

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 5th December, 1996

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.1115

RAIDING OF REV. GITARI'S HOUSE

Bishop Njeru asked the Minister of State, Office of the President:-

- (a) whether he is aware that there was a Commission appointed to investigate the 1992 raid of Rev. David Gitari's house; and,
- (b) when the report of the said Commission will be made public.

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

- (a) No, I am not aware.
- (b) Given my reply to part "a" of the Question, part "b" does not, therefore, arise.

Mr. Muite: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister in the Office of the President to tell this House that he is not aware of a Commission which was appointed in 1992 to investigate the raid on Bishop Gitari's house when the appointment of that Commission was, and is a matter of common knowledge? Every Kenyan knows that a Commission was appointed. Is the Assistant Minister taking this House seriously when he stands up in this House and says that he is not aware?

Mr. Sunkuli: Mr. Speaker, Sir, I said I am not aware that there was any Commission appointed to investigate the 1992 raid of Rev. David Gitari's house.

Bishop Njeru: Mr. Speaker, Sir, this is a very sad case because the President of this country himself directed that the Commission should be set up. The Commission was formed and it investigated those people who raided Bishop Gitari's house. Can the Assistant Minister tell this House whether the President himself did not direct that the Commission be appointed?

Mr. Sunkuli: Mr. Speaker, Sir, I just wish to reiterate the answer that I have given.

Mr. Wamae: Mr. Speaker, Sir, is the hon. Assistant Minister serious in saying that there was no Commission of Inquiry which was formed by the Government to investigate this case of attack on Bishop Gitari?.

Mr. Sunkuli: Mr. Speaker, Sir, I have given my reply and I always give my replies seriously.

Mr. Nyagah: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to continuously refuse to give us the truth about this? Is he aware that there was a Commission put into place to investigate the raid on the house of David Gitari, the Archbishop elect of the Church Province of Kenya?

Mr. Sunkuli: Mr. Speaker, Sir, for the third time, I must reply; "no".

Mr. Speaker: Well, we are not getting anywhere. Next Question!

Bishop Njeru: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Sorry, we cannot get any further than that. Mr. Kofa's Question.

(Bishop Njeru remained standing on his feet)

What is it, Bishop Njeru?

Bishop Njeru: Mr. Speaker, Sir, all Kenyans, are aware that the Commission was directed to investigate this incident. However, the Assistant Minister says he is not aware. Could he confirm to the House that the reason why he is not answering this Question as to why the report was not made public is because he

knows the people who wanted to kill Bishop Gitari.

Hon. Members: He is aware!

Mr. Speaker: Mr. Sunkuli, would you like to comment on that one?

Mr. Sunkuli: Mr. Speaker, Sir, those are far-fetched allegations.

Question No. 1176

PAYMENT OF NIGHT ALLOWANCE TO POLICEMEN

Mr. Kofa asked the Minister, Office of the President:-

(a) whether he is aware that both the Kenya Police and Administration Policemen in Tana River District are not paid any allowances when they go out on operations outside their duty stations; and,

(b) what arrangements he is making to pay the above officers their night out allowances, as provided for in the regulations.

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

(a) The security personnel in Tana River are paid their allowances every time they go out on operations outside their duty stations.

(b) Given my reply to part "a" of the Question, part "b" does not, therefore, arise.

Mr. Kofa: Mr. Speaker, Sir, the reply is misleading. We are on the ground and when reports about banditry reach these personnel, they drag their feet because, after all, they are never paid any allowances. Could the Assistant Minister follow up the matter to ensure that these personnel are paid their allowances?

Mr. Sunkuli: Mr. Speaker, Sir, I know that, sometimes, because of delay in obtaining the cash, there are occasions when officers have to receive their allowance in arrears. Getting the money from the Exchequer and taking it to the District Treasury in Tana River also takes time. But, I will make every effort to ensure that the officers receive their money on time.

Mr. Shidiye: Mr. Speaker, Sir, more often than not, these askaris who escort vehicles or follow up bandits in these areas are not paid their allowance. This problem is not only in Tana River District, but also in Garissa and Isiolo Districts. Could the Assistant Minister make sure that these policemen and APs are paid their allowances in time so that they are not demoralised? These officers are so much demoralised that they are not able to do their work properly.

Mr. Sunkuli: Mr. Speaker, Sir, I will look into that matter and make sure that, that is expedited. I would also like to request the hon. Member that when he becomes aware of specific instances, he can inform me and I will be able to act on that.

Mr. Farah: Considering that these soldiers are on duty trying to either track down bandits or escort vehicles as the hon. Members have said, is there any use for them to be paid this money in arrears when they are carrying guns and they are supposed to perform a task of safeguarding people's lives on empty stomachs? That is literally what has been happening in the whole of North-Eastern Province or other hardship areas for the last three years or so?

Mr. Sunkuli: Mr. Speaker, Sir, I have already admitted that there is a problem sometimes because matters that arise on a day to day basis may not have been budgeted for. They do not take two years, but when money is obtained we ensure that we pay them. Sometimes we have to obtain money from the Exchequer and get it to the people in their operation areas.

Mr. Arte: Mr. Speaker, Sir, the Assistant Minister has said that he will consider paying that money to the people who have not been paid, but it is worth-noting that the money that is normally given to the Administration Policemen for travelling and accommodation is very little. Under these circumstances, can he tell us how much money was given as travelling and accommodation allowances to the District Commissioner, Hola?

Mr. Sunkuli: Mr. Speaker, Sir, I do not have those facts right now.

Question No. 963

REPLACEMENT OF KENYANS BY EXPATRIATES

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

(a) whether he is aware that in the multinational banks, insurance companies and all foreign

owned and/or controlled corporations, Kenya citizens are being retired even at the age of 45 years and replaced by expatriates as young as 25 years old; and,

(c) how many work permits the Government has issued in the last three years (1993, 1994 and 1995) and between January and May, 1996.

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

(a) No, I am not aware.

(b) In the last three years (1993/1994 and 1995) and between January and May, a total of 8,800 expatriates were employed and work permits issued to them by the Government.

