the court decides so. But this is also against the Constitution, this House makes laws and it does not pass judgement. We are not supposed to pass judgements on anybody.

I would like us to come down to realities and make sure---

Prof. Mzee: On a point of order, Mr. Speaker, Sir. Is the Minister in order to say that a thing like this has never happened before yet we recommended for surcharge and we are not a court and this House adopted that recommendation? Our recommendation here is to banish these people.

Mr. Speaker: Why do you not wait until your time to argue?

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, various forms of punishment are in the Code of Regulations of this Government. The way the civil servants are supposed to behave, surcharge is also part of the law of this land, various punishments are part of the laws of this land and so on. The only people who can invoke those laws and implement them are courts not ourselves. There, we are in agreement. Therefore, the amendment is properly before the House. Let us go on with the amendment, we are agreed that these people should be banished. We are not going to condone thieves, but let us ask the courts in a proper manner which we always ask the courts. I have sat in the PIC and I have felt bad as Prof. Anyang'-Nyong'o feels when people go plundering the wealth of this country and use it for personal gains. There are laws of this land which protect both thieves and non-thieves and these laws are given to the wise men of the court so that the court can implement these laws. We being laymen cannot go tampering with these things and saying so-and-so's neck, arm shall be cut off because so-and-so stole from Nzoia Sugar Factory, so-and-so's leg shall be cut off and so on. We do not do that. Even if we would like it be done that way, we ask the competent people to do it. This is my plea and I am sure that hon. Prof. Anyang'-Nyong'o will agree with me on this one. Let the Executive, which is the Government, do its work within the framework of the law. Let the Executive not interfere with the work of Parliament and courts. When it comes to Parliament, many of us would argue that Parliament is supreme. Let Parliament also do its work, which is to make the laws, and to investigate, like we have investigated here, and find out the mistakes and take them to the courts.

Even when the evidence which was taken by our Public Accounts Committee (PAC) and Public Investments Committee (PIC) is taken before the courts, it will still have to be proved. It will not be used by the courts *per se* to convict anybody. People will have to be proved before the courts. So, we cannot claim that whatever we have passed here is enough to convict anybody. We still have to go and urge and persuade the courts to accept our evidence, and then convict those people. So, why should we sit here and argue that we can convict anybody?

I am also urging that let the courts do their work. All of us want democracy; we want the three institutions to work independently. But they should relate correctly so that this country can be run properly. Let us also recognise our boundaries. Let us recognise the areas that have been demarcated for other people, and let those people carry out their work.

Therefore, as far as the Government side is concerned, we would like to make an amendment which does not destroy the findings of the Committee, and which does not weaken the recommendations of the Committee. It is an amendment which merely says that the matter should be handled by the appropriate arm of the Government. That is all that we are saying.

Even when an amendment is brought here, it is very easy to amend again an amendment which is before the House. All we are saying is that; let us put the matter in the right quarters. Then, we would urge the right quarters to take severe action that meets the magnitude of the offence committed.

By the Government moving this amendment, it is not saying that these offenses have not been committed.

The PIC scrutinises these things on behalf of Parliament. We are very grateful that they have brought out these issues very well, and they have pointed out all the wrongs. We are grateful that the Committee has even gone as far as recommending some of the things that can be done. The Committee then, has brought its findings to this House. The House is in a better position than the Committee, to decide: "Thank you very much for a good job done, and thank you very much for your recommendations, but our performance goes as far as this level. Anything beyond this level is the job of the courts, and let us now give it to the courts to pass judgment". That is what we are saying. I do not know why we differ, Prof. Anyang'-Nyong'o. From what I can see, these people may deserve greater punishment than what is recommended by the Committee. If they deserve greater punishment, why should we tie the hands of the courts? Let us plead with the courts to punish these people, but not for us to pass the judgement while we are here, and appear to be doing it on behalf of the courts. We want to ask the courts, through the right channels, to take appropriate action.

I want to thank the Committee for taking the evidence, and for elaborating the evidence in this House very well. But the Committee, and of course this House, should not be the complainant, the prosecutor, the judge and even attempt to be the executioner. The same house---

Mr. Mulusya: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Minister to say that this House is the complainant? The Report which the Committee has brought here considered findings of the Auditor-General (Corporations) and, therefore, the prosecution is by the Auditor-General (Corporations) and not this House.

Mr. Speaker: By the way, hon. Mulusya, do you know whose agent the Auditor-General (Corporations) is? He is an agent of Parliament!

Mr. Mulusya: By the Constitution, Mr. Speaker, Sir---

Mr. Speaker: Order! Proceed, hon. Angatia!

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, do not get tired of teaching us. So, let us not be the complainant, the prosecutor, the judge and even the executioner. I know that the people who committed these offenses were called, interviewed and evidence taken by the Committee. But in a court of law, all this will be repeated. I would not be surprised if those offenders appeared before a court and denied everything they have told us. It would now be up to us to prove that what they told us was the truth, and not what they will be telling the courts, when they are taken there. So, there is plenty of room for these people. It is we who are insisting that people should not be sentenced and judged before they have been heard. Let us have these people heard before a competent court of law, and then judgement should be passed when they have been heard, and when everything that is needed to be considered, has been put into consideration.

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

Mr. Speaker: I understand the Minister for Finance has an amendment to the amendment. Proceed, hon. Mudavadi.

The Minister for Finance (Mr. Mudavadi): Thank you, Mr. Speaker, Sir. In order to give the House ample time to debate on this matter, I will go straightaway to propose a further amendment to the amendment, in accordance with Section 46 of our Standing Orders.

First of all, I would like to propose that the proposed amendments appearing on the Notice, on the Order Paper of today, 4th December, 1996, be further amended as follows:

(i) First, reinstate the words proposed to be deleted.

(ii) In the reinstated words, we then delete the following:

"Banished from holding any public office in the Republic of Kenya" - page 67; "banned from holding public office" - page 74; "banned from holding a public office" - page 123; "banned from holding any public office in the Republic of Kenya" - page 231; "banned from holding public office" - page 237; and, "banned from holding public office in Kenya" - pages 238, 261 and 264.

(iii) Inserting in places thereof, the following words: "Investigated, and where ample evidence is available, the Attorney-General will then follow-up with prosecution in courts, and if consequently found guilty of the offenses, they be considered unfit to hold public office".

Mr. Speaker, Sir, with these proposals, what we want to establish is, basically, one or two principles. First of all, we must uphold the doctrine of separation of powers. Our Parliament is the legislator. We also have the Judiciary and the Executive. So, what we are putting across here, is that if we have to uphold the rule of law as Parliament, we must, at all times, ensure that we respect the separation doctrine, where Parliament maintains its supremacy as the legislative organ, and the Judiciary must continue to handle the aspect of prosecution.

So, if these people have committed these offenses, we are in no way, suggesting that they should be exonerated and let scot-free. No. We are saying that the recommendations made by the PIC should be looked at thoroughly, and where necessary, proper thorough investigations be carried out. Where there is ample evidence, the Attorney-General should prosecute, and then the courts should try these people. If they are found guilty, we have no objection whatsoever, to the question of them not being allowed to hold public offices. This is because we do agree that if somebody is a criminal, and he has committed those offenses, really he does not deserve to hold any public office.

But the principle that we are trying to establish is that the Parliament should not be the one to ban somebody from holding public office. There are other processes of law that must take their course, and on that basis, somebody can be declared unfit to hold public office. So, I hope that with these amendments, we shall be able to achieve the same objective. I would like the House to know that the spirit in which we are proposing these amendments is not in any way, to negate or abet corruption, but to make sure that we deal with corruption and all vices, but in a proper format where we know that we have the separation principle, which we must uphold.

With those few remarks, I beg to propose the amendments.

