

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 5th October, 1999

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Members:-

Mr. Justin Bedan Njoka Muturi

Capt. (Rtd) Eustace Mbuba Ntwiga

ORAL ANSWERS TO QUESTIONS

Question No.298

REINSTATEMENT OF RETIRED CHIEF

Mr. Raila asked the Minister of State, Office of the President why the Chief of Giaki Location in Meru Central District, Mr. Daniel Mariko Muriithi, who was retired on public interest, was reinstated.

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

The Chief in question was not retired on public interest. He was interdicted. After the investigations, he was reinstated.

Mr. Raila: Mr. Speaker, Sir, I have with me here, a letter, Ref.No.C/184873/2, which states clearly, the allegations against the chief; that, he was involved in stealing maize that was meant for famine relief. This letter has listed many occasions on which this particular chief was involved in graft. Could the Minister tell this House what has happened to the maize that was stolen by the chief?

Maj. Madoka: Mr. Speaker, Sir, when the investigations were carried out, the allegations were proved to be false.

Mr. Raila: Mr. Speaker, Sir, will the Minister take this House seriously after Recess? He knows that he is not telling the truth about this. I was in Giaki Location just last month doing a Harambee, and I was with the chief and the DO, and there was a confirmation by the chief. He admitted that he had made mistakes in the past and he was repenting. Why is the Minister deliberately misleading the House that these allegations were untrue when the chief himself actually admitted having committed those mistakes?

Maj. Madoka: Mr. Speaker, Sir, I am not deliberately misleading this House. If hon. Raila has any evidence to show that the chief admitted this, maybe, he needs to present it and I will follow the matter up.

Mr. Speaker: The last one, hon. Murungi!

Mr. Murungi: Mr. Speaker, Sir, this Minister is doing the House great disservice because this chief is known all over Meru as a crook and a common thief.

Mr. Speaker: Order! Mr. Murungi, I think this House is too dignified for those words. Please, use a better language, suitable to Parliament and suitable to an honourable Member like yourself!

Mr. Murungi: Mr. Speaker, Sir, what I was saying is that the chief is known all over the place because of his dishonesty. The complaint which was recorded by the Government of Kenya was that he had converted his office into a toll station, where wananchi had to pay for every piece of paper which he signed. There is also an allegation that he was licensing brewing of traditional liquor and charging between Kshs800 and Kshs1,000 from the proceeds of that brew every week. Could the Minister tell this House what investigations have been done to exonerate the chief, because this brewing is still continuing?

Maj. Madoka: Mr. Speaker, Sir, let me put it this way: Maybe, the hon. Member could provide the

necessary evidence and we will take the appropriate action.

Mr. Speaker: Very well; next Question, hon. Keynan!

Question No.348

DISBURSEMENT OF FUNDS TO BOMB BLAST VICTIMS

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

Question No.350

LOW PRIMARY SCHOOL ENROLMENT IN SAMBURU

Mr. Leshore asked the Minister for Education, Science and Technology:-

(a) if he is aware that poverty and insecurity have greatly contributed to the low enrolment and poor performance of primary education in Samburu District; and,

(b) what special arrangements does he have to ensure that Samburu children get the necessary primary education and adequate bursary for higher education.

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

(a) I am aware that poverty, which has been caused by the nature of climatic conditions in the region, as well as intermittent incidences of insecurity, do affect enrolment and performance of primary schools in Samburu District. However, Samburu District registered improvement in Kenya Certificate of Primary Education (KCPE) performance in 1998 over 1997, from 340.65 mean grade in 1997, to 352 mean grade in 1998.

(b) My Ministry has put in place the following measures to promote primary education in Samburu District:-

(i) The World Food Programme (WFP) and Government of Kenya School Feeding Programme covers Samburu District 100 per cent.

(ii) Under the Government of Kenya Textbook Project, 32,223 textbooks have been distributed to all the schools between 1991 and 1996.

(iii) Twenty low-cost boarding primary schools, out of a total of 120 primary schools are being supported through the provision of grants.

(iv) Twelve non-formal education centres are catering for out-of-school children.

The Higher Education Loans Board (HELB) has also adequately catered for 89 out of 93 bursary applicants since the 1995/96 academic year.

Mr. Leshore: Mr. Speaker, Sir, it is high time some of these Ministers who come and mislead Kenyans that Samburu District is getting all that the Assistant Minister has mentioned--- It is unfortunate, because the Assistant Minister is my good friend and I refer to him as a "father". Samburu District is one of the poorest districts in this country. Over the last four years, we have had insecurity in that area. There are over 20 primary schools which have not been opened because of insecurity in Samburu District. In addition to that, in the 1997/98 academic year, not even one Samburu university student got a loan from the HELB. Could the Assistant Minister tell us the reasons why the HELB did not consider Samburu students for loans in the 1997/98 academic year?

Mr. Awori: Mr. Speaker, Sir, I would like to ask for your indulgence because I tried to listen to his last question, but I could not understand it well. I would like to answer it properly. Could he repeat it?

(Loud consultations)

Mr. Speaker: Order, hon. Members! Mr. Leshore, could you repeat your question for the benefit of the Assistant Minister.

Mr. Leshore: Mr. Speaker, Sir, could the Assistant Minister tell the House why the HELB did not consider giving Samburu university students loans in the 1997/98 academic year?

Mr. Awori: Mr. Speaker, Sir, in the 1995/96 academic year, we gave loans to 89 students out of 93 applicants.

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

Mr. Speaker: Order! Could you hear what he has to say?

Mr. Awori: Mr. Speaker, Sir, in the 1995/96 academic year, we gave loans, in fact, practically, to 99 per cent of the applicants because they were in dire need. In the 1997/98 academic year---

Mr. Leshore: What happened?

Mr. Awori: Mr. Speaker, Sir, I will have to request for some time, so that I get the actual figures because I do not have them here with me. But I do know that we gave loans in the same way as we did in the previous academic year; that is, the HELB gave 100 per cent loans to the needy students in Samburu District.

Dr. Omamo: Mr. Speaker, Sir, does the Assistant Minister know that he has not answered the part of the question that deals with insecurity in Samburu District? To our knowledge, if the pupils do not attend primary schools because of insecurity, then there is only one solution: That is, the Government should take the initiative to encourage boarding schools, so that pupils do not have to move out of schools every day and miss education because of insecurity. What is the Government doing to encourage boarding schools for the Samburu children?

Mr. Awori: Mr. Speaker, Sir, as we know, in Samburu District, like other pastoral areas, the people who live there are a bit nomadic. A lot of money would be spent unnecessarily for building boarding schools. I want also---

Dr. Omamo: On a point of order, Mr. Speaker, Sir. Why should the Assistant Minister contradict himself? The fact that they are nomads is the more reason why they deserve boarding schools.

Mr. Speaker: What is "a bit nomadic" and what is "nomadic"?

Mr. Awori: Mr. Speaker, Sir, the words mean the same thing. What we do not want is to fight the culture of people. The Samburu are nomads and they will have to change the culture gracefully and gradually.

Dr. Kituyi: Mr. Speaker, Sir, considering that the Samburu are transhumant and not nomadic, and that there is a possibility of mobile schools to follow the cycle of the movement of the household during different periods of the year, could the Assistant Minister undertake an effort that has worked elsewhere to have mobile schools and security guards to secure these students, and encourage going to school among the Samburu children?

Mr. Awori: Mr. Speaker, Sir, we have not really given mobile schools any consideration, but it is a good idea which we will have to look into.

Mr. Leshore: Mr. Speaker, Sir, let me ask my last question?

Mr. Speaker: What is your last question?

Mr. Leshore: Mr. Speaker, Sir, the Assistant Minister has told this House that they do give grants to primary schools in that district. I would like him to inform us the number of schools that benefited from the grants last year and this year. Could he name those schools?

An hon. Member: He cannot name even one school!

Mr. Awori: Mr. Speaker, Sir, the hon. Member has an advantage over me, but if he gives me a bit of time, I am sure I will get that information. First of all, my colleague has just helped me to answer a question that I was unable to answer earlier on, and that is: How many students benefited from the Higher Education Loans Board in 1997? I am happy to state that 51 students were given grants in that year. As to the number of schools that were assisted, I regret that I do not have the information here.

Mrs. Mugo: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister not misleading this House when he says that "it is a good idea to have mobile schools", while, when Mrs. Elizabeth Masiga was the Permanent Secretary in the same Ministry, she promised the nation that mobile schools were going to be introduced in the area? That means that the Ministry has done absolutely nothing to follow up the matter, and the Minister is not aware of that.

Mr. Speaker: Mrs. Mugo, is that not a point of argument?

Mrs. Mugo: Mr. Speaker, Sir, that is a point of order.

Mr. Speaker: Mrs. Mugo, try and talk to him very nicely; he might buy your idea. Let us move on to Question No.398.

Mr. Leshore: On a point of order, Mr. Speaker, Sir. The Assistant Minister has not told us when he will bring the answer on the number of schools that benefited from the grants in 1998.

Mr. Awori: Mr. Speaker, Sir, I can bring that answer to this House tomorrow.

Question No.398

ALLOCATION OF BONDENI PRIMARY SCHOOL LAND

Mr. Speaker: Question No.398 by Mr. Maitha is deferred.

(Question deferred)

Let us move on to the next Question by Mr. Gatabaki.

Mr. Gatabaki: Mr. Speaker, Sir, allow me, first, to greet this august House and wish them the best in this

Session.

Question No.286

DISMISSAL OF MR. JOHN MAINA

Mr. Gatabaki asked the Minister for Labour:-

(a) whether he is aware of the summary dismissal of the former Managing Director of the Athi River-based East African Portland Cement Company, a Mr. John Maina, in late December last year;

(b) whether he is also aware that the said Mr. Maina was responsible for the impressive performance of the company, whereby a 400 per cent improvement in profitability during the last financial year was attained; and,

(c) what led to the sacking of Mr. Maina and his replacement by his deputy, Mr. Titus Barmasai.

The Minister for Labour (Mr. Ngutu): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that Mr. John Maina, the former Managing Director of the Athi River-based East African Portland Cement Company, was summarily dismissed from service. Indeed, Mr. Maina served under three years' renewable contract from 1988 to 1998. The last contract expired in October, 1998.

(b) I am not aware of the impressive performance of the company attributed to Mr. Maina. It is normal practice for management to set realistic annual targets for its operations with the objective of achieving profit margins of 100 per cent. During his tenure, the company hardly achieved this target though it was able to operate at break-even levels with modest profits registered.

(c) At the expiry of his contract, Mr. Maina had already attained the mandatory retirement age of 55 years. He was paid his terminal benefits amounting to Kshs3 million.

Thank you.

Mr. Gatabaki: Mr. Speaker, Sir, first of all, I do not know when this Question was answered because it is indicated that it was answered by the Minister for Labour. Since the reshuffle of the Cabinet, we do not have a Minister for Labour, but a Minister for Human Resource Development. Secondly, I do not know why the Minister is not in tune with the new recovery programme of the Government, where transparency and accountability seem to be accepted as a new mode of governance. I am saying this because Mr. Maina heard the news of his dismissal in the Kenya Broadcasting Corporation (KBC) 1.00 p.m. news bulletin. Would that be the proper way of terminating appointments? Could the Minister tell us whether terminating the appointment of a key person through the KBC news bulletin is a proper way of "throwing away" decent citizens?

Mr. Ngutu: Mr. Speaker, Sir, Mr. Maina retired on age grounds and there were no other motives behind his retirement at all.

Mr. Raila: Mr. Speaker, Sir, there is a contradiction in the Minister's answer. First, he said that Mr. Maina was on a three-year contract which expired in the same year in which he was appointed. This is because he has said that the contract ran from 1998. If it was a three-year contract, it should have ended in 2001. Now, the Minister is saying that Mr. Maina retired on age grounds. Which is which?

Mr. Ngutu: Mr. Speaker, Sir, Mr. Maina had been given three contracts as I have already stated, but when the third contract ended, he was already 55 years and he had to go.

Mr. Gatabaki: Mr. Speaker, Sir, with all due respect to the late Maina, who died about two months ago, is it in order for the "Assistant Minister" to mislead the House that it is normal---

(Laughter)

Hon. Members: He is a Minister!

Mr. Gatabaki: Mr. Speaker, Sir, some of us are lost and we do not know who is a Minister and who is an Assistant Minister in the new Cabinet. I plead with the House because we do not know them as they are overcrowded in one Ministry.

Is it in order for the Minister to mislead the House that it is normal for this Government to achieve 300 or 400 per cent performance when we know that the expectation of this Government is to put incompetent people whose performance goes below 1 per cent?

Dr. Omamo: Mr. Speaker, Sir, going by the way the question was worded, it was a question of summary dismissal. If the employee was serving under a contract and it expired, then, according to the common usage of the word "summary dismissal", he would not be summarily dismissed.

Mr. Speaker, Sir, if the Minister accepts that he was dismissed summarily, could he explain to this House what led to the summary dismissal of an officer serving under a contract?

Mr. Ngutu: Mr. Speaker, Sir, I have already said that Mr. Maina had been given three contracts consecutively. At the end of the last contract, he had already reached the mandatory retirement age of 55 years and he had to go.

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Is the Minister not misleading the House by answering the Question that hon. Omamo is asking? Can he confirm or deny that the only reason Mr. Maina lost his job is because his name is "Maina", and his replacement is a Maasai?

Mr. Ngutu: Mr. Speaker, Sir, I do not know whether to respond to that one, but I do not think that is the reason.

Question No.279

DEATHS OF KULTA CONSUMERS

Mr. Mwiraria asked the Minister for Public Health:-

- (a) if he is aware that a drink called *Kulta* is killing its users;
- (b) what ingredients constitute this drink and which of them causes the deaths; and,
- (c) what action the Ministry intends to take to stop these deaths.

The Minister for Public Health (Prof. Ongeri): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the drink known as *Kulta* is killing its users but I am aware that it has a negative public health effect on its customers.

(b) The drink is produced from fermentation of sugar and grains. It contains an Ethyl Alcohol content of 12.2 per cent by volume. If taken excessively, it can lead to death.

(c) My Ministry has directed all public health officers to seize all these drinks from the market. Anybody found selling the drinks to the public will be prosecuted.

Mr. Mwiraria: Mr. "Chairman"---

(Laughter)

I beg your pardon, Mr. Speaker, Sir. I am still suffering from the Recess hangover.

Mr. Speaker: Very well.

Mr. Mwiraria: Mr. Speaker, Sir, while I thank the hon. Minister for the reply, I am surprised that a qualified gynaecologist can give such a contradictory answer. In part "a", he says he is not aware that it is killing users. In part "b", he admits that if taken excessively, it can lead to death. I have not had opportunity to examine those who have died as a result of drinking *Kulta*, but I know of several people who have died. Maybe, I can only assume that they had taken it excessively. There are other alcoholic drinks, like beer, which, if you take excessively, you will, perhaps, fall down and sleep; you will not die. Could the Minister admit that *Kulta* is a drink that is killing people? The one reason I think it kills people is that its ingredients include odd things, such as the five shillings coin---

Mr. Speaker: Mr. Mwiraria, have you now started answering questions? You have changed positions?