Mr. Muite: Mr. Speaker, Sir, now that the Assistant Minister is aware that Kenyans are being retired at that early age in the multinational insurance companies and banks, is he prepared to formulate an economic policy for this country as part and parcel of the liberalization process so that employment priority can be given to Kenyans? Is this Government able to distinguish between liberalization and employment priorities or are they confused into thinking that because they have accepted liberalization, that also means that the multinationals can bring their employees here? Do they distinguish between the two?

Mr. Sunkuli: Mr. Speaker, Sir, the policy of the Government in this matter is very clear that the economy must be manned by qualified and competent citizens. We are trying to make a balance between inviting investors into the country and having personnel employed by them. Most of the persons who are granted work permits by the Government are engaged in this country either as investors, shareholders, directors and industrialists. It is my hope that most of these persons who come to invest in Kenya do take it upon themselves to ensure that any job that a Kenyan is qualified to do should be given to a Kenyan. Otherwise, the investment is theirs. We hope that they abide by our policy.

Rev. Ommani: Mr. Speaker, Sir, arising from the answer given by the Assistant Minister, is he aware that some of these qualified Kenyans who are employed in these companies, on refusing to retire early, are put under the supervision of an expatriate who does not speak English or Kiswahili? Is he also aware that although he is unqualified for that job he earns three times the salary of a qualified Kenyan?

Mr. Sunkuli: Mr. Speaker, Sir, these are the anomalies in that particular instance and I would like to say that we will deal with the anomalies when they are reported to us.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, if the 8,800 expatriates were really investors, why is it that we have not had a lot more jobs in the country? Why is it that our job opportunities are dwindling instead of increasing?

Mr. Sunkuli: Mr. Speaker, Sir, I do not know whether that question is properly directed because I have answered the Question put before me.

Mr. Ojode: Mr. Speaker, Sir, could the Assistant Minister confirm or deny that Asians who have flooded the employment market in Kenya are doing so because of *kitu kidogo*? The Minister and the Immigration officers are asking for bribes.

Mr. Sunkuli: I deny that.

Mr. Sankori: On a point of order, Mr. Speaker, Sir. Hon. Ojode has just said that the Assistant Minister was given *kitu kidogo*. Can he substantiate that?

Mr. Ojode: Mr. Speaker, Sir---

Mr. Speaker: Order! Order, Mr. Ojode! Mr. Ojode, you do not really expect anybody to answer you. In fact, you are out of order to have just put a blanket flour on Government Ministers.

Dr. Kituyi: Mr. Speaker, Sir, considering that 8,800 expatriates positions are equivalent to 21 per cent of all the formal sector jobs created by this economy in the past financial year; considering further that persons like Ajay Shah have found their way into this country as residents and citizens on the basis of cheap back-street college education; and in light of the fact that today you find shuttle buses from Westlands to Mombasa being driven by expatriates from India, why is that the expressed policy of Government is so different from what we see on the ground?

Mr. Sunkuli: Mr. Speaker, Sir, I do understand that fact, but I take seriously questions asked by hon. Kituyi. I must say that the policy of Government is proper and sound. On Whether it has been properly implemented, that is a matter that we have to look into so that we can ensure that the operational aspect of the policy is also sound.

Question No.857

SALE OF SUB-STANDARD MAIZE SEED

Dr. Kituyi asked the Minister for Agriculture, Livestock Development and Marketing:-

(a) whether he is aware that unscrupulous businessmen have taken advantage of the liberalization of seed production to sell sub-standard maize seed to farmers in parts of Bungoma and Trans Nzoia districts

(b) if the answer to "a" above is the affirmative, what steps the Ministry is taking to bring the culprits to books.

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

(a) I am not aware.

(b) In this era of liberalization, my Ministry has taken measures to protect farmers from being sold sub-standard seeds. In this regard, I have asked district agricultural committees to carefully scrutinise all the applications from the seed dealers to ensure that only dealers of integrity are allowed to deal in seeds.

Seed Quality Control staff have also been instructed to collect samples from all seed traders including those selling seeds in open air-markets.

Dr. Kituyi: Mr. Speaker, Sir, it is unfortunate that the Assistant Minister does not remember what this Government has said about this matter in the past. The era of liberalisation does not justify the abandonment of State responsibility to the primary producers of this country. This Government has said here before that they were worried about the proliferation of poor quality seeds by companies like West Kenya Seed Company. There is no agricultural committee in any district which has the capacity to assess quality of seeds at retail terminals in the country. Considering the reality that a lot of crop in the Western Kenya this year has been messed up by shoddy seeds, particularly by West Kenya Seed Company, which is run by politically-correct individuals who used to work for Kenya Seed Company, what specific measures is the Ministry taking to deal with these people, particularly to avoid a repeat of the same defrauding of farmers in the coming agricultural season?

Mr. Maundu: Mr. Speaker, Sir, the hon. friend should be aware that the Government has taken this matter seriously. In the era of liberalisation, the Government will supervise and make sure that things are done in the right way. With regard to seeds, as I have stated in part "b" of the answer, my Ministry has set up committees to make sure that seed control and quality seeds are sold to farmers. The hon. Member should be in the forefront in making sure that his farmers also do not sell seeds or do not plant seeds that are not certified as of good quality.

Mr. Anyona: Mr. Speaker, Sir, this Government and this country are being blackmailed by the international community that they must liberalise over-night. We know that liberalisation is a process that takes a long time. What measures does this Government have in place to make sure that we liberalise gradually and in harmony so that we do not disturb the economy?

Mr. Maundu: Mr. Speaker, Sir, with the issue of liberalisation, particularly the seed sector, we have done it with a lot of care. That is why our committees, the Ministry's staff in every district are on the alert to make sure that farmers are not defrauded, farmers do not get poor quality seeds and to make sure that those who are found selling sub-standard seeds or not certified seeds are prosecuted.

Mr. Moiben: Mr. Speaker, Sir, can the Assistant Minister consider deregistering the West Seed Company because of failing to pay contracted seed growers?

Mr. Maundu: Mr. Speaker, Sir, the issue of the West Seed Company will be investigated and if they are found not to be complying with the requirements, appropriate action will be taken.