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, I rise to second the Motion on the amendment to the amendment.

Let me also say here that, today's amendment on the amendment has been necessitated by the fact that the Government wants to make it clear to the House that there is no way we condone any wrong doing whatsoever. This has been brought about by the fact that when going through this debate an impression has been cast that perhaps this Government in bringing the original amendment wanted to cover maybe, certain wrong doings. I want to say that, indeed, there were certain cases where, for example, the Attorney-General was asked to take action where necessary. On page 123, for example, under the recommendation part II, the Attorney-General has been asked to take action in terms of conducting investigations and indeed prosecute people where sufficient

evidence has been found. But again in the sense that this appears to be right in the body of the Report, it was necessary to come out clearly and assure this House that the Government is not going to condone anybody who has done or committed any irregularity.

Mr. Speaker, Sir, we are bringing the original amendment because the recommendations say that the people should be banned from holding public offices. The terminology "public office" is a very wide and very embracing. Indeed, even being a Member of Parliament you are holding a public office. We are not going to say Parliament should be the one that is going to pronounce somebody guilty of being a thief. This is the most important thing. We are legislators here, we are the ones who legislate in this Parliament. We legislated the procedures that must be followed before declaring one guilty. There is a very big difference between a suspect and somebody who is guilty. Only the court of law, according to our law, can reach to that verdict. So, unless we do refer to our own laws, there is no way we can declare somebody guilty here. We can cast suspicion, but that is completely different. Hon. Members will know that the Constitution has stipulated very clearly, who is legible to be a Member of Parliament and who can be disqualified. So when we say that these people here are disqualified from holding public office, that means that, therefore, they cannot even be Members of Parliament.

Again there is a difference between Parliament and the Judiciary. There is that separation of powers between the legislature and the judiciary. Once again that is part of the Constitution here. At the same time again, as far as the Penal Code is concerned, the Constitution also states very clearly that you are not guilty until you are proved to be so. No, you are innocent until you are proved guilty. Once again, it is this Parliament that passes that law. If we feel that we are not happy about that one then we bring an amendment to that effect. So, condemning somebody to be guilty before he has been given the opportunity to defend himself that could also impede on the individual rights which are guaranteed in the Constitution. I would like to assure hon. Members one thing that the amendment which has been commended to this House by the Minister for Finance, actually exerts a stiffer penalty than even banishing somebody from holding a public office because the other recommendations say that somebody should be banished from the public office and that is all. But what the Minister for Finance said here is that the Attorney-General should expeditiously undertake thorough investigations and where sufficient evidence has been established, prosecution be carried out, and if the individual is then found guilty by a court of law, then there is an appropriate Act that will ensure such person does not hold a public office.

I could not see a much more transparent firmness of the Government to say that, fine, if somebody is found guilty through the established machinery in this country, as laid down in the Constitution and other legislations, yes, you can do so. Just as we cannot, inasmuch as we abhor somebody cannot be said to have stolen and this has happened then mob justice is exerted on an individual. We cannot, as a Parliament, come here and legislate mob justice and say that; if somebody has done this and that wananchi should go and beat him. We cannot do that. I want to make---

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Is it in order for the Vice-President and Minister for Planning and National Development of the Republic of Kenya to say that all those who have committed economic crimes should not be punished, when he is known for committing the greatest crime in this country related to the Goldenberg affair?

(Applause)

Mr. Speaker: Order! I suppose hon. Gatabaki, it is just about time you respected the Standing Orders of this House and the dignity of this House. If you want to take into issue the character of personal conduct of any hon. Member of this House, follow Standing Order No.73 to the letter, short of that the Chair will not allow any further incursions unlawfully so by Members going into the characters of others. That destroys this Parliament and the very rationale of us having even rules of debating issues in this House. So, I warn the House that the Chair will not any further tolerate that kind of behaviour.

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

Mr. Speaker: Order, Gatabaki! Before you seek any further guidance from the Chair, get your Standing Order book and read the relevant Standing Order which I have referred, to and if you are further in doubt, then get in touch with the Chair. Proceed.

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Thank you, Mr. Speaker, Sir.

I am sure hon. Gatabaki had hoped that he might be able to provoke into my anger. I am mature enough and I want to suggest that we have to go, as far as this Parliament is concerned, by the law that we have passed here and the recommendation is quite clear it is only to say--- We do agree on one thing that investigations

should be carried on those who are suspected. What we are dealing here with is suspicion. Once evidence is established, the Attorney-General should quickly move and take action. We are not protecting anybody whatsoever. We do have laws in this country and we will continue with that---

Mr. Farah: On a point of order, Mr. Speaker, Sir. Is the hon. Prof. Saitoti in order to say that the procedure to be followed is for these people to be taken to court after investigations have been done? The moment somebody becomes a suspect of wrong doing in the Civil Service, the preliminary steps to be taken is to suspend and interdict him, then go ahead with the investigations. Is the Prof. Saitoti prepared to do that today against the said officers?

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, we are talking of legislation here and we are saying that there are provisions in the law laid out clearly that says that somebody who is suspected should be taken to court. Like I said earlier on, we are dealing with suspicion. Let me add, and I am on my last remark ---

Mr. Karenga: On a point of order, Mr. Speaker, Sir. Is the Vice-President really in order to say that the Public Investments Committee, of which I am a member, was acting on suspicion when there was glaring evidence from the Auditor-General (Corporations) that there was misappropriation of funds? We were acting on facts. How can he say that we were acting on suspicion?

(Applause)

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Let me remind the hon. Member that those recommendations that are being amended here are not exhaustive. They are very far-reaching recommendations of a punitive nature. We are not taking an issue with those ones, but we are taking an issue with those recommendations where we do see that their adoption is going to lead to a conflict between the legislature and the judiciary.

Mr. Speaker, Sir, we also do feel that the individuals should be able to exercise their rights to defend themselves in a court of law. But that is not being adhered to. That is precisely the position but we have agreed on one thing, and that is the fundamental point. Let me end up with that fundamental point by saying that if anybody is guilty of misappropriation of funds and that is proved, the stiffest punishment provided in the Penal Code will be meted out and, indeed, we are saying that the Attorney-General should, with immediate effect, undertake the necessary action.

Mr. Speaker, with those few remarks, I wish to second this amendment.

(Question of the amendment to the amendment, that the words to be reinstated be reinstated, proposed)

(Question of the amendment to the amendment, that the words to be left out be left out, proposed)

(Question of the amendment to the amendment, that the words to be inserted in places thereof be inserted, proposed)

Mr. Nthenge: Thank you very much, Mr. Speaker. First of all, I am very glad to get the chance to speak on this Motion.

Mr. Shikuku: On a point of order Mr. Temporary Deputy Speaker, Sir. We are supposed to stand up in our places to catch the Speaker's eye. But is it now in order for somebody to stand up and start walking and then he---

(Laughter)

Mr. Speaker: Order! I suppose you are right Mr. Shikuku. Members must stand up in their places and I am glad that you have pointed out this to me. It is only too late because I should have penalised Mr. Nthenge for walking towards the microphone without being called. That is "hijacking" my eye!

Mr. Nthenge: Thank you very much, Mr. Speaker, Sir. Some of us, by nature, happen to be impatient and by nature I act quickly. So, when I

stood up I looked as if I was walking but that is part of my nature. However, I do not want to break the rules of this House because it is only the rules of this House which will make this House a dignified House. If we do not follow the rules of the House and we are the authors of the rules, then we have no right to be called honourable Members anymore.

Mr. Speaker, Sir, my greatest point here is that the three institutions of Government that is Parliament, Judiciary and the Executive --- There are three institutions but who is the mother of the lot? We have a Cabinet and despite the fact that we have a Cabinet whose members are Ministers, do we not have a President? Is the President the same as the Vice-President? And is the Vice-President the same as every other Minister? No! We, in this House, are the legislators and the boss of all the other organisations. We can dismiss them and get rid of them, but they cannot get rid of us.