Mr. Mwiraria: No, Mr. Speaker, Sir. I am just giving him some information so that---

Mr. Speaker: Maybe, he knows. Can we hear from him?

Mr. Mwiraria: Could the Minister admit that it kills and that it is, therefore, dangerous and should be banned completely? Secondly, could he admit that it consists of more than just fermented sugar and grain?

Prof. Ongeri: Let me allay the fears of hon. Mwiraria. If we are talking of *Kulta*, the one that we have been able to analyze, it does, indeed, contain Ethyl Alcohol as opposed to the other varieties of brews that have other ingredients that contain Methanol Alcohol. Methanol Alcohol can kill instantly. Ethyl Alcohol takes time to take its toll.

Mrs. Ngilu: Mr. Speaker, Sir, quite honestly, this is a killer drink and I have experienced it in my own constituency. One evening when I was going home, I found a man on the floor vomiting and he had already started "diarrhoeing" on himself. I did not know about it until I took him to hospital and I was told that, that was not a disease that they could treat. I was told he had taken *Kulta*. In Kikamba it is called *Kuluta*. I think the Member is trying to find out whether the Minister can tell us exactly what action the Government is going to take to completely finish this problem. Recently, women from Kabete Constituency were on the road protesting against this and they were harassed so much by the police. What is the Government going to do about this once and for all?

Prof. Ongeri: The Public Health Act is extremely explicit on how to handle such a situation. The only co-

operation we will need is for the hon. Members and their constituents to report such illicit brewers. It is not only *Kulta* which is an illicit brew, but there is a variety of many others like *Medusa*, *Mukombozi*, *Kairasi*, *Mathenge*, *Simba Wine*, *Ndume*, *Lika Strawberry wine*, *Chui Chinja Beer*, *Kiboko*, *Punch and Tarzan*.

Mr. Gitonga: Mr. Speaker, Sir, could the Minister confirm that he is actually giving wananchi the freedom to take the law into their own hands?

Prof. Ongeri: Mr. Speaker, Sir, I want to assure the hon. Member that we will prosecute those who have been involved, just as much as we are now currently prosecuting those who have caused this disaster in Embu.

Mr. Kathangu: Jambo la Nidhamu, Bw. Spika. Sijui kama ni nidhamu kwa Waziri pamoja na Jumba hili kuendelea kulizungumzia hili swala wakati mwaka jana tulipitisha kwamba vinywaji 11, pamoja na *Kulta* ambayo tunazungumzia sasa, vipigwe marufuku. Ni kwa sababu gani Waziri aipotezee nchi hii wakati, huku hivi vinywaji vyote vilitakiwa kupigwa marufuku tangu mwezi wa nane mwaka jana, kulingana na Hoja ambayo tulipitisha hapa?

Prof. Ongeri: Naam, Bw. Spika, ni kweli kwamba vinywaji hivyo vilipigwa marufuku. Tunasema kwa Kiingereza: They are not legal, but illicit brews and, therefore, the brewers should be taken to court.

Mr. Wamae: Mr. Speaker, Sir, we would like assurance from the Minister that this time, the Government is serious. They have been saying that they are going to stop the brewing of these illicit drinks time after time, and Kenyans continue dying. What action will the Minister take to ensure that this is stopped once and for all? Will he now indicate whether wananchi can take the law in their own hands and pour these drinks wherever they find them?

Prof. Ongeri: It is neither the intention nor the action of the Ministry of Public Health to have wananchi drink illicit brews. I hope that position is very clear. Therefore, any attempt to engage in this activity is obviously illicit drinking. It has been banned and anybody found drinking it will be prosecuted in accordance with the law. All I am asking is that there should be more involvement from the community and everybody else concerned than just the Ministry of Public Health.

Mrs. Ngilu: Mr. Speaker, Sir, quite honestly, people in the African traditional society had their own local brews which were not lethal. Can the Government accept that each tribe in this country has its own traditional brew that is not harmful to the community, and which is not meant for commercial purposes? These ones which are being talked of here are for commercial purposes. If it can be allowed at each---

Mr. Speaker: Mrs. Ngilu, are you suggesting that there are tribal *Kultas*?

Mrs. Ngilu: Mr. Speaker, Sir, I am talking about the traditional brews which were not for commercial purposes. But what we are calling the illicit brews today are for commercial purposes. I do not think it is right for people to be denied the right to enjoy their traditional brew simply because it is being called illicit brew!

Mr. Speaker: Order, Mrs. Ngilu! The way I look at it is that the Minister is responding to a specific Question on a brew called *Kulta*, and I do not know whether it has any tribal meaning. I think that is the question we are dealing with.

Mr. Raila: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead this House that this *Kulta* has only 12.2 per cent Ethyl Alcohol, which is not toxic and which cannot kill a person because it is still within the range of beer? Wines have got up to 24 per cent alcohol content while spirits have got between 40 to 60 per cent alcohol content, and they do not kill people. There has to be some other toxic ingredient in this drink which the Minister is not telling the House. Is he in order to mislead the House by not disclosing the complete chemical composition of *Kulta*?

Prof. Ongeri: Mr. Speaker, Sir, that is why, in my first answer, I said that *Kulta* does not kill. This is because I was fully aware that this is Ethyl Alcohol. But when you get this particular brew laced with some other industrial methanol, then it kills. It depends on the kind of brewer, the situation, location and how sophisticated they have become. Indeed, we do find that some of these brewers have become so sophisticated that instead of brewing the normal harmless Ethyl Alcohol that kills only when taken in excessive quantities, and including wine which is about 60 to 70 per cent alcohol proof, they use Methanol Alcohol which has the propensity towards the nerves. When it attacks the nerves, one of the symptoms is irritability and those who drink it become blind and may die.

Mrs. Mugo: Mr. Speaker, Sir, could the Minister tell this House how they are going to implement the resolution which was passed by this House in as far as punishing illicit brewers is concerned? We know that all that the police officers look for are bribes and once they come across anyone selling an illicit brew and they are bribed, they leave him in peace. When they are not bribed, even if the brew is legal, they arrest the people. How is the Minister going to discipline the police so that they arrest those people who are engaged in illicit brews without taking bribes?

Prof. Ongeri: Mr. Speaker, Sir, that is a provocative question. If it is illegal, then it is illegal! Therefore, they will face the full force of the law. Maybe, to deal with that issue squarely, we should consider giving back powers to the chiefs!

Question No.094

ALLOCATION OF KIBOS PRIMARY SCHOOL LAND

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

- (a) whether he is aware that all the land belonging to Kibos Primary School has been allocated to private developers;
- (b) under what circumstances the land belonging to this school was allocated to the Homa Group; and,
- (c) whether he will consider returning the land to the school, which has a registered student population of 320, with 8 classrooms and serves the people of Kajulu, Kolwa as well as Kondele.

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Speaker, Sir, after consultation with the hon. Member for Kisumu Town East, may I, with your permission, seek approval to defer this Question to next Tuesday when I shall have a complete reply.

Mr. Speaker: Mr. Sungu, are you agreed to that?

Mr. Sungu: Mr. Speaker, Sir, since the hon. Minister was my boss at the Kenya Airways, I know that he is a very reliable man, and he will answer the Question on Tuesday.

(Laughter)

Mr. Speaker: Mr. Sungu, next time you put all that forward, I will drop your Question! But for now, I will defer it to Tuesday.

(Question deferred)

Next Question, Mr. Wamunyinyi!

Question No.036

COST OF BUNGOMA HIGH COURT BUILDING

Mr. Wamunyinyi asked the Attorney-General:-

- (a) how much it cost to construct the Bungoma High Court buildings and who won the tender;
- (b) whether he is aware that many cracks have appeared on the walls of the buildings, which is a safety hazard; and,
- (c) what steps he is taking to rectify the situation.

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

(a) The Bungoma High Court was built at a cost of Kshs8,040,706. The tender was won by Messrs. Wagon Construction Company Limited.

(b) I am aware that cracks have appeared on the walls of the buildings.

(c) Immediately this was noticed, a team comprising the Bungoma District Commissioner, the architect, the Development Officer, the District Quantity Surveyor and two officers from the Judiciary Headquarters; that is, Acting Chief Court Administrator and Principal Accounts Controller, inspected the building on 4th July 1997, and their observation was that the cracks are merely what building structural experts call "air cracks." These are on the surface of the paint work. There are no cracks on the wall or floors and as such, the building does not pose any safety hazard.

Mr. Wamunyinyi: Mr. Speaker, Sir, the Attorney-General in his answer to part "b", has said that he is aware that cracks had been detected on the walls. The officers listed here as having visited the building in Bungoma are the people who were involved in corrupt deals with the contractor to do a shoddy job. I cannot believe that this is a fair report. Could he consider sending an independent team of engineers to visit the High Court buildings in Bungoma because the cracks are there and can be seen even by a person who is not an architect?

Mr. Wako: Mr. Speaker, Sir, as I stated earlier on, a team was sent from Nairobi to Bungoma to inspect the construction of Bungoma High Court buildings and they came up with a report. That team met a local group of experts and arrived at an unanimous decision which was properly minuted.

Mr. Murungi: Mr. Speaker, Sir, I do not know why the Attorney-General is not taking the hon. Member's

request seriously. The team from Nairobi comprised of judicial officers. Are judicial officers trained to inspect cracks and architectural works in this country?

Mr. Wako: Mr. Speaker, Sir, members of the legal profession are trained to look at these problems, evaluate them and make decisions.

Mr. Speaker: Mr. Attorney-General, are you really serious?

(Loud consultations)

Mr. Wako: Mr. Speaker, Sir, I am serious because this team met experts on the ground who showed them the cracks. To be able to see a crack is a question of one opening his eyes. Having seen the cracks, they came to the conclusion that, the cracks did not affect the walls or the floors.

Mr. Speaker: Very well. Let us hear the last question from Mr. Wamalwa.

Mr. Wamalwa: Mr. Speaker, Sir, since the Attorney-General is now laying claims to being an expert on structural engineering - he has said that, and realising that there are cracks and air bubble cracks, could he explain to this House the difference between cracks on the wall and the "air bubble cracks"?

Mr. Wako: Mr. Speaker, Sir, air bubble cracks are confined to the painting itself and the other cracks are confined to the wall itself.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order, hon. Members! Hon. Raila!

Mr. Raila: Mr. Speaker, Sir, I stand here as an engineer and I think what the Attorney-General has said has put the honourable profession of engineering into disrepute. It takes very intelligent people very many years to study engineering. I do not think it is fair for the Attorney-General to stand up before this House and tell the hon. Members that, a trained lawyer can know whether a structure is stable or not. Could the Attorney-General tell this House on what basis of fundamental law of engineering did these so-called learned friends from the courts examine and passed a judgement on the Bungoma High Court buildings?

Mr. Wako: Mr. Speaker, Sir, as I said, in that team was an architect, a quantity surveyor and a valuer. I presume that when somebody qualifies to be an architect, a surveyor or a valuer; he will know the fundamental laws that hon. Raila is talking about, and when this is communicated to the lawyer, he will be able to understand and evaluate properly.

Eng. Muriuki: Thank you very much, Mr. Speaker, Sir. In order to clear the air, is the hon. Attorney-General aware that he is now looking at a structural engineer?

Could the report prepared by legal experts, a district commissioner and quantity surveyor be brought to this House so that, at least, the House can be advised accordingly by several engineers who are in here whether that report makes any sense?

Mr. Wako: Mr. Speaker, Sir, I can give the names of the quantity surveyors, mechanical and electrical supervisors. If the professional body thinks that they did a shoddy job, it is up to it to take it up.

Hon. Members: Nooo!

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order, all of you! Mr. Wako, he was asking for the report. He wanted the report to be tabled.

Mr. Wako: Mr. Speaker, Sir, I can table the summary of the report; it is here.

(Mr. Wako laid the report on the Table)

Mr. Speaker: Very well. Mr. Adam Keynan's Question, for the second time!

Mr. Keynan: Mr. Speaker, Sir, I wish to apologize for coming late.

Question No.348

DISBURSEMENT OF FUNDS TO BOMB BLAST VICTIMS

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

- (a) how much money was raised towards the bomb blast victims; and,
 (b) how many people benefited and what the balance is.

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

- (a) The total funds raised towards the bomb blast victims amounted to Kshs273,771,229.00.
 (b) The money was distributed as follows:-

| | <u>Number of Cases</u> | <u>Amount paid</u> <u>(Kshs)</u> |
|-------------------------|-------------------------|-------------------------------------|
| Deaths | 203 | 139,600,000.00 |
| Injuries | 3,018 | 133,770,000.00 |
| | <u>Sub-Total</u> | <u>273,370,000.00</u> |
| Administrative Expenses | | 309,713.00 |
| | Total | 273,679,713.00 |
| Balance | | 91,516.00 |

Mr. Keynan: Thank you, Mr. Speaker, Sir. Now that the Minister has given his genuine figures, does the amount include the US\$37 million given by the USA Government? If so, why are there so many complaints about how these particular funds were distributed and how sure are we that what was presented in the Minister's answer was what was actually collected?

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order! I think I will draw the attention of Mr. Keynan to the provisions of Standing Order No.36 which states that, "the contents of a Question have to be factual". I do not think that your misgiving or doubt is a fact to form a question. So, either you ask a factual question or you do not. I do not think he can answer your own worries.

Mr. N. Nyagah: Mr. Speaker, Sir, the US Congress passed a Supplementary Appropriation Bill of US\$1,489 billion after the bomb blast. An amount of US\$38 million was appropriated to Kenya, out of which we have received only US\$11 million. Is the Kenya Government satisfied that all the conditions that were raised towards this fund through USAID which is under investigation have been fulfilled?

Mr. Speaker: As you answer that question, Mr. Nassir, I think it would be legitimate to answer Mr. Keynan's question; whether or not US\$37 million is part of the Kshs273,696,713.00

Mr. Nassir: Mr. Speaker, Sir, it is good to make everything clear in this Parliament. That amount is not included in the Kshs273,696,713.00. The hon. Member has asked about the distribution of the money to the beneficiaries of the fund and I have given him the figures.

Mr. Speaker: How about the other question?

Mr. Nassir: Mr. Speaker, Sir, I would be willing to answer my hon. friend's question, but let him ask another Question.

(Laughter)

Hon. Members: Let him repeat it!

Mr. N. Nyagah: Mr. Speaker, Sir, we know that the United States Secretary of State, Ms. Albright, will be

coming to Kenya between 17th and 27th of this month. Now that US\$1.489 billion was passed by the Congress through a Supplementary Appropriations Bill after the bomb blasts in Tanzania and Kenya, is the Kenya Government satisfied that the US\$38 million that was allocated through USAID has been appropriately used in Kenya on various categories of things that it was meant to cater for as contained in this report from the State Department?

Mr. Nassir: Mr. Speaker, Sir, Mr. Nyagah, is a very smart hon. Member of Parliament, and if he wants detailed information, he should put it in writing. I do not have to come and reply here. In fact, that is a different question altogether.