Dr. Kituyi: Mr. Speaker, Sir, early this year, we brought here to this House a Question as to why West Kenya Seed Company was paying contracted farmers the price of commercial maize for seed maize delivered. The reply from Government was that because the farmers are supplying commercial-maize quality and not seed-maize quality.

Now, since West Kenya Seed Company does market commercial maize, the assumption is that all the maize they are buying is to be "painted", treated and sold as seeds. What action has the Government taken to ensure that maize bought as commercial maize is not packaged and sold to farmers as seed maize?

Mr. Maundu: Mr. Speaker, Sir, as I have said, whenever there is a specific case like what hon. Kituyi is stating of people or organisation selling uncertified seeds that should be reported and appropriate action will be taken. In the case of West Kenya Seed Company---

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to give me a banal lecture about what action should be taken when I am telling him a confession of Government was that, West Kenya Seed Company was buying commercial maize and since it does not sell commercial seed, the assumption is that it is "painting", packaging and selling them as seeds? Since the Government knew this at the beginning of

this year, what action has the Government taken? Do not lecture us on what should be done!

Mr. Maundu: Dr. Kituyi, I think you are too impatient and out of your impatience, you are not listening! All I am saying is simple---

Mr. Muite: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to address the hon. Dr. Kituyi directly instead of through the Chair and also to---

Mr. Speaker: All should address the House through me!

Mr. Muite: Mr. Speaker, Sir, he should also answer the question!

Mr. Speaker: Order, hon. Muite!

Mr. Maundu: Mr. Speaker, Sir, I was addressing you, only that my eyes were fixed on Dr. Kituyi!

If the issue of West Kenya Seed Company, is selling maize that they are calling "certified seeds", that is a serious matter and the Ministry and the Government take it very seriously. So, we are going to investigate and if they are found to be operating against the law, then they will be prosecuted.

Mr. Speaker: Next Question, Mr. Gichuki.

Question No.694

OPENING OF KAHEMBE DISPENSARY

Mr. Gichuki asked the Minister for Health when the proposed Kahembe Dispensary in Leshau location will be opened.

The Assistant Minister for Health (Mr. Mutiso): Mr. Speaker, Sir, I beg to give the following reply.

The proposed Kahembe Dispensary will be opened after the remaining renovations works of the dispensary building are completed.

Mr. Gichuki: Mr. Speaker, Sir, arising from that disappointing answer from the Assistant Minister, is he aware that Kahembe dispensary is located in a former settler building and that we did a Harambee in 1994/95 and renovated the building. We have added furniture, built toilets, rehabilitated the borehole and so on. Can the Assistant Minister tell this House what more rehabilitation do we need so that he can open the dispensary? As far as I am concerned, we have finished everything and it is only for the Ministry to come in and take over.

Mr. Mutiso: Mr. Speaker, Sir, if the committee of the area which I suppose that the hon. Member also participates in, has completed all that was required as a result of the visit which was made by the officials of the Ministry in June, this year, then the Ministry is waiting to be informed. The arrangement was that after they have completed all that, the Medical Officer of Health (MOH) in that area will be advised accordingly and then he would inform the Ministry.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. Is the hon. Assistant Minister in order to ask the hon. Member of the Parliament who asked the Question to tell him if the renovation works have been completed and yet he is supposed to be answering the Question today and not what happened in June this year? Does it not mean that he has not paid any attention to this Question?

Mr. Mutiso: Mr. Speaker, Sir, if my good friend hon. Anyona listened properly, I did not ask the hon. Member a question. But I put the question to him that, if what was recommended is completed, then we are not aware because we left the message that after the completion, information should be passed on to the MOH, and we are still waiting for this information.

Mr. Manoti: Mr. Speaker, Sir, arising from the answer given by the Assistant Minister that the health centre is not completed, can he tell us, since he is in the charge of the Ministry of Health, what percentage of renovation works is remaining so that that health centre can be opened?

Mr. Mutiso: Mr. Speaker, Sir, I am not saying that the renovation works is not yet completed, but I am saying that the arrangement was that after renovation works is completed we be informed by the MOH. Since we have not got this information, we just assumed that the renovation work has not yet been completed.

Mr. Sambu: Mr. Speaker, Sir, is the Assistant Minister aware that graduates of all Medical Training Colleges (MTC) in the country have not been employed to date and yet health centres are having an acute shortages of nurses? When will they be employed?

Mr. Mutiso: Mr. Speaker, Sir, that is a general question. We are dealing with a specific Question.

Mr. Gichuki: Mr. Speaker, Sir, now that the Assistant Minister is aware that we have done our best as the community, to rehabilitate Kahembe Dispensary, and it is only for the Ministry to open it up so that it can start serving our people, and it is about 18 kilometres away from Nyahururu, and the Assistant Minister is saying that the Medical Officer of Health was there last in June and now we are in December, and I am telling him, as the

hon. Member of Parliament for the area, that the work is finished, can he tell this House when he is going to open it? Otherwise, I may be forced to conclude that he is refusing to open it intentionally so that we do not get the credit. He should tell us the date when he will open it.

Mr. Mutiso: Mr. Speaker, Sir, I will check with my officers in the field. If I confirm that what the hon. Member is telling me is correct, then we will take appropriate action to open the dispensary.

Question No. 1050

CONGESTION AT MERU DISTRICT HOSPITAL

Mr. Mwiraria asked the Minister for Health:-

(a) whether he is aware that ante-natal mothers from all parts of Meru are forced to live under trees while awaiting delivery at the Meru District Hospital due to lack of space in the maternity ward; and,

(b) what immediate steps he will take to alleviate this acute problem.

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

(a) Yes, I am aware that ante-natal mothers, mostly from the marginal areas of Meru, Nyambene and Tharaka-Nithi districts stay near Meru District Hospital. These are expectant mothers who are not ready to deliver, but due to lack of health facilities and transport in their areas to bring them to hospitals from the rural areas, who normally come to the hospital early, to await admission and delivery.

(b) The Ministry, through the respective District Development Committees (DDCs), will continue to give priority to the establishment of health facilities in these areas, as funds are made available.

The training of traditional birth attendants will also be enhanced to facilitate safe deliveries at home.