Mr. Speaker, Sir, it is high time the House realised that we are carrying a bigger load given to us by the public than many of us think. And that is why I always tell them to remember God. Remember that we are the representatives of the children of God who do not have as much gifts as we have and God has given us the responsibility of taking care of them. We do not want to deny courts their power, but they derive that power from us. We enact the law and after enacting the law the courts interpret it. That is their work. We appointed this Committee and you should realise that a Committee of Parliament is an extension of Parliament which tells them "work for us and we give you our blessings". These people are not just a collection of Members of Parliament who went and sat down and started backbiting and doing all sorts of silly things. No! These people are honourable Members elected by this House and requested, on behalf of the whole Parliament, to investigate the accounts of state corporations. All these allegations were made and when they were made, the Committee gave everybody a chance to give evidence. In fact, they act as a court. If the Vice-President and others do not know how these committees work, for heaven's sake, they act like courts. They summon everybody and whoever is accused of anything is summoned and comes and gives evidence to that Committee. They do not just say that hon. Kalweo is wrong because he has been mentioned. They tell hon. Kalweo and hon. George Nthenge "you have been accused of abc, and can you please reply". They act like a court. So, they have interviewed these people. They have given them a chance to defend themselves. So, this idea that they were merely suspected does not arise. They were suspected and they came to the Committee and gave evidence and a good number may get away with it. But a good number were found guilty. So, when somebody is guilty, whether we like it or not, that person is guilty.

Mr. Speaker, Sir, all I am saying is that we send matters to court when there are doubts. But Parliament makes all the laws that the courts apply. We are the legislators. In this case, our own House agreed that let there be a committee to act on behalf of all of us in interrogating civil servants or anybody else who is said to have misused public funds. I would like to inform you that that Committee consists of very experienced Members of Parliament. Some of them are lawyers and they can be judges. Hon. Wamalwa, apart from being the Chairman of the Public Accounts Committee, was also a law lecturer. He is not a man who does not know law and he was with other wise and learned Members. Similarly, Professor Anyang-Nyong'o, when it comes to knowledge, he is not a child in knowledge. He is a professor; the highest title for the learned. When somebody is very learned then he becomes a professor. So, this House did not pick on the "George Nthenge's" who are the ordinary people. This House picked on people who can do the work.

Mr. Mutahi: On a point of order, Mr. Speaker, Sir. I would like to make a humble request through the Chair to the Member contributing, that because he is using the microphone, he should try and reduce his voice, if it were possible.

Mr. Speaker: And also, address the amendment to the amendment.

Mr. Nthenge: Mr. Speaker, Sir, it is very simple, the amendment says, let us forward the matter to court to re-do what the Committee did.

Hon. Members: We cannot hear you!

Mr. Speaker: Order! Order, Members! You are putting Mr. Nthenge in a most uncomfortable position. At one time he was talking loudly so that you can all hear, but you complained, and now you are saying that you cannot hear him. Anyway, you have heard what they have said!

Mr. Nthenge: Thank you, Mr. Speaker, Sir. When I get worked up, I do not require a microphone, because I am a loud speaker. But before I am worked up, I am very ordinary.

Mr. Speaker, Sir, when we are told one thing twice, I object. We came here and found that there was an issue, then we asked the Committee to go and do the job for us and immediately the Committee finalises its job, we now say: You have not done the job, take it to the High Court. I think that is wrong and that is what the amendment is suggesting. That, the work which was done by the Committee should be taken to court, as if these

people were not given a chance to defend themselves.

Mr. Speaker, Sir, when it comes to the Attorney-General doing his work, I am supporting the part where a person has been banned from public office because he has stolen, for example, hon. Angatia's money for buying medicine, it does not mean that person should be excused for stealing the money from his Ministry. This person should be taken to court to pay that money. So, what I am saying is that both recommendations should be carried out. These people who are going to be barred from public office should also be taken to court for refunds and other punishments. But as far as we are concerned, as a Parliament, we are saying, they do not deserve to hold any public office. As to how much they stole, how much they should repay and so on, we leave it to the courts. So, we are not finishing the Attorney-General's work but we are still leaving him to go to the details. The Attorney-General is also acting for the House, so you can see, as I said, we are the mother of everything. The courts will then say, for example, okay, hon. Nthenge, stole from hon. Angatia's Ministry Kshs20 million, he did not buy medicine as directed, he should therefore, go to jail. Then we attach your house, your palace and other things, so that we train people how to behave when they are holding public offices.

Mr. Speaker, Sir, I also object to the amendment on the fact that, if we were to lead--- Let us be honest. Is this country corrupt or not? I would like to say that, it is very corrupt. The President of the country and even State House officials--- You can imagine that whoever opens the gate for those who go to State House demands "Kitu Kidogo". This is too much. If you go to the courts, the clerks and messengers hide files. Is this not a corrupt country? These people who are campaigning through some Members of Parliament want the matters to go to the courts, so that when their cases are being heard, they corrupt the clerks or one of the file keepers so that their files are not found, in the pretext that they are going to look for it. Then after one year, it is found. The accused goes to the hospital and they have to adjourn for another year and finally, they will never even face the court. We know all these tricks and it is a pity. I can see one of the lawyers, hon. Wamalwa, has come to the House.

There are many games courts play and we have so many lawyers here to testify to that. An adjournment which is reasonable will never be refused and that is how courts work. But, here is a thief who has collected a lot of public funds, he has enough money to employ a good lawyer who can keep on adjourning the cases and since he is also corrupt, he will corrupt the clerks who keep the files, so that the case is never heard. For example, a case would have started when hon. Mbela was still a young hon. gentleman and by the time it is terminated, the man is dead and hon. Mbela is also too old. So what is the use of all this? Justice delayed is justice denied. So let us do the work of Parliament here. We have accepted the recommendations of the Committee, we now only need to ask the Attorney-General to go ahead and collect public funds which were taken by these people. So, I am suggesting that both actions should be taken into account. We do not want these corrupt people to be left only to the courts, because they are experts in playing with the courts. They will just employ a very good lawyer who will then ask them to go to hospital for medical examination a day before the hearing, he will then give an excuse to the courts that their client is in Nairobi hospital and as such, cannot come to court. The court has no alternative, because it cannot try a person who is not there, so the case is adjourned. Since the courts are busy dealing with other cases, his case will be mentioned next after six months or a year. So, I am completely against the amendment to the amendment.

Mr. Speaker, Sir, this brings me to my final question: Why were they not prosecuted earlier? Hon. Angatia and every other Minister are complaining that the money they give out is not utilised properly because of such corruption. There is too much corruption to the extent that if an investigating officer goes to investigate, he is asked whether he has ever had Kshs0.5 million, and yet, even if that officer was to save his whole salary, he would not save a million shillings. He is then given Kshs0.5 million to buy a house or land, he will then get tempted and declare that there is not enough evidence, and that, investigations are still going on. He then goes on to give several excuses and finally, for example, hon. Angatia goes for elections and the evidence he was going to give as the Minister for the Ministry is no longer available. Maybe by then, he is a judge or somebody else. So, the amendment now proposed by the Finance Minister who is a young honourable gentleman that I highly respect, I am sure he was given the amendment and it is not his own idea. But I am advising him that next time they try to use him, he should tell them that he is a bit too young to spoil his image. Let those old guys who want to spoil their names do so, but let us not spoil those beginners, because they have a longer life to guide this country, even when we are dead and buried.

With these remarks, I beg to oppose.