QUESTIONS BY PRIVATE NOTICE

DEATHS OF SUSPECTS

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

(a) What caused deaths of Ramadhan Bakari Ngobi, Jacob Masembe, Henry Tiema, Issa Limo, Isaac Juma and Wycliffe Wanjala after they were arrested by police from Bungoma Police Station in Bungoma Town on 7th July, 1999?

(b) What specific measures has the Government taken against the police officer(s) who may have caused the death of these young men?

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

(a) I am aware of the deaths of two people in police custody, namely, Mr. Jacob Wanyonyi Omasate and Mr. Ramadhani Bakari. I am not aware of the deaths in police custody of the other four persons mentioned in the Question. The cause of death for Mr. Jacob Wanyonyi was cardiac arrest due to hypovolaemia, which is reduced blood circulatory flow to the heart and Mr. Ramadhani Bakari also died of cardiac arrest.

(b) The inquest file has been opened, and we are now waiting for the chief magistrate to determine how we should proceed from there.

Dr. Kituyi: Mr. Speaker, Sir, what the Minister has failed to tell the House which is also part of his written reply, is that, *inter alia*, an 18 year old boy by the name Jacob Wanyonyi died of cardiac arrest because of diarrhoea. It is in the written reply I have. I am going to table before the House, copies of the post mortem report done by a pathologist from Eldoret.

Mr. Speaker, Sir, the 18 year old boy mentioned in the report I have, and which I will table, died without any problem in the digestive system thereby ruling out diarrhoea. The report says that all injuries which occasioned his death were due to trauma caused by blunt objects. The trauma to the head caused both subdural and epidural haemorrhage *etcetera*. What is even more shocking is that, Ramadhan Bakari was 14 years old. He was arrested on the streets of Bungoma on the first day of the touts' strike over TLB.

(Loud consultations)

Mr. Raila: On a point of order, Mr. Speaker, Sir, Hon. Dr.Kituyi is raising a very serious and important matter. Could we be allowed to listen to this matter in silence?

Mr. Speaker: Order! Order! Proceed!

Dr. Kituyi: Mr. Speaker, Sir, the 14-year old Bakari Ramadhani, born on 21st July, 1985, was arrested on the streets of Bungoma on the first day of the matatu strike.

Mr. Speaker: Could you put your question now?

Dr. Kituyi: Mr. Speaker, Sir, the Minister has told us that they have opened an inquest file. But look at the facts; a person aged 14 years is arrested, taken to a police station and the next day he is dead. He has three fractures on his left leg, broken shoulders on both sides and a gush into his brain. The postmortem report states clearly that all injuries were caused by blunt objects. Could the Minister tell this House what kind of inquest he wants to go and do by opening a file at the magistrate's court when the fact that he died in police custody should have led us to the arrest of certain individual police officers who may have been involved? Which officer has been interdicted or arrested for occasioning the brutal murder of these two young men, whose only crime is that they were present during a touts' strike on the streets of Bungoma?

Mr. Speaker: Dr. Kituyi, it is fair that you table those documents.

(Dr. Kituyi laid the document on the Table)

Maj. Madoka: Mr. Speaker, Sir, it is true that this incident happened when there was a matatu strike over the introduction of TLB, and there was fighting amongst the touts and the public. It is also true that from the postmortem report which we have - he has a different postmortem report not from the same doctor - also indicates that part of the cause of death was that the bodies had broken limbs. So, there is an indication that there could have been beatings. The inquest file was opened to facilitate or enable us to establish whether it was the policemen involved or whether it might have happened during the fighting in the streets. Once that is established, I assure this House that the policemen will be charged appropriately.

Dr. Kituyi: Mr. Speaker, Sir, I am glad that the Minister seems to be admitting from an outrageous argument, that these deaths were partly occasioned by diarrhoea. But let us even allow the Minister the benefit of doubt, that, these people may have died from injuries suffered on the streets; what he is calling confrontation between touts and the public. If a 14-year old has three breakages in the leg, dislocated shoulders and a gush in the head, how do you explain the fact that policemen do not take him to hospital, but to a police station?

Maj. Madoka: Mr. Speaker, Sir, that is what we really want to establish, because the evidence we had and the law require that when such a thing happens, an inquest file is opened, and that is what has been done.

Mr. Maundu: Mr. Speaker, Sir, these young people were taken to the police station still alive. Could the Minister tell us what led to their deaths in the police station?

Maj. Madoka: Mr. Speaker, Sir, I think, I have made it quite clear that they were brought to the police station while alive, but later on died. A postmortem was carried out and an inquest file has been opened. So, I beg this House to let us get proper results from the inquest. The judge may recommend that we prosecute the officers responsible, and that will be done.

Mr. Keriri: Mr. Speaker, Sir, could the Minister tell this House whether policemen who were on duty that day were removed from that station? Does he appreciate the fact that if those policemen are still in the same police station, this will prejudice the outcome of the inquest?

Maj. Madoka: Mr. Speaker, Sir, they have not yet been transferred, but we will take that seriously.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House that the officers who may have been involved have not been transferred, whereas three of the key officers at the police station in Bungoma have been transferred after one of them shot his boss on duty in the police station?

Maj. Madoka: Mr. Speaker, Sir, that is a different issue. We are talking of possible transfer of the police officers who may have been involved in the deaths of the young people, but is talking of a policeman who shot his senior. Now, that has nothing to do with this particular case.

Mr. Speaker: Order! Order! I want to guide the House. We are already 10 minutes past Question Time and I still have some Questions that I intend to go over. Today is the first day; that is, why I am generous. But let me warn you generally that, that will not happen tomorrow. Question Time will end at 3.30 p.m.

Next Question, Mr. M.A. Galgalo?

WATER SHORTAGE IN BANGALE TRADING CENTRE

Mr. M.A. Galgalo: Mr. Speaker, Sir, I beg to ask the Minister for Environment and Natural Resources the following Question by Private Notice.

(a) Is the Minister aware that the residents of Bangale Trading Centre are suffering due to acute shortage of water?

(b) Is he further aware that the dams that were serving the residents have dried up due to siltation?

(c) What urgent measures is the Ministry taking to avail ample water supply for this centre which also serves as the Divisional Headquarters for Bangale Division?

The Minister for Water Development (Mr. arap Ng'eny): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the residents of Bangale Trading Centre are not getting enough water due to drying up of two dams in the area. However, the residents are getting water from one of the three dams that supply water to the centre.

(b) I am aware that two of the dams have dried up due to siltation.

(c) To avail ample water supply to the centre, my Ministry in conjunction with the United Nations International Children's Education Fund (UNICEF) is in the process of equipping a borehole which was drilled recently in the area.

Mr. M.A. Galgalo: Mr. Speaker, Sir, the Minister is misleading the House by alleging that there are three dams in Bangale Division. Actually, there are only two and they have all dried up. Could the Minister tell this House

how soon he is going to save these people from exploitation by middlemen who sell 20 litres of water at Kshs50? How soon is the Minister, in conjunction with the UNICEF, going to rehabilitate these boreholes?

Mr. arap Ng'eny: Mr. Speaker, Sir, I appreciate the concern raised by the hon. Member about the problem that the residents of Bangale Division are facing due to lack of water. In fact, that area has had a problem of water shortage for many years. I think with the drilling of these boreholes in conjunction with the UNICEF; we are lucky because somehow we have hit a very rich well producing 27 cubic litres of water per hour. That water is being tested now to verify whether it is suitable for consumption. It is a lot of water and it can serve a town as big as Voi. I think we are doing something.

Mr. M.A. Galgalo: Mr. Speaker, Sir, the problem of the borehole has been lack of rigs. UNICEF has sent its rig to Wajir North and they are waiting for the same rig to come from Wajir so that they can drill this borehole. Could the Minister order officers from his own office tomorrow to send the rig there so that it can be used to drill boreholes for the people of Bangale? They have waited for so long and they are suffering.

(Applause)

Mr. arap Ng'eny: Mr. Speaker, Sir, according to the information I have, the borehole has already been drilled. But they have not tested the quality of the water and, thereafter, fit the borehole and then pump the water to wananchi.

Mr. M.A. Galgalo: On a point of order, Mr. Speaker, Sir. I would like to inform the hon. Minister that--

Mr. Speaker: Order! You cannot change your mind half-way.

Mr. Keynan: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Minister to mislead this House that the Government has a water policy for the people of North Eastern Province when he knows that is not the case? This is because today as we talk, the District Water Engineer, Wajir, has not had even one vehicle for the last three years. How do we expect such an officer to perform his duties in a district that has been adversely affected by drying boreholes and drought? The issue is not whether that borehole functions or not; the issue is on the policy. Can the Minister tell us whether they are going to withdraw those officers from North Eastern Province or not, because our people are dying?

Mr. arap Ng'eny: Mr. Speaker, Sir, we appreciate very much the problem of the Arid and Semi arid lands (ASAL). That is why the Government is trying very hard to have comprehensive schemes. At this particular moment, we think the solution to those areas is construction of boreholes and dams. We are trying the best we can to achieve that, including in Wajir.

Mr. Speaker: Very Well. Next Question, Mr. Kapten.

BREACH OF CONTRACT BY KBC

Mr. Kapten: Mr. Speaker, Sir, I beg to ask the Minister for Information, Transport and Communications the following Question by Private Notice.

(a) Why did the Kenya Broadcasting Corporation (KBC) fail to announce the Sabwani Kwanza Bursary Fund meeting on the 15th, 16th and 17th July, 1999 which was held on 17th July, 1999 after being paid Kshs5,175 for the three announcements?

(b) Is the Minister aware that the failure to announce the meeting made many people who would otherwise have gone to the Harambee to contribute money for poor children in secondary schools and universities fail to do so?

(c) Could the Minister order the KBC to refund the money paid and pay damages for breach of contract?

(d) Could the Minister also assure this House that such conduct by the Kenya Broadcasting Corporation will not be repeated?

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

(a) The failure by the Kenya Broadcasting Corporation to announce the Sabwani Kwanza Bursary Fund was an error that arose due to a mix up in the flow of information between our field officers and the staff at Broadcasting House.

(b) In spite of the failure to announce this particular Harambee, I am aware that the turn-out at that particular meeting was still very good.

(c) I would like to inform the hon. Member that necessary instructions have been given to the Kenya Broadcasting Corporation to refund the money that was paid for the announcements amounting to Kshs5,175. Having said that, I wish to offer an apology to the hon. Member for Kwanza.

(d) I would like to assure the House that this type of error shall not be repeated in the future.

Mr. Kapten: Mr. Speaker, Sir, the Minister should be brave enough to tell this House that they refused to announce the Harambee because the Guests of Honour were hon. Nyachae and hon. Kibaki. Therefore, the question of field officers or mix up of information does not arise because the money was paid in Nairobi at Broadcasting House. Be that as it may, I do not know how many Governments we have in this country, because I have two answers to the same Question from the same Ministry. One answer to part "b"---

Mr. Speaker: Order! I think to save time, I would like to say that the official answer known to the House is the one given by the Minister.

Mr. Kapten: But they were both given to me by the Clerk. This Question was supposed to have come before us when we were just about to adjourn the House and I was given this answer at that time. Now, the answer to part "b" reads:

"It cannot be denied that the failure to publicise the said meeting was a factor which may have adversely affected the turnout at the Harambee which was meant to raise money for poor children in secondary schools and universities."

Now, to part "c", the answer is:

"Having said that, I will hasten to add that by accepting the money in the first place, KBC had bound itself to make the three announcements. It follows, therefore, that failure to make those announcements was a breach of that undertaking for which I would like to offer those apologies."

Can the Minister apologise to me, the people of Kwanza, hon. Nyachae and hon. Kibaki because KBC breached the contract by accepting the money?

Mr. Speaker: He has already offered the apology, has he not?

Mr. Maore: Mr. Speaker, Sir, it is upon the Minister to sort out when he is being misled and when he himself chooses to mislead the House. At least, we can sort out one of the two, but he is not coming out clear here. The Question is: The announcement was meant for the 15th, 16th and 17th. Now, in the own judgment of the Minister, can he tell us that he actually believes there was that oversight or was there another deliberate kind of decision not to make these announcements and not what he is telling the House?

Mr. Speaker: You are seeking an opinion!

Mr. Maore: No! On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Yes, what is it?

Mr. Maore: Mr. Speaker, Sir, it could be understandable when there is an oversight involving one day, but there are two to three days. Does the Minister want this House and nation to believe what he is saying? It is not about an opinion.

Mr. Speaker: Order! Now, that is a different thing. Dr. Kituyi!

Dr. Kituyi: Mr. Speaker, Sir, the hon. George Kapten has stated that the money was paid at Broadcasting House and, therefore, the mix-up involving field staff does not arise. Well, let us pretend that the Minister is right when he says that there was a mix-up, which is a human error. Why should he now promise this House that there will never be a mix-up in the future?

(Laughter)

Mr. Mudavadi: Mr. Speaker, Sir, I am going to ensure that efficiency is brought into the Kenya Broadcasting Corporation. I did apologise that this was an error and I am sure it will not be repeated again and I want to tell the hon. Members that let this be a matter of the past. Let us work together and make sure that KBC can improve.

Mr. Speaker: Very well. Next Question!

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

Mr. Speaker: Order! Order! We have only five minutes to 4 p.m. I have absolutely no intention of going beyond 4 p.m. in Question Time and I have another Question which, in my view, must be answered. Hon. Martha Karua!

PROSECUTION OF RETIRED NAVY OFFICER

Ms Karua: Mr. Speaker, Sir, I beg to ask the Attorney-General the following Question by Private Notice.

(a) Is the Attorney-General going to prosecute the retired Navy Officer, who is alleged to have defiled Stella Wanjiru Kiura of Gacatha Village in Gichugu Division of Kirinyaga District, and the matter reported at Kianyaga Police Station?

(b) Has the Attorney-General considered using DNA tests to help in determining who fathered Stella's child?

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

(a) The decision on whether or not to prosecute the retired Navy Officer, who is alleged to have defiled Stella Wanjiru Kiura of Gacatha Village in Gichugu Division of Kirinyaga District, and the matter reported to Kianyaga Police Station will be considered on completion of the investigations which are currently going on.

(b) The Attorney-General, on perusal of the investigation file, directed the police to undertake further investigations and in undertaking those further investigations, to carry out the DNA tests to help in determining who fathered Stella's child.

Ms Karua: Mr. Speaker, Sir, I am disappointed by the Attorney-General for his answer which demonstrates the casual manner in which his office treats cases of defilement against minors. This Question was asked over three months ago. The Attorney-General claims investigations are continuing. I know for a fact that no blood samples have been taken either from the Navy Officer or from Stella. Could the Attorney-General tell us whether he has given the police a time limit and whether an independent doctor will be allowed to witness the taking of the blood samples?

Mr. Wako: The position is that those directives were given.

Ms. Karua: When?

Mr. Wako: They were given in July this year. The directions were not just to carry out the above DNA tests, but to also take statements from three witnesses. I am saying this to show that the Attorney-General read that file very carefully and

decided that further statements ought to be taken from three named witnesses and they are there. So, the DNA tests have been ordered. My information is that the tests have not been done because the suspect has vanished and has not been traced in order to be arrested.