Mr. Mwiraria: Mr. Speaker, Sir, I thank the Assistant Minister for attempting to give an honest answer. The only problem I have with the reply is that he says that they stay near Meru District Hospital. In actual fact, they stay within the hospital compound under one big tree, but when I was there last week and it was raining, they had gone under the eaves of the wall.

Mr. Speaker, Sir, this is truly a sad matter. But one of the few questions that I want to put to the Assistant Minister is: In view of his reply to part (b), and given the fact that Giaki, one of the remote locations in my constituency has put up an amenity to serve as a maternity ward of eight beds, could the Assistant Minister, at least, assure the House that once it is ready, by the 15th of this month, the Ministry will provide the necessary staff to run it as a maternity ward?

Mr. Mutiso: Mr. Speaker, Sir, since we have established the district health committees, I would request the hon. Member to consult with the Divisional Development Committees, and work together and recommend for the opening of this particular health facility, and once this is communicated to us, the necessary action will be taken.

Mrs. Asiyu: Mr. Speaker, Sir, child birth is a matter of life and death. The Assistant Minister is telling us that when funds become available, this health facility will be put to use for these women. Is the Assistant Minister appreciative of the fact that many women lose their lives in the process of life-giving and, therefore, need medical attention in properly furnished medical health centres? What is he going to do, so that he can open this hospital as soon as possible?

Mr. Mutiso: Mr. Speaker, Sir, while I agree with what the hon. Member has said, I hope that at the same time, the hon. Member knows the financial constraints experienced by the Government. Therefore, the establishment of health centres---

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. The Assistant Minister is talking about financial constraints of his Ministry. Every Kenyan knows about the Budget of Kshs9 billion, out of which Kshs7 billion---

Mr. Speaker: Order, hon. Gatabaki! What is your point of order?

Mr. Gatabaki: It is a question, Mr. Speaker, Sir.

Mr. Speaker: It is not a question! You were on a point of order! You must sit down now!

Mr. Gatabaki: Is he in order to---

Mr. Speaker: Order! Would you like to continue, hon. Mutiso? You can sit down if you do not know your point of order, hon. Gatabaki!

Mr. Mutiso: Mr. Speaker, Sir, I was saying that we have financial constraints. The hon. Member is aware of our usual practice of putting up these health facilities through Harambee system. Once they are established, the Government provides the staff and drugs. Therefore, I would recommend that the same process

be followed in the area in question.

Mr. Murungi: Mr. Speaker, Sir, I sympathise with the Assistant Minister because of his lack of knowledge about health facilities in Meru. We in South Imenti have six vacant wards at Kanyakine Nyayo Wards which could be used by these women who are waiting to give birth under trees. Currently, those wards are used by cows and goats to give birth. Could the Assistant Minister consider transferring the maternity facilities from Meru District Hospital to Kanyakine Nyayo Wards, so that these ladies can replace the goats and cows there?

An hon. Member: And transfer the goats and cows to Meru District Hospital!

Mr. Mutiso: Mr. Speaker, Sir, I think we have to be serious here. I am not quite sure whether the hon. Member is serious in his statement, that there are wards which are being used by cows and goats to give birth in his area. This is something strange and I would like him to substantiate that.

Mr. Mwiraria: Mr. Speaker, Sir, I wanted to stand on a point of order, and then ask a question later.

Mr. Speaker: Ask the question first!

Mr. Mwiraria: Mr. Speaker, Sir, given the fact that the Assistant Minister admits that there is an acute need for a shelter for these pre-natal women, and given the fact, too, that patients in Meru District Hospital and many other hospitals contribute their part of money in cost-sharing, would the Ministry be willing to authorise the District Medical Board to spend, at least, or, at most, Kshs200,000 to put up a shelter where these ladies can spend their nights instead of staying out in the open, and suffering the vagaries of weather?

Mr. Mutiso: Mr. Speaker, Sir, instructions of that nature are given when a request has been made. Therefore, I urge the hon. Member to get in touch with his District Medical Board and if they have those funds, make the necessary request to the Ministry, and action will be taken.

Mr. Mak'Onyango: Mr. Speaker, Sir, I am Otieno Mak'Onyango not "Mak'Anyango".

Mr. Speaker: Order! Mr. Mak'Onyango, if I really called the wrong person, why did you go to the microphone?

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. My point of order is to the effect that I did hear you pronounce his name very well; "Mak'Onyango".

Mr. Speaker: Mark you also, I do not come from that area.

Mr. Shikuku: You did it very well. Is he in order to try and correct you?

Question No.874

SUBDIVISION OF MARINE PARK

Mr. MaK'Onyango asked the Minister for Lands and Settlement:-

- (a) whether he is aware that Kisumu's Marine Park, a public utility land that had been preserved for Marine Police and other related crime control institutions, has been grabbed, subdivided and allocated to individuals for private use;
- (b) who are the allottees and what necessitated the change of use, and;
- (c) what immediate steps he is taking to revert the said land to its original status of public utility land.

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

- (a) I am not aware that Kisumu Marine Park, a public utility land has been grabbed, subdivided and allocated to individuals for private use.
- (b) There are no allottees and there is no change of use since no allocation has been done; and
- (c) The original status of the Park as a public utility land has not changed. The Ministry is in the process of documenting the land for the Kenya Wildlife Services for wildlife conservation.

Mr. MaK'Onyango: Mr. Speaker, arising for that sad reply and realising that I have had the privilege of seeing the current development plan in respect of the same land which shows that this land has been subdivided and, indeed allocated to individuals as business plots--- If the Assistant Minister insists that what he is saying is right, could he undertake to lay on the Table of this House the current plan on this land to show that what I am saying is not correct?

Mr. Sumbeiywo: Mr. Speaker, Sir, currently there are no records in the Ministry to show that the only Marine Park that is Imbala Park in Kisumu Municipality has been grabbed, subdivided and allocated to individuals for private use as claimed by the hon. Member. The Park has been planned and the Ministry is in the process of allocating it to the Kenya Wildlife Services as I said earlier on.