Mr. G.G. Kariuki: Mr. Speaker, Sir, I also wish to make a few points on this Motion on the amendment. This House has done its own work, because---

Mr. Ojode: On a point of order, Mr. Speaker, Sir. Is it in order for hon. G.G. Kariuki to speak from the front bench? Why can he not talk from the back bench?

Mr. G.G. Kariuki: Mr. Speaker, Sir, if it is in order for the other gentlemen to speak on the same Floor,

I think, I am also entitled to speak from there.

Mr. Speaker: Order! Can we take this a little bit more seriously. I suppose Mr. G.G. Kariuki came in front because, normally, when he talks from the back bench, it is very difficult for the microphone to pick him on and you will complain.

Mr. Kariuki: Mr. Speaker, Sir, what I am trying to say is that the Public Investments Committee has done a very commendable job by bringing to this House its Report. This Report has raised the issue which we are discussing. The job of the House has been done, but we on this side of the House felt that the Committee went beyond its jurisdiction. This is because we are not here to decide whether the Government should prosecute somebody or not. We are here to pass resolutions and point out to the Government that So-and-so has committed a crime. However, the alleged commission of a crime has to be determined by a court of law. For us to decide that So-and-so should never hold a public office is, I think, going beyond our mandate.

The philosophy of this House is to be more democratic than any other organ. If we decide against certain citizens we will be infringing their constitutional rights, because we will not have taken them to court. The people who are accused in this Report need to be accorded all their democratic rights. They deserve to be taken to court for prosecution and judgement. The doctrine of separation of powers needs to be adhered to by this House. The House passes laws, but the implementation of such laws is done by the executive arm of Government. If we are not careful, we are likely to start thinking that we are both the prosecutor and the judge. If we do that, I think we will have gone beyond our mandate.

We all know that crime has been committed and fraud has taken place. But it is not the duty of this House to go beyond its mandate.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Do you realise that Standing Order No.87 is being violated by the Member on the Floor? It forbids one to repeat other people's or one's own argument. We have heard what he is saying from the Vice-President and Minister for Planning and National Development, the Minister himself and we are still hearing it from the hon. Member on the Floor. Does he have any new points to offer? Standing Order No.87 is still in operation: It does not allow repetition!

Mr. Kariuki: Mr. Speaker, Sir, I am very grateful for the point raised by hon. Shikuku. I was not going to refer to hon. Members as "these people". If I did that I apologise.

I am trying to say that we should all agree that as a Parliament we have our own duties, and we should not assign ourselves jobs of other people. The amendments proposed here are meant to leave it to the Attorney-General to report back to the House later as to what he will have done or what his investigations will have revealed after this Motion is passed by this House. We should amend our Standing Orders to enable us to appoint a prosecutor. The Committee can recommend that to us, and then we can amend our Standing Orders to enable us to appoint a special prosecutor to prosecute those whom we think have committed crimes, and whom the police and other law enforcement agencies may not want to prosecute.

Dr. Lwali-Oyondi: On a point of, Speaker, Sir. Are these speakers not misleading the House all the time? In this Report the Committee has recommended suspension of some people from holding public office. It is a normal executive practice for suspects to be interdicted from their offices pending court action. Are these speakers, particularly the one on the Floor, not misleading the House?

Mr. Speaker: Dr. Lwali-Oyondi, by the way, we have only one Speaker! Are you talking about the hon. Members who have contributed to the debate?

Dr. Lwali-Oyondi: I am talking about the current hon. Member on the Floor. Is he in order to mislead the House?

Mr. Kariuki: Mr. Speaker, Sir, I hope that hon. Members on the other side of the House will one day take this House seriously. When we talk on serious matters like this one we have to listen to each other. If the House sits and recommends that a person be denied his constitutional rights, I think we are doing injustice to the people of this country. We are expected to do justice to everybody in this country. A person is presumed innocent until he is found guilty. None of us here is able to produce any evidence that can warrant a person to be taken to court. This is because even if such evidence were to be produced the investigation producing such evidence will have been done by lay men.

Of course, our recommendations should be taken seriously. In fact, the fact that some people have been adversely referred to in this Report means that Parliament has no confidence in them. If they were gentle enough they would by now have resigned their positions, rather than wait for Parliament to recommend their prosecution. I suggest that both sides of the House support the amendments which have been put forward. We have created an atmosphere under which the Opposition and the Government should be satisfied with what is being recommended.

With these few remarks I beg to support the amendments.

Mr. Ogeka: Thank you, Mr. Speaker, Sir. It is needless to say that the subject before this House requires a sober mind. It is not a matter that should be seen to be generating a battle between the two sides of the House. The issue before us has been presented by a Committee of the House. The Composition of this Committee is valuably representative. The report has a lot of far-reaching effects. One thing that the Committee has ably put across is that the trust the people of this country put in people in high positions has been undermined.

This House is composed of hon. Members with varied backgrounds. If they were eligible to hold managerial positions then they would unanimously agree with me that when any doubt, or lack of trust, is cast on a man, or personality, who is entrusted with some authority that puts him in such a position that he should honourably bow out of office and wait for an independent body to decide whether he can continue with his responsibility. I think we are dragging this country very far behind. We are making our neighbours and the international community doubt the integrity and resolve of Kenyans to stand against any element of corruption.

The Controller and Auditor-General is an appointee of this House, and watering down the report to a point where we begin to under-rate, ignore and totally negate professional information, which according to the history of this House, and those of us in this House, enjoying the change of culture in a multi-party era, when, at least, we have the tolerable authority to speak out our minds, we would agree that the political history of this country has not seen the recommendation of the Controller and Auditor-General being taken seriously, and those whose integrity and conduct are being doubted taken to a court of law. At least, once beaten, twice, shy. Year-in-year-out, the recommendations leave those suspected getting away scot-free without any question. If anything, they are promoted to higher positions and compensated much better. Are we really not sacrificing the integrity and support to clean up our society of any criminality? This House has a duty.

Secondly, when we talk of supremacy, this House has a duty to question the Judiciary. The Attorney-General, now and again, answers Questions here. The only option left to us is to bring a notice to discuss the Judiciary. This House has a duty to oversee the running of this country and it will be failing in its responsibility bestowed upon it by 25 million Kenyans, to come up and give guidance in the form of recommendation of what best can be done. This recommendation is really worthy. I concur with the PIC recommendation on this matter. If we were civilized enough, this House would not have reached the level to call upon those whose names are mentioned, to be left out of the Public Service. They should have had the audacity, the respect and dignity to say, because my integrity and trust is doubted, let me quit office," like the hon. G.G. Kariuki has mentioned here that they would have made the work of this House very easy. But if this House is going to develop the immunity to known criminals, then I think we are failing. Really, the word "corrupt" would cease to have any meaning amongst the Kenyans because, being called corrupt or devilish is as good as being called an angel. We must differentiate between the two. The integrity and trust on the very people who have been given the responsibility of governance and management which goes within the management ethics. But once your integrity and trust is doubted, at least, you do not have to wait until it is discussed, you bow out.

Mr. Speaker, Sir, I want to concur and commend the team spirit with which the Committee worked. But theirs is not absolutely extreme and going beyond this House, theirs is to put before this House, a recommendation which is still to be subjected to the judicial system. The judicial system would examine each and every case and put it right. In the meantime, the issue where you are being investigated, but you are still sitting on the very chair, having authority on the very document and the files from which those who are investigating you would be expected to extract an information, it is actually trying to *dilly-dally* or making a mockery of this House. For how long shall we water down the supremacy of the House?

Mr. Speaker, Sir, I wish to end with the word "insubordination". This House cannot afford to be "insurbordinated". This House has a cardinal duty that at the end of the day, the Judiciary and the Executive are failing, and the Legislature stands responsible. The failure of this House can bring a lot of turmoil and make us end up in anarchy. This House has the sole responsibility to determine the integrity, orderliness, legality, the welfare and the distribution of the various resources.