Dr. Kulundu: Thank you, Mr. Speaker, Sir. Can the hon. Attorney-General tell us where these DNA tests will be done because I have it on authority from my Departmental Committee on Health that the DNA test is not available either at the Chief Government Chemist or at the Chief Forensic Pathologist in Kenya? Where is this DNA test available in Kenya?

Mr. Wako: I have given the directives. The police have not come back to me to say they cannot carry it out. I am sure that if they were in a position not to carry it out, they would have been the first to tell me that: "Sorry, Mr. Attorney-General, we cannot carry it out." However, they are looking for the suspect and it will be carried out.

Mr. Speaker: Final question, Ms. Karua!

Ms. Karua: Mr. Speaker, Sir, I can confirm to the Attorney-General that the suspect is still loitering in the constituency. He has not gone underground. Directives were given three months ago and the Attorney-General is not able to tell this House what progress is being made or where the DNA tests could be undertaken. Could he undertake to find out the progress of the investigations and inform this House so that we know that serious investigations are actually underway?

Mr. Wako: The most that I can tell this House is that I am assured that the investigations are going on and they are trying to trace the suspect. If the hon. Member can help the police in tracing the suspect, that assistance will be welcome.

Ms. Karua: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Yes. The very last one now before 4.00 p.m.

Ms. Karua: Mr. Speaker, Sir, may I request that the matter be referred to the relevant departmental committee because the Attorney-General's answer is totally unsatisfactory?

Mr. Speaker: Now, under what procedure are you asking me to do that? We have dealt with the Question exhaustively.

Ms. Karua: I have said that the answer is unsatisfactory---

Mr. Speaker: Order! Order!

Mrs. Ngilu: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Mrs. Ngilu, please do not overrule the Chair as you are seated there.

Mrs. Ngilu: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Order, Mrs. Ngilu! It is very serious when you disobey the Chair. Hon. Karua, what was your point of order?

Ms. Karua: Mr. Speaker, Sir, in view of the unsatisfactory answer given by the Attorney-General, could I, through the Chair, request this House to refer the matter to the relevant departmental committee so that the conduct of

that investigation can be followed up and gone into?

Mr. Speaker: Ms. Karua, I invite you to see the Speaker, regarding that matter, later on. Now, I am sorry, I will not allow any more supplementary questions. We shall now proceed to the next Order. Some two hon. Members saw me in connection with some matters they wanted to raise today, seeking Ministerial Statements. However, as you all can see, we are way past the order other than the Business of the House for today. We have, in fact, taken half an hour of our Business time on matters other than the business before the House today. I therefore, urge those hon. Members to raise those issues tomorrow morning. I will facilitate their raising of those matters. Also, I would like any other hon. Member who would like to seek Ministerial Statements or to raise relevant points of order to do so tomorrow morning. For now, let us proceed to the next Order.

Mr. Sungu: On a point of order, Mr. Speaker, Sir. Hon. Members speaking from this side of the House cannot be heard clearly, other than those speaking from the Dispatch Box. So, could something be done about the sound system? Unless there is some sort of sabotage, something is wrong with the sound system.

Mr. Speaker: Mr. Sungu, you are perfectly in order to bring to my attention, the fact that you are not following the proceedings of the House. However, you are totally out of order to impute improper motive on, may be, me or my officers. This House is not under the charge of Government; it is under the charge of Mr. Speaker and hon. Members. Meanwhile, may be, I should tell hon. Members that it is the desire of the Chair that, funds being available, the whole sound system of this House would be overhauled.

Let us go to the next Order!

(Applause)

MOTION

ADOPTION OF PAC REPORT

Mr. Obwocha: Mr. Speaker, Sir, I beg to move:-
THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya Accounts for the year 1995/96 laid on the Table of the House on 8th June, 1999.

Mr. Speaker, Sir, on behalf of the immediate former Members of the Public Accounts Committee (PAC), and pursuant to the provisions of Standing Order No.147; I would like to take this opportunity to present to the House, the Report and recommendations thereon, of the Committee on the 1995/96 Report of the Controller and Auditor-General together with the Appropriation Accounts and other public accounts.

The Committee commenced its sittings in August, 1998 and held 69 sittings, during which all the Accounting Officers appointed by the Treasury to look into the management and accountability of financial matters in every Ministry and Department appeared---

(Loud consultations)

Mr. Munyao: On a point of order, Mr. Speaker, Sir. We would like to hear what the immediate former PAC Chairman is saying. So, could the Chair intervene, so that we can hear what he is saying?

Mr. Speaker: Order! Order, hon. Members! Proceed, Mr. Obwocha!

Mr. Obwocha: Mr. Speaker, Sir, this is a very hot Report, and I urge hon. Members to give me a few minutes, to tell them how Accounting Officers blundered with the resources of this country.

The Committee commenced its sittings in August, 1998 and held 69 sittings during which all Accounting Officers appointed by the Treasury to look into the management and accountability of financial matters in every Ministry and Department appeared, to respond to queries which had been raised by the Controller and Auditor-General in his report. All witnesses were subjected to thorough scrutiny and Members of the Committee analysed critically both oral and written submissions. In most cases, the witnesses were co-operative and gave useful information, which assisted the Committee in making recommendations.

In giving their submissions to the Committee, the Accounting Officers did a very good job. I would like to quote one gentleman, namely, Prof. Joseph Ouma Muga, who was once a hon. Member of this House. He said that, as a teacher, if a student knew his material, and presented it well, he would normally award him grade "A"; if he knew the material, but did not know how to present it, he would normally award him grade "B"; if he did not have enough material but could present well the little he knew, he would award him grade "C"; and that, if he did not have the material and could hardly present anything that he knew, he would award him grade "D". In their presentations, retired

Permanent Secretary, Mrs. Elizabeth Masiga, Eng. Erastus Mongera, William Mayaka and the late Mr. Chepkwony were excellent. The Committee found these to be very good in their presentations. I would also award each of them grade "A".

Mr. Speaker, Sir, the Committee, under my Chairmanship, comprised the following hon. Members: David Musila, Mwingi South; Raphael arap Kitur, Konoini; Aywa Odongo, Khwisero; Dr. Abdulahi Ali, Wajir North; Dr. Oburu Odinga, Bondo; Njehu Gatabaki, Githunguri; Suleiman Kamolle, Matuga; David Mwiraria, North Imenti; Mwai Kibaki, Othaya, who is also the Leader of the Official Opposition; and hon. Yusuf Haji, who served the Committee up to 18th February, 1999, when he was appointed Assistant Minister.

Mr. Speaker, Sir, it is important to note that the hon. Mwai Kibaki and hon. David Mwiraria only attended the first two sittings of the Committee. Thereafter, they boycotted the sittings claiming that the Chairmanship of the Committee should have gone to the Democratic Party of Kenya (DP), which is the Official Opposition Party. As you know, this need not to have been the case since after the amendment of the Standing Orders at the end of the Seventh Parliament, Standing Order No.147 was amended and paragraphs (1) and (2) of this Standing Order read as follows:-

(1) There shall be a select committee to be designated the Public Accounts Committee for the examination of the accounts showing the appropriation of the sum voted by the House to meet the public expenditure and such other accounts laid before the House as the Committee may think fit. The Public Accounts Committee shall consist of a Chairman who shall be a Member who does not belong to the parliamentary party which is the ruling party and not more than ten Members who shall be nominated by the House Business Committee to reflect the relative majorities of the seats held by each of the parliamentary parties in the National Assembly, at the commencement of every Session.

Provided that, the ruling party shall have a majority of not more than two.

(2) The Public Accounts Committee shall elect its own Chairman". That Standing Order does not specifically

say that the Leader of the Official Opposition or his Vice Chairman shall be the Chairman of that Committee. That is how I ended up being the Chairman of that Committee. I contested the Chairmanship of the Committee against hon. Mwiraria and I was unanimously elected. This was in line with the above Standing Order. Therefore, the DP ought not to have complained. Despite the boycott by our colleagues, the Committee continued with its deliberations and completed its Report without much a do.

Mr. Speaker, Sir, I would like to start my presentation of the Report with a summary of what happened during that year. The Committee went through paragraph by paragraph all the audit queries raised by the Controller and Auditor-General, and summarised the amount of money queried. In their opinion, they compiled the amount of money lost or taxes not collected by these Ministries. I cannot read out the whole Report, but I would like to read a summary of the Report.

Mr. Speaker, Sir, under the Office of the President, the Controller and Auditor-General queried Kshs13,479,138,253, and the Committee considered Kshs4,611,076,104 lost. Under State House, the Controller and Auditor-General queried Kshs218,099,055 and the Committee considered Kshs142,200,484 lost. Under the Directorate of Personnel Management Kshs471,840,595 was queried and Kshs137,817,650 was considered lost. Under the Ministry of Foreign Affairs and International Co-operation the Controller and Auditor-General queried Kshs2,821,961,313, and the Committee considered Kshs826,955,373 lost. Under the Ministry of Home Affairs and National Heritage, the Controller and Auditor-General queried Kshs262,080,204 and out of this, the Committee considered Kshs103 lost.

Mr. Speaker: Is it all in that document?

Mr. Obwocha: Mr. Speaker, Sir, it is only the summary. I want to highlight the Ministries only. I am not going through every page because it is a very big document.

Mr. Speaker: Order! If it is in the document which you have tabled in the House and is, therefore, the property of the House, why do you go over it all again?

Mr. Obwocha: Mr. Speaker, Sir, I would like it to go on record because it is just the summary of the Report. I do not want to read out the whole document which is in form of paragraphs. I cannot read out that, but I want to read the summary of the Ministries. Under the Ministry of Home Affairs and National Heritage, the Controller and Auditor-General queried Kshs262,080,204 and out of this figure, the Committee considered Kshs103,643,125 lost. In the Ministry of Planning and National Development Kshs701,475,795 was queried and Kshs227,406,635 was considered lost. Under the Department of Defence, Kshs928,253,376 was queried and Kshs278,691,476 was considered lost. In the Ministry of Agriculture and Livestock Development, Kshs12,743,992,588 was queried and the Committee considered Kshs4,139,705,624 lost. In the Ministry of Health, Kshs11,768,641,015 was queried and Kshs2,334,578,245 was considered lost. In the Ministry of Local Government, Kshs9,350,069,670 was queried and

Kshs7,914,397,990 was considered lost. In the Ministry of Public Works and Housing, the Controller and Auditor-General queried Kshs5,606,374,768 and the Committee considered Kshs4,141,970,550 lost. In the Ministry of Transport and Communications Kshs15,212,847,638 was queried---

Mr. Speaker: May I again ask you this: Is that the document you laid on the Table or what is it?

Mr. Obwocha: Mr. Speaker, Sir, I just want to read out the summary and then lay it on the table.

Mr. Speaker: No! No! Order! The document before the House is the Report of the Public Accounts Committee of which you were the Chairman. So, you are presenting a Report of a Committee of the House, which you laid on the Table. It is quite permissible and in order for you to get a copy of that Report and make a reference to it, but the way it appears to me, unless you explain otherwise, you have another document, separate and apart from the Report of the Committee which you are now reading, and which, in my opinion, is wrong. If you want to refer to figures of the Report of the PAC, then get the copy and assist the hon. Members by mentioning the pages you are referring to, so that they can follow. I will not allow you to read out a foreign document, purporting it to be a Report of the PAC. So, it has to be the Report you laid on the Table and if it is not, then it is foreign. If you had prepared something as an annexure of that Report, then you must have presented the Report to the House together with that annexure. I would urge you to get to the Report.

Mr. Obwocha: Mr. Speaker, Sir, these figures are not summarised in the Report. But since you ruled that I should not read out the individual figures owed to the various Ministries and Departments, let me read out the total amount of money queried.

Mr. Speaker: Order! I will not. In fact, I will order that if they are not from this Report, then---

(Mr. Obwocha stood up in his place)

Order, hon. Obwocha! It is my business to regulate the debate of this House. You chaired the Public Accounts Committee (PAC), and it is the Report of that Committee that you are presenting, and not your own report. Hon. Obwocha, you must understand the difference between the Report of the Committee of the House and your own report. So, it is quite acceptable for you to use that volume of the Report, or even whatever paper you have prepared to present and say, "you will find these figures on page 1,000, or on page five of our presentation," so that hon. Members can understand and counter-check what you are saying with the official Report.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Hon. Obwocha has said that the figures that he is presenting are not summarised in the Report, but they are in the Report. What injustice is there to read out the summary of the Report?

Mr. Speaker: Order! I have a reason to do that. It is my job to guide this House. When a Report of the House is being given by a Chairman of a Committee, he or she is not doing it on his or her own; he or she is making a presentation on behalf of the Committee. It is right that an hon. Member does refer to the Report if he or she has any figures. It is not, in my view, acceptable that you come with a document separate and apart from the one that was laid in this House and interpose it with that document. That, I think, is wrong.

Mr. Maundu: On a point of order, Mr. Speaker, Sir. I believe that what the presenter of the Report, hon. Obwocha, is presenting here is really what transpired during the period in time of the PAC. I also believe that there is no separate report that he is going to present to this House.

Mr. Speaker: Order, Mr. Maundu! I have not said that what he is presenting is not what has happened. I have just talked about the way it is supposed to be done and ought to have been done. That is why the Report is tabled so that Members can have it, and those contributing in this House can make reference to it, point out the page if they so wish, so that other Members, or even the members of the public listening out there can counter-check with it.

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

Mr. Speaker: Order, Mr. Maundu! There will not be an interjection now. Proceed, hon. Obwocha.

Mr. Obwocha: Mr. Speaker, Sir, let me put it this way. These figures are a summary of what is in the Report. Let me just read out the summary of the Report. What the Controller and Auditor-General has queried paragraph by paragraph, Ministry by Ministry, in total is Kshs924,866,342,392. What we considered lost is Kshs580,475,884,256. I beg to replay that summary here because it is not contained in the Report.

Mr. Speaker: Let me have a look at that document before you proceed.

*(Mr. Obwocha passed over
the document to Mr. Speaker)*

Order, hon. Obwocha! Who has prepared and executed this document that you have passed over to me? It is not signed

and it does not show who prepared it. How do you just table an unsigned document in the House?

Mr. Obwocha: Mr. Speaker, Sir, I am the one who prepared it.

Mr. Speaker: Now, shall we have two sets of report, one by PAC and another by hon. Obwocha? Anyway, if you sign it now, then, there will be no problem.

Mr. Obwocha: Mr. Speaker, Sir, you are too hard on me. I just summarised the figures as they appear in the Report. I do not know whether that is wrong. I can sign it now; I am the one who prepared it.

(Mr. Obwocha signed the document)

Mr. Speaker: Well, if you are right that the report is a summary of what is in the real Report, then, why did you table it?

Mr. Obwocha: Mr. Speaker, Sir, it is because there is no summary in the Report.

Mr. Speaker: Is it necessary?

Mr. Obwocha: Mr. Speaker, Sir, it is necessary to show the picture of what is in the Report and for hon. Members to understand what is being queried in that Report.