Mr. MaK'Onyango: On a point of order, Mr. Speaker, Sir. Does the Assistant Minister want this

House to believe that this Park has not been subdivided? Could he undertake to lay on the Table of this House the current plan of the original Park?

Mr. Sumbeiywo: Mr. Speaker, Sir, I have to answer even if this is not in my answer. As far as records in the Ministry are concerned, the Imbala Park remains intact; it has never been touched.

Prof. Ouma: On a point of order, Mr. Speaker, Sir. The question he has been asked is a very simple one and in simple straightforward English. Can we get a straightforward answer? Can he undertake to bring a current map showing what the place looks like? We do not want verbosity; give us the map.

Mr. Sumbeiywo: Mr. Speaker, Sir, I was going to say that if the hon. Member has more information, I am prepared to bring the documents.

Mr. Nthenge: On a point of order, Mr. Speaker, Sir. He has not said that he has information.

Mr. Speaker: Who has given you the Floor, Mr. Nthenge? I remember yesterday you said that you are too fast.

Mr. Achieng'-Oneko: Arising from that reply, could the Assistant Minister produce the original map and the plot number to support his statement to this House?

Mr. Sumbeiywo: Mr. Speaker, Sir, that will be done.

Mr. Mak'Onyango: Mr. Speaker, Sir, you have heard as well as I have the Assistant Minister saying that part of this land has since been turned over to the Kenya Wildlife Service. This land was originally preserved for Marine Services and among others for a Marine Police Station that would take care of drug trafficking. Is the Assistant Minister not misleading the House by saying that this land is being transferred to Kenya Wildlife Service? Is that not change of use? Can he tell us what has necessitated this at this late hour?

Mr. Sumbeiywo: Mr. Speaker, Sir, since the plot was reserved as public utility, the Ministry decided, because of the size of the plot, to give part of it to the Kenya Wildlife Service for public use.

Question No.1123

REPAIR OF BRIDGES IN NYARONGI

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

- (a) whether he is aware that the murraming of Wachara-Amoyo Road in Kwabwai and Kanyidoto locations has stalled;
- (b) if he is further aware that Oyombe Bridge on this road is impassable and needs urgent construction; and,
- (c) what he is doing to repair Nyarongi and Osani bridges in Kwabwai East Location and Nyarongi Division.

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

- (a) I am aware.
- (b) I am also aware that the Oyombe crossing along road E111 has broken down. However, it will be repaired by the end of this month. It was supposed to have been repaired by the end of November, but I think that by the end of this month it will be through.
- (c) The Ministry will fund Nyarongi and Osani box culverts repair works during 1997/98 Financial Year.

Mr. Ojode: Mr. Speaker, Sir, I am getting a different answer. According the written answer for "a", the Assistant Minister is saying that he is not aware. Eng. Mageto who is stationed at Homa Bay, has done a commendable job. Murraming this road half-way without completing the bridge actually is not good enough. Could the Assistant Minister confirm to this House when exactly he is going to complete the bridge and when he will make the funds available for Nyarongi and Osani bridges?

Col. Kiluta: Mr. Speaker, Sir, the Oyombe crossing consists of multiple pipe culverts which have broken down. But the Ministry has already delivered material to the site so that repair work can be done before the end of this month. I think if the hon. Member is patient enough we will do this work as promised. As regards the Nyarongi and Osani box culverts as I said, we did not budget for it. We will look for money. We will need about Kshs500,000 to do this job and we are looking for money to do this work. As regards the issue of the road, he says that the work stalled. I think there is a mix-up on his side because this road was done in two phases; one phase was done in 1993/94 and covered 3.7 kilometres and then in 1994/95 we constructed five kilometres. So, it might appear to him that we have just done five kilometres. If you look at the whole issue

you will find that bit, which he claims to have stalled, was done earlier.

Mr. Otieno: Mr. Speaker, Sir, hon. Ojodeh has just asked about three bridges but the whole road has six bridges washed away; those so-called box culverts, six of them have been washed away. Could the Assistant Minister tell us what is the use of repairing two bridges and leaving out the rest? How do you use the roads if you do not budget to finish it?

Col. Kiluta: Mr. Speaker, Sir, the hon. Questioner asked about one bridge and I answered him.

Mr. Otieno: I am giving the Assistant Minister a very important clue. The clue is that the officers have given him answers in respect of two bridges but he should know the whole road has six bridges washed away. So, the answer is inadequate. Could he look at the whole road and give a proper report?

Col. Kiluta: Mr. Speaker, Sir, the answer to the Question asked is adequate but if you look at the other bit you will find that, that was not part of this Question.

Mr. Ojodeh: Mr. Speaker, Sir, there is no need of constructing a road without bridges. I know I can only get that kind of an answer from a Member of KANU "B" like him. Could the Assistant Minister consider repairing the whole road together with the bridges so that it becomes passable?

Col. Kiluta: Mr. Speaker, Sir, actually the hon. Member is mistaken. I am not in KANU "B" but I am in KANU "D". So, we will look into that road.

(Laughter)

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Saina): Mr. Speaker, Sir, it is very strange to some of us since we do not understand these ABC and D groups. I know KANU as one party. I do not know the other groups. Could he substantiate his claims?

Mr. Speaker: Order! Order Members! I preside over this House. I preside over no political party. Next Question!

Mr. Ojodeh: On a point of order Mr. Speaker, Sir. I asked a genuine question. Could I get an answer from the Assistant Minister before we proceed to another Question?

Mr. Speaker: Order! Mr. Ojodeh, you see when you ask a Member a question in a manner that is derogatory, he is at liberty also not to take you seriously.

Mr. Ojodeh: No! On a point of order Mr. Speaker, Sir. You have said that he cannot take me seriously and yet he has accepted that he belongs to KANU "D". So, it means that it is you who is contradicting him.

(Laughter)

Mr. Speaker: Order! Order! Order, Mr. Ojodeh! I have already communicated to the House not to drag the Chair into political parties. Next Question!

QUESTIONS BY PRIVATE NOTICE

ISSUANCE OF LICENCES FOR HARAMBEE

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

(a) Is the Minister aware that the District Officer, Kenya Division, has refused to recommend the approval of the application for a fund-raising scheduled on 6th December, 1996, at Emesa Secondary School to build classrooms?