Much as the Minister may recommend and water down the recommendation, let us give it to the Judiciary to contest the case, my friends from both sides of the House have by and large, lost that confidence, that the Judiciary left alone would be capable to carry out the matter for investigation. History speaks for itself and it does not have to come from an hon. Member, either from the Government or the Opposition side, to tell the Attorney-General to do what he has the obligation to do; the responsibility for which he is sworn in to do the duty, but which he has miserably failed to carry out. We cannot afford to make this country be painted dark. It must be a country from where people learn that if you do wrong, you stand responsible to answer for your deeds.

Mr. Speaker, Sir, the hon. Members in this House must live as an example. But if there is any accomplice, I believe he must be mad because, he knows that once a colleague has been incriminated, he most

likely stands to be the next victim. So, it goes without repetition that a devil or a criminal runs without even seeing anybody chasing him. So, our colleagues that feel so guilty that a mere recommendation that these people be stopped from carrying on any responsibility, and a responsibility really which serves very well, if it were not for these people, a lot of wonders would have been done in this country. The many millions in the streets who are jobless, our many roads which have potholes and our many projects which are at standstill, would have been completed. Any pardon or condoning such behaviour would be calling upon this House to be in support of ill-behaviour. Can we uphold the role of the Controller and Auditor-General? Can we uphold the worthy recommendation? It is a recommendation, and a recommendation that if we had to uphold the sensitivity of the leaders here, that you can go poor, but your name is a name that can sell, but not a millionaire whose name and background record is stuffy, stingy, worth not looking at. Kenyans must get rid of acquiring a limousine at the expense of the name. But if the wealth you have is going to determine your recognition irrespective of the manner in which you have acquired it, then we are defeating the Christian and Muslim ethics through the *Bible* and *Quran*, which we carry up here and swear that we will speak "nothing but the truth and defend what is right". If we now end up defending what is not right, I believe we are sowing the very venom that would destroy us beyond the grave.

As a responsibility of many of us, and because of the concern of the contribution, I do not see the need for a Division. For instance, that I am on the Government side, therefore, I must support such devilish events. I am in the Opposition, therefore, I must oppose. I think we must be beyond this rule of examination. We must look at every issue in its own perspective. As such, I wholly agree and support the recommendations by the Public Investments Committee and oppose any effort to dilute it and take out the power of this House, from making sure that the recommendations are implemented.

With those few remarks, I beg to oppose.

Mr. Speaker: Order! Hon. Members, I suppose that we must dispose of at this stage, the amendment to the amendment and if it is acceptable to the House, we will then come to the amendment as amended. If it is refused by the House, we will go to the original amendment as it was proposed.

(Question of the amendment to the amendment that the words to be reinstated be reinstated put and agreed to)

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

(Question of the amendment to the amendment that the words to be inserted in places thereof be inserted put and agreed to)

The Motion as amended therefore, reads as follows:-

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 subject to the following amendments:

- (a) By deleting the following words "banished from holding public office in the Republic of Kenya" page 67.
- (b) By deleting the words "banned from holding public office." Page 74
- (c) By deleting the words "banned from holding public office." Page 123
- (d) By deleting the words "banned from holding any public office in the Republic of Kenya." Page 231
- (e) By deleting the words "banned from holding public office." Page 237
- (f) By deleting the words "banned from holding public office in Kenya." Pages 238,261 and 264.

It should be inserted in places thereof, the following words:

"Investigated and where ample evidence is available, the Attorney-General should follow up with prosecutions in court and if consequently found guilty of the offences, be considered unfit to hold public office."

Bw. Shikuku: Ahsante sana, Bw. Spika. Hii ni siku ya huzuni.

Hon. Members: Ah!

Bw. Shikuku: Ninasikia wenzangu upande ule wanasema " ah!" Lakini ukweli ni kwamba hizi fedha tunazozungumza si zangu wala si za hawa waheshimiwa wenzangu; ni za wananchi. Kazi kubwa ya Mbunge ambaye amechaguliwa kuingia katika Bunge hili, ni kuchunga fedha za wananchi. Hiyo ndiyo kazi yake ya kwanza na wala si harambee.

Bw. Spika, ukweli ni kwamba mheshimiwa yeyote anayeunga mkono haya mabadiliko hana imani na Controllor and Auditor-General. Ninasema hivi kwa sababu huyu ni mtu aliyesomea kazi yake. Na ningependa kuwajulisha waheshimiwa waliozungumza hapo mbeleni kwamba hizi Kamati mbili, hasa hii ya Public Investments Committee (PIC), haifikirii tu haya mambo, bali huletewa ripoti. Sisi hatukai katika hizo Kamati kujua ni nani amefanya hivi au vile. Hapana, hiyo ni kazi ya Controllor and Auditor-General ambaye amepewa huo uwezo na Katiba. Yeye huenda akaona ni kitu gani kimepotea. Kwa mfano, tulipewa ripoti kwamba kule South Nyanza, mifereji ya maji ilikuwa imekwisha wekwa---

Mr. Speaker: Order, Mr. Shikuku. Remember that you had already spoken on the main Motion. You are restricted strictly to the amendment, as amended.

Mr. Shikuku: Mr. Speaker, Sir, that is correct. Mimi singesimama tena. Ninazungumza juu ya haya mabadiliko na ninapinga the amendment to the amendment, na ninatoa mfano. Tulipomtuma huyo Controllor and Auditor-General kuchunguza kama kweli mifereji hii ilikuwa imewekwa, alikwenda na akapata kwamba hata mfereji mmoja haukuwekwa, na fedha zilikuwa "zimeliwa". Kwa hivyo, hizi amendments zinaonyesha kwamba Serikali hii haina imani na Controllor and Auditor-General ambaye huleta mambo ya ukweli ambayo ameona. Pia, kusema kwamba; "oh, wale maofisa hawakupewa nafasi ya kujitetea---" Haya ni maneno ambayo waheshimwa Wabunge wanasema, na ninashukuru Mwenyezi Mungu kwamba haya maneno yao yameandikwa. Watoto wao na wajukuu wao watasoma na watajua kwamba babu yao hakuwa mtu wa ukweli. Na rekodi za hili Bunge ni nzuri sana. Juzi, tulishindana hapa na mhe. Keah kuhusu Hoja moja. Bw. Keah alisema kwamba Hoja haikuungwa mkono, ilijadiliwa tu. Tukakimbia kule maktaba tukapata maneno yalivyo. Tulinyamaza kwa sababu rekodi zilionyeshwa ukweli. Hata kuna mtu mmoja upande wetu aliyeeunga mkono ile Hoja ya kusema kwamba chama kimoja kikae katika Kenya. Rekodi hizi huwekwa na watu watazitafula.

Bw. Spika, mimi ningependa kusema kwamba hawa maofisa, Bw. Kiplagat, Bw. Sang na wengine waliitwa na wakahojiwa kikorti. PIC na PAC ni korti. Controllor and Auditor-General anasema hizi pesa ziimeliwa, na tunamwita yule mtu ambaye alihusika na huu wizi wa pesa za umma. Tunamwita na anatupatia maneno yake. Na sisi ndio tunakata shauri kufuatana na maneno yake yeye mwenyewe alivyosema mbele ya Kamati.

Pili, haya ni mapendekezo ya kusema kwamba mtu huyu afanyiwe hivi, na huyu afanyiwe hivi. Sasa ikitoka hapo inakwenda kwa Executive. Haifai kuambiwa maneno hapa---

(An hon. Member stood up in his place)

Bw. Spika, tumesimama wawili na mmoja anatoa hotuba upande ule! Baada ya Kamati kutoa haya mapendekezo, sasa mambo yanakwenda kwa Executive ambayo inachunguza vile huyu ofisa alivyofanya haya mambo. Executive ndiyo inaweza kumsimamisha mtu kazi kwa muda fulani, kumfuta kazi au kumpeleka kortini.