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

Mr. Speaker: Order! Well, as far as I am concerned, the document, as it stands now, is not a document, because it has not been executed.

Mr. Sungu: On a point of order, Mr. Speaker, Sir. I do not wish to seem to be challenging the Chair. I respect the Chair very much. But most Members do not have time to go through these documents one by one. An executive summary is normally an acceptable way of giving busy people a chance to have an overview of a document. So, I think it should be in order for hon. Obwocha to give the hon. Members a chance to understand the whole Report so that whatever information they are going to look for, they know where to get it, because there is a summary of it already.

Mr. Speaker: Hon. Sungu, I have no problem with an executive summary, but any executive summary of a Committee must be executed by the Members of the Committee and not by one person.

Mr. Maundu: On a point of order, Mr. Speaker, Sir. We are not so sure of the status of this particular document. If the hon. Mover can explain the status of this particular document - the summary itself - then, it will be part and parcel of the Report, and, then, we will be happy with it. Otherwise, if it is a separate document which was not discussed by the Committee, then, there is a problem. I do not see if there is any procedure that allows one to use a document which has not been discussed by the Committee Members as evidence in the House.

Mr. Speaker: That is exactly what I have been up to. You see, you must understand---

(Loud consultations)

Order! Those hon. Members who are bored with a subject as intricate as this one, please, could you give us a little chance?

Hon. Members, this House is receiving a Report of one of its most primary Committees. In fact, one of the most central business of any Parliament is to audit the Government and to legislate. That is the central role of Parliament. So, the Report is a very important document. The Members of that Committee were elected by this House and mandated by this House, on behalf of this House, to audit the accounts of the Republic of Kenya and make a Report to this House. So, pursuant to that order by the House, the Committee prepared a Report which was tabled in the House. I believe that it was tabled by hon. Obwocha, or in his absence, by somebody else. At least, it must have been tabled by a Member of that Committee. That is the Report now before the House, and the subject of our debate today. If hon. Members care to look at the Order Paper, they will see an item which states as follows:-

"THAT, this House adopts the Report of the Public Accounts Committee on the accounts of the Government of Kenya for the year 1995/1996 laid on the Table of the House on 8th June, 1999."

That Report is the subject matter of this Parliament. If any hon. Member wishes to introduce a further document to this debate, he should make an amendment to this Motion by introducing another document to it, so that the Motion reads: That apart from the document laid on the 8th June, 1999, there was another document laid on the ninth. As far as we are concerned, the Report is the one which was tabled here on 8th June, 1999. As far as the Chair is concerned, that is the only valid Report of a Committee of this House. What is in the possession of Mr. Obwocha can be his notes or report, but certainly not the Report of the Public Accounts Committee (PAC). That document is rejected!

Now, proceed, hon. Obwocha!

Mr. Obwocha: Mr. Speaker, Sir, I wish to say that when all the queried paragraphs are summarised, they state that when---

Mr. Kitur: On a point of order, Mr. Speaker, Sir. The summary that my Chairman has just read, out was never discussed by us!

Mr. Speaker: Order! No hon. Member is likely to wait and put another side. Indeed, if that is true, it would be a very serious allegation! But I have ruled from the Chair, the objection notwithstanding, that as far as the Chair is concerned, that document has not been accepted. It is not part of our records. But I would think that you wanted that for record purposes.

Mr. Obwocha: Mr. Speaker, Sir, since you have ruled on that, let me proceed because I think there are many important matters in this Report. I do not think we should bog down the House on whether we should accept this or not.

Mrs. Sinyo: On a point of order, Mr. Speaker, Sir. I am intrigued because as far as I am concerned, the PAC Report, no matter how it is seen by the people, is the audit of the Government. It is an area that when we have the Poverty Eradication Commission, we should be here to hear how our Government spent our money!

Mr. Speaker: What are you asking?

Mrs. Sinyo: I am asking whether we have a quorum for this important Motion!

Mr. Speaker: Order! The relevant Standing Order gives any Member present, the right to rise on a point of order, and bring to the attention of the Chair that, a quorum is not present. That is not the same thing as asking me whether we have a quorum. So, you are out of order!

(Laughter)

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Obwocha: Mr. Deputy Speaker, Sir, when I went through this Report paragraph by paragraph, the amount of money lost is Kshs580 billion. Along with taking evidence, the Committee visited several projects. The Committee visited the Government Press, encroached land at Kasarani Sports Complex, the National Youth Service Garment Manufacturing Factory---

Mr. Achola: On a point of order, Mr. Deputy Speaker, Sir. I am not quite sure what hon. Obwocha means by "the amount lost!" If he could explain to the House--- I think it is a bit misleading!

Mr. Obwocha: Mr. Deputy Speaker, Sir, if one goes through the Report paragraph by paragraph, there are glaring cases where money was lost in projects. There are cases where taxes were not collected. If you put all that money together, paragraph by paragraph and Ministry by Ministry, the total amount of money lost summed up to Kshs580 billion. That is the document that I was putting down here!

We also visited the Eldoret International Airport, the Bullet Factory in Eldoret run by the Kenya Ordinance Factories Corporation, the Mukowe Sub-District Hospital in Lamu, the Lamu Island District Hospital, the Mukowe Ice Cold Storage Plant, the Government Land at Kabete Veterinary Laboratories, the Kamiti Maximum Prison and the Turkwel Gorge Hydro-Electric Power Project. Those visits were undertaken by the PAC in order for the Members to ascertain for themselves that, the evidence received tallied with what was on the ground. It was also taking Parliament to the people. The observations of the Committee on the project visited were various, and I will come to them later.

I would like to start now with a few of the areas that we were able to cover. I will start with the question of evasion of payment of duty, as a few examples in this Report. The Committee was appalled to learn that some private organisations, individuals and some highly placed persons in society evaded to pay duty after importing luxurious and expensive vehicles. In one incident, a Mercedes Benz was cleared on duty tax-free, on the basis of diplomatic privileges, only for the vehicle to be given a private registration number KAA 971S, in the name of Philip K. Moi, without payment of duty and VAT amounting to K£350,838-14. This same vehicle was later on changed to KAD 738Q. I would like to give the House a clear picture of what happened here.

Mr. Deputy Speaker, Sir, these were documents that were laid before the Committee. I hope the Deputy Speaker will not tell me he does not require them. It is the evidence of the money that this country has lost. One, Philip K. Moi, went and filled an import form number 100, purporting to originate from the Embassy of the Democratic Republic of Sudan, P. O. Box 474059, Nairobi. He imported a Mercedes Benz Chassis Number EDA1400322A172571. This vehicle never belonged to the Sudanese Embassy. He registered it in his own name and the copy of the logbook is here, under KAA 971S. The owner was Mr. Philip K. Moi of box 29062, Nairobi. After a short while, because he had imported it under the guise that it was a diplomatic car, he wrote to the Registrar of Motor

Vehicles. The letter is here and it is dated 28th March, 1994, Ref: Change of Registration Number KAA 971S. It says:-

"I kindly request you to change the registration number of my vehicle because I have become a target of thugs. It is now the third time, thugs have tried to steal my car, but to no avail. So, I wish to change my car to my own personal use. So, I request you to change." It is signed. Yours faithfully, Mr. Philip K. Moi.

The Registrar of Motor-Vehicles went ahead and effected the change. This is the transfer form which changed that car to KAD 938Q under Mbele Limited.

Mr. Deputy Speaker: Order, hon. Obwocha! Are you going to cite all the cases that came before you, or you are just giving this as an example?

Mr. Obwocha: Mr. Deputy Speaker, Sir, I am giving only this one as an example, because it was very glaring about public officers in position who were misusing public money.

Mr. Deputy Speaker: Order, hon. Obwocha! That is already in evidence before the Committee. Is that not so?

Mr. Obwocha: Yes, it is, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: So, really, your time will be better served, if you told us the conclusion of the Committee because if you will narrate every case that came before the Committee, we will go on forever.

Mr. Obwocha: Mr. Deputy Speaker, Sir, I do not understand why the Chair is very hard on me. I am giving this as the only example. There are about 700 cases here.

Mr. Deputy Speaker: Order! Hon. Obwocha, the Chair is here to regulate the business of the House, quite frankly. That means, if you are discussing a report, you better confine yourself to the discussion of that report. If you are giving one example, fine! But I am clear on the point that if you are giving an example pertaining to one person, will you give all the other cases that came before the Committee in order for your report to be balanced? The answer is "No!" So, really, you have to restrict yourself to giving examples that give us an overview of what the Committee received in the evidence.

Mr. Obwocha: Thank you, Mr. Deputy Speaker, Sir. This is the only example I will give of one of the cases that came before the Committee that was glaring of officers who misuse public offices---

Mr. Deputy Speaker: Order! All cases pointed out by the Controller and Auditor-General were glaring.

Mr. Obwocha: Mr. Deputy Speaker, Sir, they were glaring, but I am giving this as an example.

Mr. Deputy Speaker: Order! Proceed, Mr. Obwocha!

Mr. Obwocha: Mr. Deputy Speaker, Sir, this vehicle was registered under Mbele Limited and all the documents are here. They were presented before the Committee for anybody who wants to look at them. The amount of money that was lost in this transaction was KShs30 million. The Committee has recommended as follows: "That, this money be recovered by the Commissioner for Customs and Excise Duty. Secondly, this fraud be investigated with a view to apprehending one Mr. Philip K. Moi." We know that these are some of the people who are protected. But even if they are not apprehended, I think, history will apprehend them one day.

Mr. Deputy Speaker, Sir, let me now move to the encroachment and allocation of Government land at Kabete Veterinary Laboratories. In this particular case, a number of people were allocated land. The Committee was supposed to note that some 310 hectares of Government land at Kabete Veterinary Laboratories which was part of the land set aside in 1963 as a veterinary farm for diseases control and regulation purposes, had been alienated and allocated to Government organisations and other private and public organisations and individuals. The Committee was particularly concerned that the 20.4 hectares of land had been allocated to private organisations and individuals. The Committee's recommendations are contained on page 151 and they are as follows: "The Commissioner of Lands should desist from alienating public land to individual private developers, before undertaking the necessary evaluation of the need of user institutions. Secondly, the land on Kabete Veterinary Farm given to public institutions should be retained by the allottees." By public institutions, we mean the University of Nairobi and KIA or those public institutions that are on that land. The allocation of the hay field, land reference No.22375, the forest land and the land adjacent to the KIA be revoked forthwith, if it had been allocated to anybody. It was further recommended that, the allocation of the land next to the Approved School should be advertised for allocation, following the laid down procedures, if there is any land to be given in that place.

Mr. Deputy Speaker, Sir, that was the recommendation of the Committee in so far as the land at Kabete Veterinary Laboratories was concerned. I do not wish to read all the other private individual allottees, but I think, our recommendations will suffice.

Mr. Deputy Speaker, Sir, there is Mkowe Sub-District Hospital in Lamu. This is a case which is pathetic. The Committee, having visited the project, expressed grave concern that the project was abandoned at about 75 per

cent level of completion. Further to that, the compound was overgrown with bushes with some structures and electrical fittings which had been vandalised. The Committee having heard the evidence on site from the Director of Medical Services and the representatives of the local community, was convinced that it was no longer necessary to have the project completed since the original purpose of the hospital had been achieved by the construction of a district hospital at Lamu Island. The Committee was of the view that the dispensary currently operating at the building be upgraded to a health centre status and the rest of the buildings be handed over to the Marine and Fisheries Research Training Institute as recommended by the Lamu District Development Committee. The Committee, in so doing, rescinds its previous recommendation under paragraphs 188 to 194 of 1984/85, 168 of 1985/86, 156 to 158 of 1988/89, 289 of 1994/95 reports and that the hospital be completed without further delay.

Mr. Deputy Speaker, Sir, I would like to say something about this hospital. Some of our people should be ashamed of what they have done to this country. The Saudi Arabian Government came to Lamu District and built a hospital at a cost of Kshs40 million, after our people had spent Kshs100 million to build a hospital, which was the same size as that of the Saudi Arabian Government, but it is 75 per cent incomplete. You can see how much money was taken away by the contractors and civil servants. I would like to say that it is worth noting that all recommendations contained in this Report were arrived at by a consensus after exhaustive, objective and constructive deliberations, and further that due regard was taken to ensure that adequate machinery was put in place within the public service to act upon observations made in this Report and finally to implement the recommendations.

Mr. Deputy Speaker, Sir, I would like to say something about excess Vote. The Committee noted with concern that during the year under review, excess expenditure of K£45,504,506 was incurred under Recurrent Vote without the authority of Parliament by the following Ministries:- Ministry of Foreign Affairs and International Co-operation, K£15,893,708; Department of Defence, K£3,132,691 and the Ministry of Education, Science and Technology, K£35,142. The total was K£19,061,541. On Development Vote, the excess Votes were incurred in the Office of the President - K£24,737,977; Ministry of Foreign Affairs and International Co-operation - K£1,235,753; Office of the Vice-President and Ministry of Planning and National Development - K£96,277, Ministry of Agriculture - K£129,806 and the Attorney-General's Chambers - K£145,152. This gave a total of excess Vote of K£45,504,506.

Mr. Deputy Speaker, Sir, the Committee, while noting that a new Government Banking System aimed at eliminating excess expenditure had been introduced recommended that the Treasury should institute stiff disciplinary action against any Accounting Officer, who in future, incurs excess Vote.

I would now like to touch on pending bills. This, as you know, has been a chronic problem in this country. In looking at this problem during the year under review of 1995/96, the Committee noted that bills amounting to about Kshs.4.1 billion had been incurred by various Ministries. They were carried forward and were not paid. The Committee noted with concern that the carrying forward of pending bills to subsequent years adversely affects the allocation for that particular year and does not in any way resolve the problem of accumulation of unpaid bills. The Committee observed that considerable amount of pending bills do not appear to be genuine. Therefore, it recommended that the Minister for Finance institutes a probe to differentiate the genuine bills from the fake ones. It also recommended that this problem be addressed in the Government budgetary system. I do not think that we should belabour on that point more than we have done.

I would like to talk about illegal charging of payments to Consolidated Fund. The Committee noted with utmost concern that funds have been withdrawn from the Consolidated Fund in total disregard of Sections 99 and 100 of our Constitution for the following projects:- Purchase of the Presidential jet at K£123,228,256-04 and Construction of the Eldoret International Airport at K£133,987,465-14. The Committee, while noting that efforts had been made to reimburse the Consolidated Fund with the above amount of money, was gravely concerned that the Government officials violated the Constitution which is a sacred document and should be respected and upheld by all. Therefore, the Committee recommends that the Attorney-General should investigate the matter with a view to having the Permanent Secretary responsible at the time prosecuted for violating the Constitution. I would like to give an example of the Eldoret International Airport. When we visited this project, we found that the amount of money that had been spent on it was Kshs2.678 billion plus Kshs144 million which was used to acquire the land. This brought a total of Kshs2.8 billion. In that airport, there is the Customs and Duty House on one end, while the lounge is in the middle. The Operations Room is on the other end and the Fire Station on the extreme right. Finally, there is a tower at the airport. If you take into account the runway and add up the cost of all those things, there is no way the cost of constructing that airport would have exceeded Kshs1.5 billion. So, we are saying that Kshs1 billion was squandered in the construction of this airport. It is a shame and history will judge these people very harshly. One day, somebody will answer where the Kshs1 billion went!