(b) Under what basis does he (the District Officer) delay the approval of the applications for harambees scheduled on 15th December, 1996 at Nyamisaro Primary School and Omosobwa Primary School scheduled on 17th December, 1996?

(c) Is he also aware that the harambee that was to take place on 1st December, 1996 for Rondani Secondary School was stopped at the last minute?

(d) Since the officer has denied the area Member of Parliament licences, could the Government allocate funds for development of schools in Bomachoge Constituency?

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

(a) I am aware that an application for a fund-raising scheduled for the 6th of December, 1996 at Emesa

Secondary School was approved by the District Commissioner on the 4th of December 1996 and the harambee will proceed as scheduled.

(b) I am not aware.

(c) I am not aware.

(d) In view of the fact that no permits have been denied, the issue, therefore, does not arise.

Mr. Obure: Mr. Speaker, Sir, the truth of the matter is that Emesa Secondary School had applied for a permit to hold the harambee. However, I must thank hon. Kalweo, the Minister, and hon. Moody Awori for prevailing upon the District Commissioner to grant this permit although it is late. So, I am very thankful to these Ministers and the Government. But, as pertaining to part (b) of the question, there is no permit that has been issued to Nyamisara Secondary School harambee which is scheduled to take place on the 15th December.

Mr. Speaker, Sir, another school which has been denied a permit is Omosobwa Secondary School whose harambee is scheduled for 17th December. Could the Assistant Minister deny or accept that the permits were delayed deliberately because the District Officer, a Mr. Muturathi, categorically said that he cannot allow me or any other Opposition leader to hold harambees in Bomachoge Constituency?

Mr. Sunkuli: Mr. Speaker, Sir, I am not aware of any other Opposition leaders referred to by the hon. Member. But, the hon. Member has asked a question. I know that he is not patient enough for his permit to be processed. We have processed the permits for Emesa Secondary School and if the hon. Member can visit the District Commissioner Kisii, he will find that most of what he is complaining about has actually been addressed.

Mr. Anyona: Mr. Speaker, Sir, the truth of the matter is that after the hon. Obure struggled to get these permits and failed, he enlisted my support to struggle with him and we spent a whole afternoon with the Minister, hon. Kalweo, who was very kind and patient to try and help hon. Obure obtain this permit. Now, the Minister ordered that the permit be issued. As of yesterday, the Provincial Administration was still resisting this move. That is the truth of the matter. This Question talks about a District Officer not recommending and not approving a licence. In law, a District Officer has no business recommending or approving a licence. How come the Assistant Minister, who is a lawyer and he knows this, comes to accept this kind of a situation whereby a District Officer who has no legal power sits on applications for permits?

Mr. Sunkuli: Mr. Speaker, Sir, I know that the hon. Anyona must have assisted the hon. Obure because my friend hon. Anyona is a good diplomat and he can address the issues correctly. It is true that the duty of issuing permits is handled by the District Commissioner and that is what I have said.

Mr. Ndicho: On a point of order Mr. Speaker, Sir. You have heard hon. Sunkuli say that the hon. Anyona is more diplomatic. Is he not imputing improper motives on the hon. Obure that he is not diplomatic? Is the Assistant Minister in order?

Mr. Speaker: He said hon. Anyona is a diplomat.

Mr. Ndicho: So, does that mean that hon. Obure is not a diplomat?

Mr. Speaker: Order! Order! We are all not born doctors and lawyers. Mr. Shikuku, ask the last question.

Mr. Shikuku: Mr. Speaker, Sir, I would like the Assistant Minister answering this Question to respond to hon. Anyona's supplementary question because it deals with legality. Which law stipulates that before you get a licence, the District Officer or the Chief must sanction it? Where is that stipulated? If it is not there, could the Assistant Minister assure this House and let it be known to all the District Officers that they have no business in sitting on the applications for permits or approving them and that it will only be the District Commissioner who should sanction the issuance of licences for meetings as stipulated in the laws that all of us have sworn to uphold?

Mr. Sunkuli: Mr. Speaker, Sir, I think the matter should be put correctly. The legal duty of issuing permits is vested in the District Commissioner. The process that the District Commissioner follows, the procedures that he lays down in order to issue these permits are his own and the hon. Member should not be concerned about it.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. We in this House make laws and in these laws, there is no provision for the DO. Is it in order for the Assistant Minister to try and use the Floor of this House to give some powers to the District Commissioner that he can make his rules? Where does he get that power from? I thought the hon. Assistant Minister is a lawyer and I did not expect him to give such a "jua kali" reply.

Mr. Sunkuli: Mr. Speaker, Sir, what I have said is that, under the law, hon. Members should go to the District Commissioner to get a permit. But the issuance of a permit by the District Commissioner must be done judiciously. The process that he follows may include consulting his juniors or his seniors, but the duty is his.

Mr. Obure: Mr. Speaker, Sir, I think I am very diplomatic and that is why I was chosen to this Parliament.

Mr. Murungi: On a point of order, Mr. Speaker, Sir. I have taken care when applying for permits under the Public Order Act. But the forms which the DCs are using all over the Republic are issued under the Emergency Regulations Act 1960. That is the heading of the form. Can the Assistant Minister advise the DCs to follow the Public Order Act and not the Emergency Regulations Act 1960 which has since been repealed?

Mr. Sunkuli: Mr. Speaker, Sir, that is certainly not a point of order, but the important thing is that the District Commissioners will continue to grant permits when applied for in proper time.

Mr. Obure: Mr. Speaker, Sir, the Assistant Minister says that Bomachoge development funding to schools cannot be done unless harambee is done. Is the Assistant Minister implying that Bomachoge schools cannot be funded if we cannot do harambees?

Mr. Sunkuli: Mr. Speaker, Sir, the hon. Member must be aware that the issue of school buildings and extensions of the infrastructure within the school and the structures within the school is the responsibility of the community. The community will definitely need to do a harambee for the development of their own structures for the development of their schools.

Mr. Obure: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to say that the community is under obligation to do harambees for schools when there are telegrams coming here from all directions denying us the opportunity to do harambees? When the Assistant Chiefs and the Chiefs approve, and the DO refuses, this application does not even reach the DC. Is the Assistant Minister in order?