Hapo ndipo Mkuu wa Sheria yuko. Lakini ajabu ni kwamba, wale wanaozungumza hapa ndio wale wako katika Executive, na hawataki hata kuangalia mambo yaya. Kazi yao ni kupinga tu wakisema; "haya maneno yasiletwe hapa, yaende kortini." Lakini wameruka ndaro moja; ndaro ya Executive kuchukua hatua na, baadaye, wapeleke kortini. Hiyo hawataki. Hakuna njia nyingine hata ukisema Kiingereza namna gani. Hakuna njia nyingine ambayo utawafanya raia wakubali kwamba mtu aliyeiba pesa za raia asiachishwe kazi. Mwaka wa 1997 hauko mbali. Tutakwenda nje na tutawaambia wananchi kwamba sisi tulisema kwamba wezi ambao tuliwataja hapa waachishwe kazi lakini Serikali hii ikakataa. Mtindo wa siku hizi ni kwamba kama mtu ametoka mahali fulani anapatiwa kampuni fulani ya Serikali---

Mr. Sankori: Jambo la nidhamu Bw. Spika. Mhe. Shikuku amesema kwamba watu wa kutoka upande huu wanapatiwa kazi fulani. Ana haki ya kusema hivyo na ilhali tumesema kwamba jambo hilo lichunguzwe na Mkuu wa Sheria na watu watakaopatikana na hatia wafikishwe kortini?

Mr. Shikuku: Bw. Spika, huyu mhe. ambaye anazungumza hapa ni mtu wa ujuzi sana katika Bunge hili. Kwa hivyo, ninapongea ninajua ninasema nini. Ninaweza kutoa mifano mingi. Mtu anapatiwa kampuni fulani na baada ya kuifilisi anatolewa na kupatiwa nyingine na hapa pia akishaifilisi anatolewa na tena baadaye anakuwa Waziri katika Bunge hili. Ningependa mhe. Mbunge huyu amalize miaka ambayo nimemaliza hapa aone kama hatajikuta yuko nje ya Bunge hili.

Bw. Spika, hapa hatujasema kwamba tunataka kuchukua mamlaka ya kutoa hukumu. Sisi tukisema

kwamba sheria zote zikiondolewa kupitia Hoja, Hakimu Mkuu hatakuwa na kazi. Wale mawakili wote pia hawatakuwa na kazi tena. Hili Bunge linaweza kufanya hivyo. Ninataka yule mhe. Mbunge ambaye anapinga jambo hilo asimame aseme. Bunge hili likisema kwamba sheria zote za nchi hii zimeondolewa, Hakimu Mkuu na mawakili wote wataenda nyumbani. Wewe, Bw. Spika, utabaki lakini uwakili utauwacha, na kubaki Spika wetu tu. Bunge hili linaweza kusema hivyo lakini korti haiwezi kusema kwamba Bunge hili lisiendelee na shughuli zake. Mawaziri hawawezi kusema kwamba Bunge hili lisimamishe kazi yake. Kwa hivyo, tuna uwezo wa kuangalia mali na maisha ya watu wetu waliotuchagua hapa. Hakuna mtu aliyepigia Hakimu Mkuu kura au Katibu wa Kudumu. Hawa waheshimiwa Wabunge wamesema kwamba Bunge hili halina uwezo bali liko hapa tu kupitisha sheria. Kama liko hapa kupitisha sheria si sisi hupitisha Hoja hapa?

Mr. Munyasia: On a point of information, Mr. Speaker, Sir. I want to inform the hon. Member that if this Parliament passes a Motion repealing all the laws that have been enacted then even Parliament would be dissolved. I am sure even the Speaker would have to go home.

Mr. Shikuku: Bw. Spika, nitamsamehe huyu kijana. Hana habari lakini niache nimpe ujuzi. Mimi nilikuwa Lancaster 1962 and 1963 nikaleta Uhuru---

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Martin Shikuku, whom I respect, to term a well reknowned teacher in Kenya as a young man?

Mr. Shikuku: Kwa miaka, huyu ni mtoto kwangu. Pia, kwa busara yuko chini yangu. Kwa ujuzi wa Bunge hili, yuko chini yangu mara 60,000. Hiyo imemtosha.

Walipoleta Hoja hii ya kusema kwamba mapendekezo yaliyoafikiwa na PIC yaondolewe ni kusema kwamba wezi waendeleo kuiba mali ya umma. Hakuna lugha nyingine wananchi watafahamu. Lugha watakayofahamu ni kwamba Waziri wa Fedha na wenzake wanataka fedha za wananchi "ziliwe." Na mhe. Angatia yuko hapa na tumetoka sehemu moja naye kule Kakamega ambako hakuna dawa katika hospitali zetu na yeye ni Waziri wa Afya. Dawa hazipatikani kwa sababu hakuna pesa na pesa hizi zote zimeliwa na hawa watu, na bado anasema waachiliwe huru tu na waendeleo "kula."

Bw. Spika, ninamwona mhe. Makamu wa Rais ambaye ametoka upande wa Maasaini akiniangalia tu bila kusema chochote. Mimi ni Mmaasai, nimezaliwa katika sehemu za Lake Magadi, na si kila sehemu Maasaini ambapo kuna barabara za lami. Wamaasai wanataka barabara za lami; wanataka watoto wao wajiunge na shule, lakini hawawezi kujiunga na shule kwa sababu hakuna pesa na zimeliwa na watu hawa wachache. Na yeye hapa anasema waacheni waendeleo kula pesa hizo bila kuchukuliwa kwa hatua yoyote. Pia maji hakuna kule Maasaini, na ng'ombe wanakufa hasa wakati wa kiangazi na yeye anasema hapa tuwaachilie mbali hawa watu ambao wamekula pesa, na Wamaasai wanamsikia. Yeye ataona kilichomfanya punda kuishi na binadamu!

(Laughter)

Bw. Spika, wakati huu ninapozungumza hapa kuna njaa sehemu za Mkoa wa Kaskazini mwa Kenya na Kitui, na hata kule kwetu mkebe mmoja wa mahindi sasa ni Kshs30. Maskini hawezi kununua. Hawa watu wanapata taabu kwa sababu ya watu wachache ambao wamekula pesa za wananchi. Tunazungumza hapa na kucheka, lakini tukumbuke ya kwamba tumekuja hapa kupitia kwa wananchi na siku moja wananchi watatukumbuka wakati wa kura. Na si mbali sana. Ninamwuliza Rais Moi aitishie uchaguzi mara moja uone vile watu watakavyokonda hapa.

Bw. Spika, wamesema juu ya kutenganishwa kwa nguvu za kiutawala. Sisi hatukuingilia kazi ya korti lakini, tunafanya kazi yetu ya kulinda pesa za wananchi na tumesema hivi ili wananchi waweze kuelewa ni akina nani wanaokula pesa zao. Haya marekebisho ya kusema ya kwamba ati Mkuu wa Sheria atachukua hatua ifaayo ni bure kabisa. Je, ni siku gani Mkuu wa Sheria aliwahi kuchukua hatua? Ni mara ngapi tangu niingie katika Bunge hili Mkuu wa Sheria amewahi kuwachukulia wezi hawa hatua tangu 1963 hadi leo? Hakuna siku hata moja ambayo Mkuu wa Sheria aliwahi kuwachukulia hatua watumishi wa umma waliokula mali ya wananchi.