Mr. Munyao: Not so long!

Mr. Obwocha: Mr. Deputy Speaker, Sir, I understand from hon. Munyao that it will not take very long; it will come very soon. The Committee was gravely concerned that most of the local authorities did not maintain any

accounts and where accounts were maintained, they were not up to date. The Committee was particularly perturbed that a total of K£353,642,609 which is approximately Kshs7 billion, of loans had not been accounted for from all the local authorities. These loans have remained considerably outstanding for a long time. The Committee strongly recommends that all local authorities should update their accounts and the Controller and Auditor-General should update his.

Mr. Deputy Speaker, Sir, let me give an example of one local authority - Nyahururu Municipal Council. Since its inception as a municipal council it has never prepared audited accounts and yet we have a Government here. Ministers have come and gone in that Ministry. I do not want to say who was the Minister, but no Minister in that Ministry has done anything. Some of them have even been transferred to the Ministry of Public Health.

The Minister for Public Health (Prof. Onger): On a point of order, Mr. Deputy Speaker, Sir. Is he saying this on a light touch or is he reviving another issue?

Mr. Obwocha: I say this with a light touch because he failed to do his job. Another observation made was the awarding of contracts on single sourcing basis. The Committee observed that many projects queried in the report were awarded through single sourcing. A case in point is the importation of steam boilers for the penal institutions. I would like to give this as an example of how Ministries have mismanaged this issue of single sourcing. Under paragraph 230 there was an idea under the Ministry of Home Affairs that instead of using firewood in most of the penal institutions, they should bring boilers so that the prisoners can have well-cooked food and so on. Instead of following the right procedure the then Permanent Secretary there called Leonard Sawe and the then Commissioner of Prisons, Mr. Mareka, went ahead and imported 19 boilers. They brought those boilers here. They said it was urgent and that was why they were doing single sourcing. They then took two boilers to Kamiti prison and distributed another eight to other penal institutions. Nine are still lying in Industrial area. Those eight that were sent to penal institutions are not working.

Mr. Deputy Speaker, Sir, when we visited Kamiti prison we noted that the two boilers taken there were second-hand. This means that first of all, they "ate" the money by importing second-hand boilers. The total cost was Kshs62 million. They misused the money. They said these boilers were for an urgent nature, but after nine years, they are still lying in Industrial Area. Why did they import them in the first place? This was utter misuse of authority and power. These are the recommendations of the Committee:

"The former Accounting Officer, Mr. Leonard Sawe, and the former Permanent Secretary, Treasury, Mr.

Charles Mbindyo, should be censured by the House and also banned from holding any public office.

The Accounting Officer should demand that Kamsons, the people who collaborated with these officers should refund the full amount of US\$532,000 and fulfil their obligation, failure to which the company should be banned from undertaking any Government contract in future. The Committee further recommends that all other boilers in good working condition should be put to use without further delay because there was no use of bringing these boilers if they were not going to be used. This is wastage of public funds."

Mr. Deputy Speaker, Sir, during the course of taking evidence, the Committee came across a number of cases where there were delays in concluding court cases. This was an impediment to the work of the Committee since such matters were left pending due to the *sub-judice* rule.

A case in point is the ownership of Kenyatta International Conference Centre where a court case to determine the ownership of the Centre was filed under Civil Suit No.615 of 1993 and has been pending since then. In the recommendation on the issue, in the report of 1993/94 under paragraph 349-356, the Committee had recommended that the revenue accruing from the Centre should be paid to the court until the matter is resolved and this has not been implemented to date. The Committee urges the Attorney General to ensure that all the pending court cases relating to the Ministries and departments are concluded by 31st December, 1993.

As was in the case of 1994/95, the Committee observed with dismay that the responsibility of receiving and recording all the outstanding loans had been transferred from the Accounting Officers to the Investment Secretary in the Treasury without amending the Exchequer and Audit Act Cap.412 of the laws of Kenya.

Mr. Deputy Speaker, Sir, the Committee was gravely concerned that despite its recommendation in the 1994/95 Report, that the Accounting Officer, Ministry of Finance, should initiate the amendment of the Act, no action seems to have been taken. The Committee, therefore, strongly recommends that this Act should be amended in order to legalise the current position by 31st October, 1999.

Mr. Deputy Speaker, Sir, a major problem of this country is the public debt. In that summary, if one looks at the Ministry of Finance where the Controller and Auditor-General has queried over Kshs803 billion, Kshs323 billion is what this country owes foreign donors and governments as at 30th June, 1995. That is a huge commitment and unless something is done about the public debt this country is going to sink. You can imagine what we have right now. The domestic debt is about Kshs180 billion and we have a foreign debt of Kshs323 billion. This country has a debt of

Kshs500 billion! How are we going to survive?

Mr. Deputy Speaker: Is the figure you have given the one for 1999 or 1995?

Mr. Obwocha: The one I have given of Kshs323 billion is for the year which we were doing the audit, that is 1995/96, but I am just saying that the current one for the domestic debt is Kshs180 billion. Assuming the other one has not reduced considerably, you can see the kind of picture of where this country is. The debt is huge.

Mr. Deputy Speaker, Sir, I would like to turn to an issue which has been bogging that Committee for a very long time; and I would like to read the Committee's recommendations verbatim. This is an issue on a report of the Committee appointed to probe the irregular payment of compensation on the East African Community Mediation Agreement, under paragraphs 38 to 41 of 1993/94 and paragraphs 48 to 49 of 1994/95 Reports. This is about certain compensations that were made and the Committee had recommended earlier that a probe be done.

"The Committee heard the evidence given by the Accounting Officer, that according to the mediation agreement between the former East African Community and the three member States, compensation payments had been effected between Kenya and Uganda since 1984. The Committee was further informed that payments amounting to K£19,240,520-05-70 made up of K£5,119,229-18-00 paid to an individual, a Mr. Owalla and K£14,121,290-,07-70 paid to a number of firms were charged against the Compensation Fund Account of the Government of Kenya since the Uganda Government had declined to honour the payments. The Committee was concerned that:-

(i) the Accounting Officer did not explain the circumstances under which the Uganda Government rejected claims submitted by the firms and the individual.

(ii) Some payments were not supported by the original documents

(iii) The claim submitted by the individual and the firms had been rejected by the Uganda Government and that the payments were arbitrarily determined and unilaterally paid out by the Kenya Government.

(iv) Since the Uganda Government did not accept liability, it was not made clear to the Committee as to who would be responsible for those payments made to that individual.

In view of the above, numerous omissions surrounding these payments, and considering that the Uganda Government did not accept the claims, the Committee recommends that Treasury urgently appoints a probe committee consisting of the Permanent Secretary, Ministry of Planning and National Development, Permanent Secretary, Ministry of Commerce and Industry, the Attorney-General, the Permanent Secretary, Ministry of Foreign Affairs and the Financial Secretary to establish:-

(a) The circumstances under which these claims qualified for payments under the Compensation Fund Account;

(b) The circumstances under which the Uganda Government rejected the claims;

(c) The formula used to arrive at the level of the claims.

The probe committee submitted its report to the Public Accounts Committee (PAC) and the Members, after thorough scrutiny of the report, unanimously adopted the same.

Since the committee established that Mr. Owalla received Kshs100 million which was equivalent to Ushs1.4 billion at the then exchange rate of 1:14; and that these claims were not within the mediation agreement, the Committee recommends that:-

(i) Police investigations should be carried out to ascertain how the illegal payments were made with a view to apprehending the culprits and have them prosecuted;

(ii) Disciplinary action should be taken against the then Permanent Secretary, Ministry of Planning and National Development, and the then Permanent Secretary to the Treasury for having authorised the payments;

(iii) No more payments should be made to Mr. Augustine Benedict Owalla and any other organisation."

Mr. Deputy Speaker, Sir, we found this to be extremely irregular. This man was paid over Kshs100 million irregularly by the Government of Kenya while the Government of Uganda refused to honour these claims.

Mr. Deputy Speaker, Sir, I would like to touch on a few other cases as I come to conclude moving this Motion. There is the issue of land and houses that were grabbed by private individuals and firms. I will leave this to one of my colleagues who will second this Motion. Therefore, I do not intend to go into the details of that.

Mr. Deputy Speaker, Sir, the other issue was about the soya beans oil solvent extraction equipment under Paragraph 612. This was about a project which was initiated by the ICDC. A plant was supposed to be established to extract soya beans; the arrangements were made, bids were also made and the evidence is on record. I would also like to say that in the 1995 PIC Report, they arrived at the same conclusions as the PAC. These were the findings of the

Committee:-

"The Committee noted with concern that the financial activities of one Mr. John Savage of Savage Holdings Limited including the payment of Kshs850,180,990 be investigated by the Attorney-General and if any criminal intention, act or omission is revealed, legal proceedings should be instituted. The Committee further recommends that the officials, including Ministers, namely; the then Financial Secretary Mr. A.H. Ali - unfortunately he is dead, the then Permanent Secretary to the Treasury, Mr. Charles Mbindyo, the then Minister for Energy, hon. Nicholas Biwott, the then Minister for Finance, hon. Prof. George Saitoti, be held responsible for exerting undue pressure on the management of ICDC for approval and financing of the project against expert advice from the Corporation who were the project implementers and their financiers interest be investigated---

QUORUM

Mr. Sungu: On a point of order, Mr. Deputy Speaker, Sir. Is there a quorum in the House?

Mr. Deputy Speaker: No, we do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

Mr. Deputy Speaker: Order! We have a quorum now. You may proceed, hon. Obwocha!

Mr. Obwocha: Thank you, Mr. Deputy Speaker, Sir. On the equipment, the Committee recommended as follows:- "The Committee also recommends that a comprehensive inspection and valuation of the equipment be carried out to establish the market value and relevance of the equipment of soya extraction plant before the sale of the equipment by the ICDC."

Mr. Deputy Speaker, Sir, on this project, the Committee observed the following:-

Firstly, the ICDC did not play any role in the identification of the suppliers of the equipment and that, the identification was solely done Mr. John Savage of M/s Savage Holding Limited who was neither an employee of ICDC or Kenyan Government.

Secondly, the Inter-Ministerial Committee set up by the Ministry of Commerce comprising of Ministries of Energy, Regional Development, Livestock Development, Finance and Agriculture to provide expert advice on the project viability, did not come up with any recommendation or produce any report, yet due approval for the project was granted by all the relevant Government bodies.

Thirdly, John Savage lobbied for the support of top Government officials and Ministers to ensure the approval of the project and its financing without consideration of the viability of the project.

Fourthly, there was no conclusive evidence to confirm whether or not the goods tendered for and procured were delivered and more particularly, whether the Soya Food Industries Limited received value for money on the importation of the equipment. That equipment is still laying in Mombasa. That is why the Committee is saying here that a proper valuation should be done to find out whether it has any salvage value.

Mr. Deputy Speaker, Sir, on paragraph 614, the Sugar Equalisation Fund, this is also where a lot of money has been lost. After the Committee went through the whole exercise, we found out that between 1993 and 1996, there had been various chairmen of KNTC who had imported sugar illegally into this country. Since they made KNTC lose a lot of money, the Committee recommended the following:-

That, the then management of KNTC, namely: Messrs. W.K. Bomet, the then Chairman, Philip K. Magut, Managing Director; S. Kuria Kanyingi; Chairman, David K. Tirop, Tom Sawe and A.M. Maganga should be held responsible for the loss of K£15 million worth of sugar; 40,500 metric tonnes which were purchased from various firms at prices above the market value.

The Committee reiterates that a decision be made on how to finalise the issue of debts owed by KNTC. The Accounting Officer should prepare revised accounts of these funds. There was a lot of money lost; K£15 million is equivalent to Kshs300 million and all these chairmen and managing directors are responsible for those losses.

Despite that, all we read in the newspapers are reports about Mr. Kuria Kanyingi abusing Members of Public Accounts Committee and Public Investments Committee saying that they did not know anything and yet he had squandered public funds. He should be made to repay that money.

Mr. Deputy Speaker, Sir, I would like to touch on two other issues. One is concerning the Ministry of Energy - Paragraph 644. We had a chance to go to the Turkwell Gorge Hydro-electric Project. The report that came out in the newspapers was as if we were praising that project. You have to differentiate the two things. This is what I said when we visited that project: "The engineering aspect of the project was good." I am not an engineer, but when I looked at the way those rocks were tunnelled and how the turbines were put in that project, I thought the engineering work was

good. But one thing that has not been addressed is this: The on-lending money to KVDA for that project was K£407,306,074-00-00 and an additional amount of K£255,243,793-00-00. When you put the figures together and you try to get the difference, the one they accounted for was K£255,243,793-00-00 from the K£407,306,074-00-00. There is still an amount to be accounted for of K£152,062,281-00-00. That is approximately Kshs3.1 billion on that project. So, the "Total Man" should not be happy that the project was successful or that the money was well spent. We want to know where that money went. If not, history will tell us where that money was taken to.

Mr. Munyasia: On a point of order, Mr. Deputy Speaker, Sir. It is the Public Accounts Committee that was to help find out for us where that money went, yet hon. Obwocha who was the Chairman has said that history will tell us where the money went to. This House expects this Committee to tell us where the money went to. Could he tell us where the money went to?

Mr. Obwocha: Mr. Deputy Speaker, sir, our recommendation in the report is that, KVDA tells us where this money is. There is a difference between the on-lent money of K£407 million less K£255 million. So, the difference which has not been explained should be explained. The Committee cannot explain further than that. We have laid all the evidence we got before the House.

Mr. Deputy Speaker, Sir, I would also like to say something about Kenya Airways. The amount of money that was written off by Government to Kenya Airways totalled Kshs6.2 billion. Kenya Airways has not accounted for all that money to Government. There was a Sessional Paper that was supposed to be brought to this House to allow that write-off, but no Sessional Paper on that issue was ever passed by this House. They ignored Parliament. Is Parliament going to continue being a laughing stock when they are supposed to scrutinise these matters? Where public funds are used, Parliament must rise up and ask where that money went to.

Mr. Deputy Speaker, Sir, I would like to touch on one issue concerning the Ministry of Public Works and Housing, that is, misuse of office. This is under Paragraphs 480 to Paragraph 481. An engineer called Mechanical and Works Engineer went and took tractors, graders and other equipment to a constituency called Kipkelion. He graded all the roads and murramed them. He was then elected to this House. He is sitting here, and he has been made an Assistant Minister in the same Ministry. This is hon. Eng. Rotich. That money has not been accounted for and the tractors, the graders and all the other equipment are still lying idle in Kipkelion, some of them broken down. That Member of Parliament should be made to pay the Kshs4 million he took to get those tractors to work on those roads in Kipkelion. That is what the report says. Further recommendation is that:-

"The Accounting Officer should follow the matter conclusively with a view to surcharging the man. The Committee further recommends that the Accounting Officer should ensure that he strictly controls and puts in stage the usage of machinery equipment in order to avoid recurrence of a similar nature. And that the machines should be brought back to the headquarters".