Mr. Speaker: What is your point of order?

Mr. Obure: Mr. Speaker, Sir, is the Assistant Minister in order to say that we can hold fund raisings for development purposes when permits for such functions have been denied and the telegrams, the applications and all the cards are there?

(Mr. Obure threw the documents on the Table)

Mr. Sunkuli: Mr. Speaker, Sir, sorry, that is very "diplomatic" and the hon. Obure happens to be a neighbour to my constituency.

Mr. Speaker, Sir, I know that all the harambees that he has applied for have been licensed. The hon. Member does not even go there in the first place.

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

Mr. Speaker: Order! Order! If you are not good neighbours there, you must be good neighbours here.

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. Have you noticed of late that the hon. Sunkuli tells every Member of Parliament who asks a question that they do not go to their constituencies?

Mr. Speaker: What do they not do?

Dr. Otieno-Kopiyo: That they do not go to their constituencies at all and he has just told hon. Obure the same thing and he says it every week.

Mr. Speaker: Just relax, Dr. Otieno-Kopiyo, I do not think we have a prefect here.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, I am sure he is not my prefect. Thank you.

Mr. Speaker: Just relax! No problem! Next Question!

LIFE SAVING JACKETS FOR LAKE TRAVELLERS

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

Could he make it mandatory for all boats, canoes and steamers operating on Lake Victoria to have life-saving jackets in order to stop the many deaths of lake travellers and fishermen?

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

Under the East Africa Inland Water Transport Act, all ships and boats are required to have life saving appliances. The Kenya Railways runs steamers and boats in Lake Victoria and these vessels are adequately equipped with the jackets and life buoys.

Mrs. Asiyu: Mr. Speaker, Sir, I am very disappointed by the Assistant Minister's response to this important question. He has been very casual about this important Question. Only two weeks ago, more than 10 people in Busia District died in the Lake. If they had life-saving appliances, some of them would be alive today. The same goes for Siaya District, Homa Bay District as well as Kisumu District. Can the Assistant Minister tell this House what definite action he is going to take to stop this carnage on Lake Victoria?

Mr. Morogo: Mr. Speaker, Sir, as it is mandatory, I will order that a check is carried out if there is any boat that is operating without these equipment. But let it also be known that there are canoes which are used by the fishermen in Lake Victoria and these are the small boats made by wananchi for fishing and these ones do not apply for licences. So, it will be difficult for us to control them and if we throw all of them out of Lake Victoria, they will be in trouble because that is how they earn their living.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, the Assistant Minister is normally level headed but he is being absurd. If these canoes are capsizing because their make is not up to standard or they are leaking or because of something else, the first step would be for the Ministry to standardize their design and then insist that they apply for licences, so that they conform to the standard design. When will the Ministry put this practice into place to save lives in Lake Victoria?

Mr. Morogo: Mr. Speaker, Sir, what I know is that, if I gave an order today that all canoes should stop operating, the same hon. Member would come here shouting that--- They will come here complaining.

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to state that Members shout in this Parliament?

Mr. Morogo: Mr. Speaker, Sir, I have heard hon. Dr. Lwali-Oyondi shout. So, it is a fact. I have heard him shout in the House.

Mr. Speaker: Order! Order, Mr. Morogo! It is below the integrity for any Member to shout and Members do not shout. They probably express their disgust a little forcefully. Will you withdraw the word that Members shout?

Mr. Morogo: Mr. Speaker, Sir, I withdraw.

Prof. Ouma: Mr. Speaker, Sir, arising from the original answer which the Assistant Minister gave, may I ask him the following, but before that, may I tell him that we are talking of very great things concerning life. Let him have a look at the management of the vessels not only on Lake Victoria, but all the waters of this country. We do not need to lose 96 people between Kendu Bay and Kisumu like in 1994, nor do we need another Mtongwe with 200 people lost or another MV Bukoba with 700 people lost before we know that something is gravely wrong. Can the Assistant Minister tell this House whether his Ministry is applying the Solace Convention, the safety of lives at sea Convention which controls the management of all ships in all civilised lands? And if not yet, when are you doing it?

Mr. Morogo: Mr. Speaker, Sir, in this particular Question we are talking of Lake Victoria, and I have given the relevant law that requires the boats in the Lake to have the equipment asked for by the Hon. Member. My Ministry will continue to ensure that all these safety materials are available.

Prof. Ouma: On a point of order, Mr. Speaker, Sir. I do not doubt that the laws are there, but they are not being applied. For example, when MV Bukoba sank an officer on the pier in Kisumu was heard saying over the British Broadcasting Corporation (BBC) that three quarters of the boats in Lake Victoria, steamers included, were floating mortuaries. I am only asking: When will the Ministry ensure that the law is applied in accordance with international conventions, so that we do not die in floating mortuaries?

Mr. Morogo: Mr. Speaker, Sir, I just said a few minutes ago that I am going to order a spot check on all the boats in Lake Victoria to ensure that this equipment is in place. My Ministry will continue to stress strongly that these devices should remain in place so that we do not lose lives.

Mrs. Asiyo: Mr. Speaker, Sir, all the matatus that ply our roads are always inspected by traffic policemen. Could the Assistant Minister tell the House why they do not have traffic police on the Lake?

Mr. Morogo: Mr. Speaker, Sir, we do have controls because no licence is issued before a boat is inspected. So, we shall always check them.

CLOSURE OF TOWN CLERK'S OFFICE

Dr. Lwali-Oyondi: Mr. Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that there has been a long standing dispute between the councillors and the Nakuru Municipal Council Town Clerk?

(b) Is he further aware that this dispute has resulted in a physical fight between the councillors and a physical closure of the Town Clerk's office?

(c) If the answers to (a) and (b) above are in the affirmative, what urgent steps is the Minister taking to rectify the situation?

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

(a) I am aware.

(b) I am aware.