Bw. Spika, wanatundanganya tu! Wanajua Mkuu wa Sheria hawezi kwa sababu hata akitaka kufanya hivyo, kuna "majabali" katika hii Serikali ambao wameshakula pesa hizi na hawawezi kumkubalia Mkuu wa Sheria awachukulie hatua yoyote. Ni kwa nini tunawandanganya wananchi ati Mkuu wa Sheria anaweza kuchukua hatua? Kwanza, yeye hatachaguliwa na wananchi kama sisi! Akiwachukulia hatua hawa watu wakati wa taarifa ya habari, kupitia radio, atafutwa kazi. Hii ni kwa sababu kuna watoto wa watu wakubwa katika mchezo huu.

Kwa hivyo, tusije tukandanganyika na tusije tukawandanganya wananchi ya kwamba Mkuu wa Sheria anaweza kuchukua hatua yoyote dhidi ya hawa watu. Anajua sheria na utalamu wa sheria, lakini kuna "remote-control" inayomfungia njia au inayomfuata hapa na pale.

Bw. Spika, ikiwa hawa watu wanataka nafasi ya kujitetea, walijitetea mbele ya Kamati ya PIC. Kwa

hivyo, kutuambia eti wataenda kujitetea wenyewe, haiwezekani.

Nikizungumzia kuhusu Bw. Gachanja, ni mtu ambaye hata mbeberu ni afadhali. Na nilimwambia katika Kamati siku moja. Hajali. Ukimuuliza swali, anasema: "Mimi sina shaka yoyote". Yeye ni mtu ambaye hana heshima kwa watu waliochaguliwa. Nilimwambia kwamba, mimi niko katika Kamati kwa sababu nilichaguliwa na Bunge la Kenya kuangalia fedha za umma, na ni wajibu wangu kumuuliza maswali. Lakini yeye ni mtu ambaye amepata mali na hana haja. Hawezi kumsikiliza Mbunge yeyote. Mali ya wizi aliochukua imemtosha. Lakini itafika siku tutamwita kutoka kwake. Na hata kama atakuwa amekufa, tutafukua mifupa yake na kuileta kortini.

Bw. Spika, ukisikia mambo ambayo yamefanywa na kamati za mashamba; vile watu wanayang'anywa mashamba; mpaka hata ardhi ya shule inachukuliwa, ni yeye anatia sahihi. Hata akifa, atafukuliwa kwa sababu ya haya mambo. Ie mifupa yake itafungwa pamoja na kuletwa kortini na ifanyiwe mashtaka, ipatikane na hatia, ichomwe na vumbi au mchanga wake umwagwe katika Bahari ya Hindi.

Mr. Ndicho: On a point of information, Mr. Speaker, Sir. I want to inform hon. Shikuku that Mr. Wilson Gachanja is so immensely rich that, currently, he is having a very serious heart ailment because of that wealth. He is unable to know how much it is, and how he has acquired it. He does not know how much money is in the bank. He is a finished man!

Mr. Speaker: Order! Order, hon. Ndicho! I do not know what medical qualifications the hon. Ndicho has! That is actually a misinformation.

Proceed, hon. Shikuku!

Mr. Shikuku: Ahsante sana, Bw. Spika. Mimi simtakii mabaya. Lakini najua kwamba wewe na mimi tutakufa. Na Waluhya hufanya hivi: Kama ulikuwa mbaya sana na ukifa, mifupa yako hufukuliwa, hata na watoto wako, na huchomwa. Ikishachomwa, humwagwa katika Ziwa Victoria. Lakini siku hizi, unaweza kupanda ndege au gari, uende uimwage katika Bahari ya Hindi. Haya ndiyo yatampata huyo jamaa.

Bw. Spika, tunapozungumza hapa saa zingine, tunaambiwa tunapiga kelele. Juzi, tuliambiwa na mhe. Mbunge mmoja hapa eti Mbunge wa Butere anapiga kelele na asichaguliwe. Mimi nimechaguliwa; kwanza nilienda kumtafutia Uhuru, akawa Katibu wa Kudumu, Mkuu wa Mkoa na sasa ni Mbunge. Na hii ndiyo mara yake ya kwanza kuingia katika Jumba hili. Anajua ni nani kiongozi? Anafikiria Harambee tu! Anafikiri tulienda na Harambee kupata Uhuru? Hawa ndio watu waliokuwa wanalambalamba matakwa ya Wazungu, ya Rais Kenyatta na sasa ya Rais Moi. Sasa anakuja na kusema yeye ni Waziri na anajua kusema ni nani kiongozi. Tulichaguliwa kuja katika Bunge hili kuangalia matakwa ya wanachi wetu; matakwa, na sio matakwa!

Bw. Spika, katika sehemu ya (c) wanasema Bw. Tirop afanyiwe uchunguzi. Controller and Auditor-General, na mhe. Keah wanajua fedha hutolewa na Bunge. Bunge husema hizi fedha ni za dawa, barabara na kadhalika. Fedha hizo hupelekwa kwa Wizara inayohusika. Controller and Auditor-General anasema vile anakwenda na kutafuta ikiwa pesa hizo zilifika. Baadaye anaonyesha matumizi ya fedha hizo. Halafu anatoa ripoti yake akisema hajui mabilioni ya pesa yalitumiwa vipi, na aliyekuwa kwa hayo maneno ni Bw. Tirop, au aliyehusika ni mtu fulani.

Bw. Spika, ni ushahidi gani mhe. Mbungeanataka tutoe? The Controller and Auditor-General, ni chartered accountant, kama vile huyu mhe. Keah anavyojua. Yeye haoti kwamba kuna kitu kimeharibika. Hapana. Yeye huenda na kuhakikisha, halafu kuleta hapa.

Sasa ubaya wa Public Investments Committee uko wapi? Kwa sababu sio wao wanaotengeneza haya mambo; mambo hayo yametengenezwa na mtu mjuzi. Hata mhe. Keah hawezi kusimama hapa na kusema kuwa Controller and Auditor-General si mjuzi; hawezi! Mpaka astaafu, hawezi kusema hivyo. Yeye ni mjuzi; si mtu wa kudhania, ni mtu anayefanya mambo na kuhakikisha wazi. Sasa Bunge hili lina haki gani kutomwamini Auditor-General (Corporations), na hali kuna ushahidi wa kutosha. Na hawa wote ambao wamezungumza hakuna hata mmoja aliyesema kuwa huyu Auditor-General (Corporations) alikosea hapa kwa kutoa hii hesabu yake kuhusu bilioni kadhaa ambazo Kiplagat amechukua au Bw. Sang na Bw. Gachanja wamechukua. Hawajasema hivyo!

Kwa hivyo, haya marekebisho yao kwamba wangetaka Mkuu wa Sheria ayaangalie haya maneno, ninayapinga sana kwa sababu ninajua kuwa wale walioko upande ule hawawezi kukubali Mkuu wa Sheria afanye kazi yake. Hata marekebisho ambayo yameletwa hapa, siku moja utakuta kwamba hayakufuatana na sheria. Aliyeyaleta hajui maana ya PIC au PAC. Hii ni safari ya pili, Bunge hili linataka Auditor-General (Corporations) afanye kazi yake.

Kuhusu habari ya Patni wakati ule, walifanyafanya hivyo na sasa wamesikia kuhusu marafiki zao. Kila Mbunge aliyezungumza hapa hakufuata Sheria No.75 ya Bunge hili kuhusu Declaration of Interest. Na nitachukua jukumu hilo kusuhu wale wote waliozungumza hapa na nitawafuata sana; nikipata kuwa walipata ploti, watajua ni kwa nini haya marekebisho yaliletwa. Hawa ndio wafisadi wenyewe.

Bw. Spika, nakana hapa kwamba sina ploti ambayo nimepewa ya NSSF, hata moja. Na wao walikuwa wanasema: "Bw. Spika, lazima tuwafanyie haki; wajitete wenyewe", lakini hawatuambii walikula nini.