We are asking that Eng. Rotich be made to pay that money and the machines be brought from Kipkelion. Never should we allow individuals to put Government property to their own use so that they can be elected to this House.

If anyone wants to campaign, let him or her go to Kipkelion and campaign on a platform like any other person and get elected. This is misuse of public funds.

Mr. Deputy Speaker, Paragraphs 408 to 414 is on the Ministry of Health. This is "mafia house". It is no longer Afya House. It is good that the former Permanent Secretary has been fired. He collaborated with suppliers and ordered mosquito equipment and insecticides that were going to cost the Government Kshs7 billion.

It is good that this ploy was discovered before things went bad. Otherwise, this country would have been flooded with fake equipment and things that are not required. These people had already taken the money, but fortunately, the former Permanent Secretary, Mr. Kimutai, was retired. This kind of fraud should never be allowed in this country.

Mr. Deputy Speaker, Sir, I would also like to say that the sale of private enterprises has been done in this country, but the process has not been transparent. There is lack of accountability. The funds that were being obtained from the sale have not been remitted to Treasury. There has been favouritism in the exercise. Certain corporations have been run down so that they can be sold to "politically-correct" individuals. This should never be allowed in this country.

Mr. Deputy Speaker, Sir, on paragraphs 29 to 31, there is unsupported expenditure of K£738,747,574.12. I would like to say that the analysis of that amount is that, there were various payments that were made. One was made to Delphis Bank of K£23,500,000, Transnational Bank K£20 million, Postbank Credit K£25 million, National Bank of Kenya K£21.5 million, Exchange Bank K£71,054,000, Delphis Bank K£70 million, Exchange Bank K£28 million and Delphis Bank K£30 million, totalling to K£289,132,765.

Mr. Deputy Speaker, Sir, those payments have not been explained to our Committee. We would like to know where that money has gone to. Other payments were made to:-

| | | |
|------------------------------------|---|--------------|
| 1. Government Press | - | K£21,500,000 |
| 2. Nzoia Sugar Company | - | K£15,000,000 |
| 3. East African Sugar I Industries | - | K£ 7,250,000 |
| 4. Spare World | - | K£14,350,000 |
| 5. Kenya Uniforms | - | K£ 2,900,000 |
| 6. Cypper Enterprises | - | K£14,000,000 |

That has also not been explained. We need an explanation as to what services were offered to the Government to warrant such payments.

Mr. Deputy Speaker, Sir, I would now like to touch on NSSF Block C Building which was constructed using public funds. The budgetary provisions were there and the Government released money to construct that block. The Committee learnt with dismay that the Government has surrendered that building to the NSSF without payment of a single penny. This is what the Controller and Auditor-General says:-

"We have verified and here confirm the details of the land upon which stand Block C of the NSSF Complex. The parcel number is LR.No.209/7034, title LR.22948. The original allottee to the property was the Permanent Secretary, Treasury, P.O. Box 30007, Nairobi. The size of the plot was 2.04 acres. The transfer between Treasury and the Board of Trustees was effected on 12th February, 1997 ex-gratis (free of charge). There has been only one transfer between Treasury and the Board of Trustees on 12th February, 1997. However, as indicated in the Report, the construction of the building amounting to K£12,653,064-92-00 in 1972 was financed from the voted funds---"

Mr. Deputy Speaker: Order! Order! When is that letter dated, hon. Obwocha?

Mr. Obwocha: Mr. Deputy Speaker, Sir, this letter is dated 11th November, 1998, by the Controller and Auditor-General.

Mr. Deputy Speaker: And we are discussing the 1995/96 PAC Report?

Mr. Obwocha: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: How does that come in?

Mr. Obwocha: Mr. Deputy Speaker, Sir, this is the position of the Controller and Auditor-General.

Mr. Deputy Speaker: No, we are discussing the 1995/96 Report of the Controller and Auditor-General?

Mr. Obwocha: Yes, Sir, but we did the 1995/96 Report in 1998.

Mr. Deputy Speaker: That does not matter because the 1998 Audited Report is not out.

Mr. Obwocha: I was the Chairman for the PAC in 1998 and not in 1995.

Mr. Deputy Speaker: Order! The 1998 Audited Report is not yet out. So, you are jumping the gun somewhat.

Mr. Sungu: On a point of information, Mr. Deputy Speaker, Sir. I think the Controller and Auditor-General is referring to what happened in 1995/96.

Mr. Deputy Speaker: Order! The date he has quoted happened after 1996.

Mr. Obwocha: Mr. Deputy Speaker, Sir, the Report for 1995/96 was discussed in 1998. That is how I became the Chairman.

Mr. Deputy Speaker: I am saying the Report for 1998, which is relevant to that letter, is not out. But before us, we have got the 1995/96 Report.

Mr. Obwocha: That may be true, Mr. Deputy Speaker, Sir, but I am just referring to the position of the Controller and Auditor-General.

Mr. Deputy Speaker: Hon. Obwocha, what report are you presenting to Parliament today?

Mr. Obwocha: Mr. Deputy Speaker, Sir, all I am saying is that---

Mr. Deputy Speaker: No, I just want you to give us the texture, how you are linking this and your Report. Then, I would be comfortable.

Mr. Obwocha: I am just referring to the position of that block as stated by the Controller and Auditor-General.

Mr. Deputy Speaker: Did the Controller and Auditor-General raise that issue with the Committee?

Mr. Obwocha: Yes, Sir. It is in both Reports because if something has not been conclusively concluded by this House, the Controller and Auditor-General raises it in another report again. It could be in the current Report, but it was also in the 1995/96 Report.

Mr. Deputy Speaker: When you were discussing the 1995/96, did the Controller and Auditor-General himself introduce that subject?

Mr. Obwocha: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Proceed.

Mr. Obwocha: Mr. Deputy Speaker, Sir, all I am saying is that, we should give any of those public properties to anybody. They should be given to the people of this country.

Mr. Deputy Speaker, Sir, to wind up, I would like now to conclude my remarks. Year-in year-out, this House has made recommendations of the PAC and PIC, but very little action has been taken on the recommendations of those reports. I hope this is not going to be the case this year where the PAC Report is going to be discarded and no action taken. We would like to see the implementation of this Report. The Committee noted with grave concern that some of the recommendations take too long to be implemented, while others are not implemented at all. A case in point is the report of the Probe Committee on the Fourth All Africa Games which has not been made available to the Public Accounts Committee despite several recommendations dating as far back as 1986/87.

Mr. Deputy Speaker, Sir, another case is the failure of the Clerk of the National Assembly to pay honoraria to the staff servicing the Public Accounts Committee as recommended in 1992/93, 1993/94 and 1994/95.

Mr. Deputy Speaker, Sir, I would like to be specific. Now, there was a letter from the DPM dated February, 1995, REF No. DPM/2A, Vol.5 (17.2) which gave approval for staff of the National Assembly to be paid their honoraria. It states the following:

"The Fourth Report of the Public Accounts Committee Report on the National Assembly of 12th April, 1994. Please refer to your letter CONFIDENTIAL 268/3A dated 1st February, 1995. I have given due consideration to your recommendation for payment of honoraria to the technical staff from the Office of the Auditor-General (Corporations), the National Assembly and Treasury and concur that these officers should be compensated for the extraneous work they have done. I have however observed that the rates recommended for payment for honoraria are on the higher side and considering the rates that have been approved in the past for a similar exercise in other Ministries, I should however have no objection to the payment of the honoraria following the same rates."

He then released the rates and signs the letter as: Gaylord Avedi (PS).

Mr. Deputy Speaker, Sir, now that the former Clerk who was an impediment to the paying of staff of this House is gone, staff should be paid their honoraria for working day and night for the services they have rendered to this Committee.

Mr. Deputy Speaker: Order, hon. Obwocha! Both the past Clerk and the present one have sealed off that matter and they are constantly pursuing it with a view to getting the necessary funding to pay that honoraria. So, save your breath. The matter is in hand.

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for you to express an opinion about a past Clerk which is at variance with the impression by Members?

(Laughter)

Mr. Deputy Speaker: Order! The Clerk is merely an office and whoever occupies that position carries out whatever instructions that have been issued. As I informed hon. Obwocha, that matter is in hand. Whether the Clerk retires or not, the issue is in hand and, please, the less said about it the better.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Opposition "wizard" to ask a question from this side?

Mr. Deputy Speaker: Order! I will ignore that. Proceed, Mr. Obwocha.

Mr. Obwocha: Mr. Deputy Speaker, Sir, to conclude now, I would like to say only one thing. That, as previously recommended, the hearings of the PAC should be made open to the public to enhance public accountability, transparency and good governance.

Mr. Deputy Speaker: Order, hon. Obwocha! There is a Motion that has already been tabled to that effect and so you are anticipating debate on that Motion.

Mr. Obwocha: Thank you, Mr. Deputy Speaker, Sir. Now, all I am saying is that to enhance this, one of the recommendations made by my Committee was that we should go public so that members of the public know what we are doing.

Mr. Deputy Speaker: Hon. Obwocha, why do we not agree that, that matter is already in the possession of the House via a Motion that has been properly filed?

Mr. Obwocha: Mr. Deputy Speaker, Sir, I wish then to take this opportunity to thank the members of that Committee sincerely for having done an excellent job and for having given me co-operation as their chairman. I hope the House will take the recommendations we have brought here seriously so that we can improve accountability of

public funding and the spending of money voted by Parliament. That cannot be over-emphasised. We need to get our country back on track. Things are very bad. The economy is in the doldrums and we need to get our act together and the sooner we do it, the better.

Mr. Deputy Speaker, Sir, with those very many remarks, I beg to move. I will now ask the hon. Njehu Gatabaki, the Member for Githunguri, to second this Motion.

(Applause)

(Mr. Gatabaki moved to the Despatch Box)

Mr. Deputy Speaker: Order, hon. Gatabaki! As a shadow Speaker, you ought to obey the rule which states that you cannot use the Despatch Box unless it is covered by the Standing Orders. So, would you like to go to your usual couch?

(Laughter)

Mr. Gatabaki: Mr. Deputy Speaker, Sir, could I use the Floor where the hon. Obwocha was?

Mr. Deputy Speaker: Order, hon. Gatabaki! Hon. Obwocha was allowed to speak from the Despatch Box as a special favour to him because he is the Chairman of a very key Committee of the House. You will not be given the same favour as shadow Speaker. However, anyhow, is there a general problem with the public address system at the back?

Hon. Members: No! Let him speak from the Despatch Box.

Mr. Deputy Speaker: I will allow you to speak from there only on condition that you continually remember your "station in life".

(Laughter)

Mr. Gatabaki: Mr. Deputy Speaker, Sir, the indulgence is appreciated.

Mr. Munyasia: On a point of order, Mr. Deputy Speaker, Sir. Might it not be a tradition later? It would be a precedent that they will quote---

Mr. Deputy Speaker: I cannot hear you properly!

Mr. Munyasia: Mr. Deputy Speaker, Sir, I was asking whether allowing hon. Gatabaki whom we know speaks usually from this corner to speak from the Despatch Box may not become a precedent that will be quoted later?

Mr. Deputy Speaker: Order! I am sure Members want to hear what hon. Gatabaki, the Member of Parliament for Githunguri has to say. Often when he speaks from there, even you near him have the greatest of difficulty hearing, leave alone understanding him. I also have that problem and so I have used my discretion because I want to hear what he has to say about this very important Motion.

Proceed!

Mr. Gatabaki: Thank you, Mr. Deputy Speaker.

Before I second the Motion and following the ruling by Mr. Deputy Speaker, I wish to move an amendment to include a certain document I consider to be very important. There are two documents here and I would like to move an amendment that they be included in the report that has been tabled here. The first document is a letter addressed to Mr. Masya who was the Clerk of the National Assembly by the PS in the Ministry of Lands and Settlement regarding the allocation of Government property. Access to this document was denied the Members of the PAC by the previous Clerk for reasons the PAC could not understand. Since it was addressed to the PAC and it was an essential document regarding the grabbing of public land, I wish this document---

Mr. Deputy Speaker: Order, hon. Gatabaki! We are considering the report of the PAC as produced by that Committee. If what you have in your hands did not form part of the record of that Committee, it is not admissible. Now, if it was in fact, addressed to the Committee by the PS for Lands and Settlement and it was not received and considered by the Committee, I can say here and now that there is still an opportunity for it to go before that Committee, but as of now, it cannot form part of that report.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, before I move further, let me express my appreciation for being given the honour of seconding this very important Motion, and I urge the House to adopt this PAC Report. It is a great honour for me to have the opportunity of auditing the accounts of the Kenya Government as authorised by Parliament. I would like to thank my party, the Social Democratic Party (SDP) for having given me the opportunity to be part of

the PAC. I would also like to thank Parliament for having given me that privilege. For some of us hon. Members in the Opposition or in Government, who have had the opportunity to go through Government audits, particularly the current Government, it is both an honour and a horror to go through accounts that are a saga of misuse of public funds.

Mr. Deputy Speaker, Sir, if you allow me, I will quote a former Minister for Finance, Mr. Simeon Nyachae, on what he found when he was at the Treasury; he used the word "wanyonyaji". After his resignation, Mr. Nyachae said that, what he found out was a saga that was unexplainable, where the Government became its own thief. What we found in the reports of the Controller and Auditor-General is unspeakable. Hon. Obwocha went through the Report he tabled before this House point by point, about unexplainable huge amounts of public money which got lost. If Kshs500 billion can get lost without anybody giving explanation, then what kind of country do we have?

As I was going through the requirements of seconding a Motion like this one, I consulted hon. Obwocha, and we agreed that I gloss over to put the facts as they are. Before I do so, let me thank the Members of the PAC, majority of whom were from the Government side; they sat down as citizens of this country and forgot their political party differences, since they are responsible to Parliament, and went through the Audit Report of the Controller and Auditor-General on the various Ministries and Departments, paragraph by paragraph, resulting in the Report that has been tabled before this House. Let me also express my concern about the unwillingness of the Leader of the Official Opposition, hon. Kibaki, for not having participated in the proceedings of the Committee. For one year, he denied the Committee the weight it deserves as well as his intelligent contribution, having served the Government as Minister for Finance and Vice-President. Mr. Kibaki ought to have participated in the Committee's proceedings. So, I would like to urge him to start attending the on-going PAC proceedings. He has not attended any sitting of the Committee since his election as its Chairman. He has given the Committee an undeserving credit. I hope that the Members of the Democratic Party of Kenya (DP) will convince Mr. Kibaki, to keep the tradition that the Leader of the Official Opposition party in Parliament, takes up his place as Chairman in the PAC.

Mr. N. Nyagah: On a point of order, Mr. Speaker, Sir. Is it in order for hon. Gatabaki to question the integrity of the Vice-Chairman of the DP, who in his own legitimate position is mandated to, and can, chair those meetings?

Mr. Deputy Speaker: Mr. N. Nyagah, hon. Gatabaki has merely asked Members of the DP to prevail upon their Chairman to attend PAC as is required of him, and to avail the Committee his vast experience, so that, maybe, the PAC Report will be better than the one we have before us. That is the impression I got from Mr. Gatabaki's comments. I do not get the impression that the hon. Member is casting any aspersions on the character of hon. Kibaki. Proceed, Mr. Gatabaki!

Mr. Gatabaki: Thank you, Mr. Deputy Speaker, Sir. It is on record that about three weeks ago, hon. Kibaki mentioned something about the importance of the Public Accounts Committee (PAC) and the Public Investments Committee (PIC). I do not think of any other importance than attending those two Committees, particularly when one is Chairman of any of them.

Mr. Deputy Speaker, Sir, let me thank President Moi for having talked about PAC reports recommendations which have not been implemented by his officers. He has finally realised that PAC Reports are important and that, his officers should implement the recommendations contained therein. Wherever he is, I would like to tell him the following: "We are thankful for recognising the importance of PAC". However, I do not know whether he goes through the reports. If he does, I will be grateful. This is because his Ministry, the Office of the President, is, in deed, the biggest culprit, criminal and misuser of public funds. Therefore, the President is the biggest criminal, regarding the misuse of public funds. The Committee discovered a vast conspiracy to defraud public funds.

The Minister for Information, Transport and Communications (Mr. Mudavadi): On a point of order, Mr. Deputy Speaker, Sir. The President is not at all mentioned anywhere in the PAC Report, as an individual. We are talking of the Office of the President. So, I think the idea of alluding that the President is a criminal should be withdrawn.

Mr. Deputy Speaker: As we all know, the PAC deals with the Accounting Officers, for they are the ones who have the power to spend public funds given to them. So, hon. Gatabaki, nobody is a criminal unless he has been so found, by a competent court. This Parliament cannot refer to any person as a criminal. So, could you withdraw that remark and apologise?

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I have the experience of hearing evidence from an Accounting Officer on what the Government did in the past; the evidence is contained in the HANSARD; that what this Government did is criminal. Who is an Accounting Officer accountable to? This Government is headed by President Moi, and he must take responsibility for the accounts of his Government.

Mr. Deputy Speaker: Order! Order! Mr. Gatabaki, we are not going to have a debate on this issue. If you want to continue with your secondment of this very important Motion, and you are doing it brilliantly by the way, -you should oblige to the Chair. The relevant facilities are still available for you to do the needful.

Mr. Gatabaki: Mr. Speaker, Sir, I wish to apologise for calling His excellency the President, Daniel Moi, a criminal.

The Deputy Speaker: Mr. Gatabaki, I want you to withdraw the remarks!

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I withdraw the remarks and they pray that they be expunged from the HANSARD Report. History will record that, that portion of the report was expunged. The Committee discovered from the first to the last statement of the Controller and Auditor-General's Report that every Ministry, Department and Institution is involved in a vast conspiracy to defraud the Kenyan taxpayers and the taxpayers of the donor countries which give us aid. The PAC Report that we have here is an indictment of the Kenya Government. It is reckless expenditure of public funds, criminal designs to embezzle public funds and it shows shameless and uncaring attitudes. It contains scandals by "who is who" in every aspect of Government of the Republic of Kenya.

The President of the World Bank, in a Memorandum to the International Development Association and to the Executive Directors on a Country-assistance Strategy by the World Bank for the Republic of Kenya, mentioned this document. He said that Kenya's case is a gone case. The President of the World Bank, Mr. Wolfensehn said that if the Kenya Government does not reform on corruption and misuse of public funds, the donor community will desert Kenyans. The issues are clear and frightening as that. The only problem is that nobody has given this Government the authority to misuse public funds, cripple, devastate and destroy our country. That is why the issues are clear, challenging and so important. The Committee found existence of a scorched earth destruction. We found total or contemptuous disregard of Parliament. Parliament authorises the expenditure of public funds. This Parliament is supreme yet certain individuals gave authority to spend public funds without any regard to Parliament. For example, there was the acquisition of the Presidential Jet, which cost about Kshs4 billion. We sat down with the Accounting Officer and I told him that: "I care about my President, his security and his comfort". The Accounting Officer in the Department of Defence under the Office of the President bought the President a "*matatu aircraft*". They acquired an aircraft whose manufacturers ceased to exist.

(Laughter)

They used middlemen to buy a Presidential aircraft. They used middlemen to buy an aircraft for the President whom they are always singing praises for. What kind of love do they have for that President? I told the Accounting Officer that they do not love their President, but they love their pockets. That is how serious it is. Even the security of the President cannot be guaranteed. That aircraft is as good as nothing. It was acquired without the authority of Parliament and the amount of money spent was over Kshs4 billion. The aspects of spare parts and after-service agreement were ignored. There is no service contract given to the Controller and Auditor-General for the Presidential aircraft. That is how evil and dangerous these people can be. It is a treasonable offence to buy the President of Kenya an aircraft whose safety cannot be guaranteed.

Mr. Leshore: On a point of order, Mr. Deputy Speaker, Sir. Hon. Gatabaki has alleged a very serious and dangerous thing. He has termed the Presidential aircraft a "*matatu aircraft*". Is he implying that the Presidential aircraft is not fit to fly?

Mr. Obwocha: On a point of information, Mr. Deputy Speaker, Sir. I am not informing the hon. Leshore, but I want to inform the House that the Presidential Jet's manufacturers ceased to exist a long time ago and there is no service contract. One cannot run an aircraft without a service contract to enable one get spare parts and so on. So, this aircraft is a "*matatu*".

Mr. Gatabaki: Thank you, Mr. Deputy Speaker, Sir. We have instances where consultants are used by the Accounting Officers intentionally to defraud the Government. These include architects, quantity surveyors and others. They are assembled for a particular purpose of embezzling the taxpayers money. A lot of money has been spent for designing projects that never took off. What is the purpose of these characters? Why do we do this to the Kenyan taxpayers? A lot of money has been spent on paying quantity surveyors, architects and surveyors for projects that never took off. The Controller and Auditor-General asked why this happened. The words used by the Controller and Auditor-General in his Report are frightening. I can use a few of these adjectives, but not in the same way the Controller and Auditor-General did in his Report. He said that this was horrible. He said that these acts cannot be justified because they are irregular and illegal. He added that this was wasteful expenditure of public funds. It was unconstitutional expenditure. Reading through the Controller and Auditor-General's Report, one wonders whether we are talking about thugs, bandits or Accounting Officers? Are we talking about a Government? Sometimes I ask myself: Who are these Kalenjins who took over the Government of Kenya?

Mr. Wamunyinyi: On a point of information, Mr. Deputy Speaker, Sir. I would like to inform the hon. Gatabaki that one such project he has talked about is Kibabii Teacher Training College (TTC) where Kshs33 million was spent and it has not taken off.

Mr. Deputy Speaker: Order! That is not new information because the issue of Kibabii TTC has been raised in this House for as long as I have been a Member of Parliament, and that goes back some time.

The Assistant Minister for Human Resource Development (Mr. Ethuro): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to use abusive language and accuse hon. Members on this side of the House as being devilish? Is that Parliamentary language? Is it also in order for him to continue quoting Kshs4 billion? The figure of Kshs4 billion is not the correct figure for the purchase of the Presidential Jet. So, can he substantiate his claims?

Mr. Gatabaki: Mr. Deputy Speaker, Sir, the Bible says that the guilty will be "eaten" by their own guilt. There has been a lot of violations of the laid-down tendering and procurement procedures. Every contract by this Government for the supply of fertilizers, chemicals and everything else has been violated. There has been over invoicing, non-delivery of paid for goods and services and payments in advance for goods and services not supplied. From the Office of the President, the State House down to the District Development Committee (DDC), there has been violations of tendering and procurement procedures as if there was a race to steal the maximum possible that can be stolen. What else can be a crime against humanity? What else can be termed as deep economic sabotage?

The Assistant Minister for Agriculture, Livestock and Rural Development (Mr. I. Ruto): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to make sweeping statements and wild allegations without giving us specific details?

Hon. Members: Toboa! Toboa!

Mr. Deputy Speaker: Order! Hon. Members, we can help ourselves by reading the Controller and Auditor-General's Report. Order! It is a chronology of all the evil things that happened in this country.

An hon. Member: Correct!

Mr. Deputy Speaker: Order! Since the PAC Report has already been laid on the Table, it is in the possession of the House and you do not need another hon. Member to read it for you; read it for yourself.

(Applause)

Mr. Gatabaki: Thank you, Mr. Deputy Speaker, Sir. The days of sycophancy are over.

The Assistant Minister for Agriculture, Livestock and Rural Development (Mr. I. Ruto): On a point of order, Mr. Deputy Speaker, Sir. I was simply asking the hon. Member to specifically indicate what he is talking about. But he is just making wild allegations; we want him to give us the specific areas that he is referring to.

Mr. Deputy Speaker: Order, hon. Members! I think we must distinguish what we are doing now. Hon. Gatabaki is seconding the Motion that was moved by hon. Obwocha. If you were to ask him to be very specific on everything that he says, we would be requiring him to read through, not only the Controller and Auditor-General's Report, but also the PAC Report thereon. That will really be an impossible task.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I will help the hon. Member by reading out one section of the PAC Report, page 102, regarding temporary imprests in State House taken by B. Moinet, Job Group 'H.' He took a temporary imprest of Kshs2,923,791. Mr. P. Mutinda, Job Group 'F,' took a temporary imprest of Kshs2,276,220 and H. Ramadhani, Job Group E, took Kshs4,417,801. All of them are from the Office of the President. A driver from the Office of the President took an imprest of Kshs10 million. If Mr. I. Ruto thinks that, that is decent accounting--- If the person concerned is his cousin, he should tell him that he will be required to pay this amount of money.

Mr. Deputy Speaker: Order! Hon. I. Ruto has every right to stand up in this House and ask questions; whether the questions are misplaced or not is a different matter. But you cannot start referring him in those terms or say that he was asking that because he is defending them. Anyway, he cannot defend them, because their names are already in the PAC Report. So, hon. Gatabaki, watch out.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I am forced to go to the specifics. Regarding the issue of grabbing of public properties, one powerful Minister grabbed the Law Courts - an office of the Government. Then, he leased the houses to the Government officers.

Hon. Members: Who is that? Name him!

Mr. Gatabaki: Hon. Nicholas Biwott grabbed public properties in Eldoret and, then, leased them to the Government. If that is not robbery---

Mr. Deputy Speaker: Order, hon. Gatabaki! Which page of the PAC Report are you referring to?

Mr. Gatabaki: Mr. Deputy Speaker, Sir, what we found is that corruption has become so endemic that it permeates every section of our society.

Mr. Deputy Speaker: Order, hon. Gatabaki! Hon. Gatabaki and other hon. Members, I will only allow you to make references to what is already in the PAC Report. If hon. Biwott's name is in the PAC Report, it is a fair game.

But if it not, then, hon. Gatabaki, you are imputing the character of another hon. Member without moving a substantive Motion. I must insist that you either name the page where the name of hon. Biwott is indicated, or withdraw and apologise.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, hon. Obwocha tells me that it is found on paragraph 687.

Mr. Deputy Speaker: I want to see it.

*(The PAC Report was passed over
to Mr. Deputy Speaker)*

Mr. Gatabaki: Mr. Deputy Speaker, Sir, as you look for the paragraph, we can be going on.

Mr. Deputy Speaker: In the meantime, you shall withdraw it.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, paragraph 687 talks about allocation of Government plots and houses to private individuals and firms. In the Report for the years 1993/1994, 1994/1995, the whole of it--- But, I am making reference to that paragraph.

Mr. Deputy Speaker: But if you are naming a specific hon. Member, then, his name has to be specifically referred to in the Report. That is why I want to see where hon. Biwott's name is mentioned.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I mentioned that individual because we went to Turkwel Gorge and assessed the crisis that this Government is facing in the supply of energy which is so crucial in the development of the country, but which has been messed up by that one individual.

(Laughter)

Mr. Deputy Speaker: Order, hon. Gatabaki! You can reserve that kind of rhetoric for a rally in Githunguri. But right here, if you are making general reference to what the Report contains, I have no problem. But if you make a specific mention of an hon. Member and allege that he has grabbed Government land and buildings and subsequently leased them back to the Government, I want a specific reference.

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

Mr. Deputy Speaker: I am dealing with hon. Gatabaki. So, let him finish and, then, I can hear you.

(Mr. Obwocha stood up in his place)

I do not either see you, or hear you, hon. Obwocha; I can only hear and see one hon. Njehu Gatabaki, the Member of Parliament for Githunguri.

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

Mr. Deputy Speaker: Order! Proceed, hon. Gatabaki.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I wish to hear the point of information from hon. Obwocha.

Mr. Obwocha: Mr. Deputy Speaker, Sir, under that paragraph, there are 576 illegal allottees of various buildings in the country. If hon. Biwott is one of them, hon. Gatabaki cannot read a list of 576 allottees. I mean, hon. Biwott must be one of them.

Mr. Deputy Speaker: Order! I have not asked him to read out the list of 576 allottees. I have merely asked him to refer me to paragraph 687 in the Report. But it does not name anybody. Where is that list?

Hon. Members, let us be serious. This tendency of naming people without evidence is going to get us into trouble. So, I am not saying that, because I want to protect anybody. No! Hon. Gatabaki read out names of people from the PAC Report and he saw that I kept quiet. If a hon. Member is not named in the PAC Report and you stand up and name him, then, I must require you to either withdraw and apologise, if you cannot substantiate it, or show me the relevant paragraph with his name therein, and I will tell you to proceed.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I am finding it difficult to be part of that silent majority who want to hide when the country is burning. This House has a mandate of exposing ills in this country. If we cannot do that in this House, where else can we do it? If we cannot do that, and we wait for World Bank to say, "no more aid to Kenya--"

Mr. Deputy Speaker: Order, hon. Gatabaki! There is no more point of arguing with me; argue with your Standing Orders. The Standing Orders are yours; they are not mine. The day you feel that you do not want to go by

them, change them, and I will implement them as changed. For the time being, as they stand, I have no option, none whatsoever, except to follow them for the guidance of this House.

So, hon. Gatabaki, let us make it short and sweet, because the alternative is bitter.

Mr. Obwocha: On a point of order, Mr. Deputy Speaker, Sir. If a list was tabled before the PAC meeting with all the names, are we supposed to bring all those files here?

Mr. Deputy Speaker: Order! I want you to intervene and also to listen. The allegation was that one hon. Biwott had grabbed the Law Court buildings in Eldoret and, then, leased them back to the Government. I have also seen the list, because it was tendered here when I was in the Chair.

Hon. Gatabaki, promise that you will bring it tomorrow. I am allowing you exceptionally to do that, because we have run out of time and you will be continuing with your contribution tomorrow. I will not allow you to say a word before you put the list on the Table.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is another time for us to interrupt our business. The House stands adjourned until tomorrow, Wednesday, 6th October, 1999, at 9.00 a.m.

The House adjourned at 6.30 p.m.