Mr. Muluya: On a point of information, Mr. Speaker, Sir. I want to inform hon. Marthin Shikuku that these amendments were brought because the civil servants affected have talked to those people they have been working with and told them, "You people, we worked together and now you are abandoning us". That is why they have brought these amendments here because they are saying that they do not want to be accused continuously of not protecting the people they are working with in the Civil Service.

Mr. Speaker: Order! By the way, hon. Shikuku, I did not take into account that you did contribute on the original Motion. Please, stick to the reason why the amendment should not be accepted.

Mr. Shikuku: Mambo Ndiyo hayo, Bw. Spika. Inaonyesha ya kwamba Mbunge huyo ana maslahi fulani juu ya mambo hayo. Lakini mimi nakuahidia ya kwamba nitawafuata sana wote waliozungumza. Na nikipata ushahidi kwamba "walikula", nitauleta hapa ili dunia nzima ijue.

Bw. Spika---

Mr. Munyasia: On a point of information, Mr. Speaker, Sir.

Mr. Shikuku: Bw. Spika, siwezi kumpa nafasi mhe. Munyasia tena!

Nafikiri sisi sote ambao tuko hapa tuko watu karibu 20. Wakati wa kupigia kura Mswada huu sisi tulio katika Upinzani ambao ni walenzi wa fedha za wananchi, ni lazima tupige kura. Tukipata Wabunge 20 tutasimama na kupiga kura kwa sababu HANSARD itaonyesha wazi wazi ni nani aliyewaunga mkono wezi, na ni nani aliyewapinga wezi. Siku ya kupiga kura ikifika, tutawaambia wananchi "Huyu ndiye mheshimiwa wenu ambaye alisema "watu wale" na nyinyi mnapata taabu". We must have it on record. No way! Tutapata Wabunge 20 upande huu na wale wa upande ule mwingine watapiga kura yao ya wingi kwa sababu wametumwa kupiga kura, lakini siku ya kura tutaonyesha wananchi ni akina nani wezi na wanaowapinga wezi. Tutafanya hivyo.

Bw. Spika, mimi ni mgonjwa. Nina homa lakini siwezi kulala chini. Kazi yangu ndio hii. Kazi yangu si kuiba fedha za Serikali halafu kwenda kutoa Harambee kama akina Nyachae.

(Applause)

Hii ni kwa sababu watu wengi wametumia madaraka yao hata ikiwa---

Mr. Gatabaki: On a point of information Mr. Speaker, Sir. Hon. Shikuku, the gentlemen that you are mentioning, Messrs. Mwangale, Wafula and Wabuke, are KANU members in Bungoma and that is why they are being protected. These are KANU hawks in Bungoma District and that is why they are being protected by this Government. They are KANU members.

Mr. Shikuku: Bw. Spika, Mungu asifiwe kwa sababu nayafahamu yale anayoyasema. Na pia taabu yetu hapa haitoki upande wa Upinzani. Inatoka huko. Na huko kunaitwaje? Kunaitwa KANU. Sisi---

Mr. Magwaga: On a point of order, Mr. Speaker, Sir. I heard hon. Gatabaki mentioning the name of a dead person, and it is un-African, traditionally, to do so. Why is he mentioning the name of the late Wafula Wabuge?

(Several Members stood up in their places)

Mr. Speaker: Order! Order! One Member on the Floor at a time! What was it, Mr. Magwaga?

Mr. Magwaga: Mr. Speaker, Sir, I am saying that I heard hon. Gatabaki, in his point of information, mentioning the name of the late Wafula Wabuge.

Mr. Shikuku: Bw. Spika, yule jamaa hakusema 'Wabuge;', alisema 'Wabuke', ambaye pia anaitwa Wafula. Kwa hivyo, tunazungumza kuhusu habari ya Wabuke na siyo Wafula Wabuge. Kuna Wabuke na Wafula.

Dr. Kituyi: On a point of information, Mr. Speaker, Sir. Wafula Wafunafu is the former Chairman of Nzoia Sugar Company and Francis Wabuke is the former Managing Director of Nzoia Sugar Company. Both of them are recommended in the Report for banning from holding any public office.

Mr. Shikuku: And they are very much alive!

Bw. Spika uliniambia nizingumze kuhusu amendment. Lakini, akithubutu kwa sababu nilimtaja hapa, na kuna Standing Order No. 69, ambayo inaniruhusu kusema, akiweza, ajaribu, na atakiona kilichomfanya punda asimee pembe. Hawa ndio watu wanaovuna na hawakupanda. Walikuwa wakubwa; hawakupigania Uhuru! Walikuwa wanakula mali na wabeberu.

Mr. Speaker: Order! Order! Mr. Shikuku, I am sure you are deliberately breaching the rules. You are

breaching the rules in two respects. First, you are discussing an hon. Member without a substantive Motion. Secondly, what relevance has hon. Nyachae got to do with whether or not the amendment should be accepted? You are irrelevant and if you repeat it, I will cut you short.

Mr. Shikuku: Asante, Bw. Spika. Mimi sina haja ya kugombana na Kiti cha Spika, lakini nilipoanza hotuba yangu nilikueleza kwamba, wengine wetu tunapozungumza hapa, wanasema eti tunapiga kelele. Na yule aliyesema mimi mtu wa Butere napiga kelele, ndiye huyu ninayemtaja. Lakini---

Mr. Speaker: Mimi nimeridhika kwamba hupigi kelele!

Mr. Shikuku: Bw. Spika, asante na amesikia. Nilikuwa nikikwambia, ijapokuwa mimi ni mgonjwa, nina homa, kazi hii imefika; kazi ambayo sisi Wabunge lazima tuifanye ili kuchunga mali ya watoto, akina mama na baba hapa. Tunapozungumza wakati huu, kuna watoto maskini ambao wamepita mtihani wa kwenda vyuo vikuu, lakini hawapewi ile bursary, na ukiuliza, wanadai kwamba pesa ni haba ilhali watoto wa wale wakubwa pia wanapewa. Hali hii inauma sana kwa vile tunajua kwamba tulipitisha hapa fedha kwa kusema "aye". Na pesa zikishatolewa wengine "wanakula" na watoto wetu wanapata taabu. Tunajua hakuna kazi katika nchi hii, lakini kama hizi fedha zingechungwa vizuri na hii amendment isiletwe Bunge; na Executive ifuatilie recommendations za hii Kamati, tunaweza kupata pesa za kuwasaidia hawa watoto. Nchi ya Kenya sio maskini. Ukiwa katika Public Accounts Committee au Public Investments Committee; wewe Bw. Spika, ukija huko wakati mmoja utalia machozi. Na sio machozi ya kawaida, bali ni machozi ya damu, wakati utakapotambua vile zile bilioni za pesa huenda katika mifuko ya watu binafsi. Utalia machozi ya damu. Na ninaporudi kule Butere ama anaporudi mahali unakotoka, Bw. Spika, ukiona ule umaskini ulio pale, tumbo lako linanguruma. Unataka kutapika asubuhi na hali hujakula, ukifikiria bilioni za pesa ambazo zinapotea. Na hapa tunalia. Nilisikia wale Wabunge wa North Eastern Province wakilia kwamba kule kuna njaa nyingi kwa vile mahindi na mchele hazijawafikia. Na Wakamba kule kwao, ndiko headquarters ya njaa. Hata kule wangepewa maji tu---

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Speaker, Sir. Is it in order for hon. Martin Shikuku to allege that Kambaland is the headquarters of hunger?

ADJOURNMENT

Mr. Speaker: Hon. Members, it is now time for the interruption of business. The House is therefore adjourned until Thursday, 5th December, 1996, at 2.30 p.m.

The House rose at 6.30 p.m.