(c) I had appointed an extra-ordinary inspection team to go to Nakuru Municipal Council and report back to me on the situation in the council. The team's report has just arrived and I am studying it. But I can assure the hon. Member that appropriate action will be taken after the report has been studied. Right now, for the information of the hon. Member, the Town Clerk is on leave and before he comes back to Nakuru the situation will have been rectified.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, I thank the Minister for being all that honest. However, this situation has been going on for almost two years and a lot of damage has been done. This particular Town Clerk has been misappropriating funds to the extent that the council staff were not paid their October salary until about the end of November. This happened because of misappropriation of the council's funds. The Permanent Secretary in the Ministry knew what was happening. So, why has it taken so long to take this appropriate action?

Mr. ole Ntimama: Mr. Speaker, Sir, the hon. Member had better talk to the Minister who is on the Floor of this House, and not the Permanent Secretary. I am going to take action because I know very well that there has been a complex situation going on in the Nakuru Municipal Council. We are prepared to rectify it.

Mr. Wamae: Mr. Speaker, Sir, is the Minister aware that he has been protecting chief officers even when he had facts from councillors of the mischief which they have been doing? Will he from now on be serious and remove from local authorities chief officers who are not doing their job?

Mr. ole Ntimama: Mr. Speaker, Sir, we always reshuffle and transfer chief officers to various stations in this country. When we have a problem we try and move chief officers from one station to another. However, sometimes we get interference from hon. Members, who request us not to move their favourite officers to certain stations.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. The hon. Minister has stated that when they want to take some action some of the hon. Members interfere and, as a matter of fact, advocate for the stay of officers in particular stations. Could he substantiate that statement?

Mr. ole Ntimama: Mr. Speaker, Sir, I have made a general statement, but I can assure you that we have had interference here and there, either verbal or written. I do not think many of the hon. Members concerned can deny that they have come to us to plead for certain officers to be kept in particular areas.

Mr. Omino: Mr. Speaker, Sir, I can assure you that I am not one of the hon. Members who interfere with transferring of chief officers in local authorities. This seems to be a countrywide problem. There is not a single local authority in this country which does not have a problem with its chief officers. Could the Minister tell us what solution he has in mind to cure this countrywide problem once and for all? We have had problems in Kitale, Nakuru, Nairobi, Eldoret, Bungoma, Kakamega and Kisumu Municipal Councils. It is an epidemic problem with chief officers who have been imposed on local authorities by none other than the Minister himself.

Mr. ole Ntimama: Mr. Speaker, Sir, I think new questions are developing from this particular Question. But when I moved my Ministry's Vote in this House I made a very clear statement to the effect that we need to train officers both in general administration and financial management. Due to having too many councils mushrooming in the country, and people wanting to have their councils elevated to higher status, we have the problem of having the councils being run by officers who are not well trained. We are actually trying to expand Government Training Institute (GTI), so that we can use it to train local Government personnel. The other source of problems is the culture of some of our people. We have inherited the wrong culture of not being responsible in some of these areas.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, the Minister has just stated here that he deals with these people by transferring them from one place to another. In most cases these people literally steal and misappropriate council money, and also grab land. Does the Minister think that it is good enough to transfer a thief from one council to another instead of summarily sacking him?

Mr. ole Ntimama: Mr. Speaker, Sir, I have given hon. Dr. Lwali-Oyondi a very satisfactory answer. We try and transfer good people to good areas, but for the bad officers, we will, definitely, take action and sack them.

Mr. Muite: On a point of order, Mr. Speaker, Sir. Is the hon. Minister for Local Government in order to mislead this House, that he transfers good officers to good areas when he knows perfectly well that only yesterday, he transferred the Deputy Treasurer of Nairobi City Council from Nairobi City Council to Naivasha as a demotion because of revealing the names of the lawyers who have not paid the rates?

Mr. ole Ntimama: Mr. Speaker, Sir, I want to tell the hon. Member categorically that I do not support the lawyers who owe money to Nairobi City Council. If a Treasurer has been transferred from Nairobi to

Mombasa, it is an ordinary transfer.

Mr. Speaker: Next Question, Mr. Kiraitu Murungi.

ALLOCATION OF BUS PARK

Mr. Murungi: Mr. Speaker, Sir, I beg to ask the Minister for Lands and Settlement the following Question by Private Notice.

(a) Is the Minister aware that Mr. Jenaro Gikunda has been allocated the bus park at Nkubu Market?

(b) Is he further aware that KANU youth-wingers in South Imenti have threatened to physically beat him up, and destroy whatever structures he puts up on the said plot?

(c) What steps is the Minister taking to avert this explosive situation?

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

(a) Yes, I am aware that Mr. Jenaro Gikunda was allocated plot No.60 at Nkubu Market, which was originally earmarked for the bus park.

(b) I am not aware that KANU youth-wingers in South Imenti have threatened to physically beat up Mr. Gikunda, and destroy whatever structures he puts up on the said plot.

(c) The matter is now private, and if Mr. Gikunda feels threatened, he should report the matter to the police for appropriate legal action against those who are threatening him and his property.

Mr. Murungi: Mr. Speaker, Sir, I do not know whether the Minister knows what he has done right now. The Minister in his answer to "a", said that he is aware that Mr. Jenaro Gikunda has been allocated the bus park at Nkubu Market, and in his answer to "c", the Minister said that Mr. Jenaro Gikunda should seek police protection so that he can continue to develop the bus park. His Excellency the President has banned grabbing of public land in this country, and I represent the people of KANU in South Imenti, who have sent me to ask this Question. The KANU people in South Imenti have said that with or without letters of allocation, Mr. Jenaro Gikunda is not going to construct anything on this plot. We have got "self-help in law" and this is what the KANU people in South Imenti are going to use. Is it in order for the Minister to contradict His Excellency the President in protecting land grabbers at Nkubu Market by advising them to seek police protection when they are threatened with the wrath of the people?

Gen. Mulinge: Mr. Speaker, Sir, I am not contradicting myself. This land was originally allocated for a bus park. Meru County Council wrote a letter to the Commissioner of Lands requesting for a change of user, and the letter is here. This was allowed and, at the recommendation of the full Council meeting, they decided to allocate the said plot, not only to Mr. Gikunda, but to five others. According to the procedure of land allocation, to us, in the Ministry, it was properly done, because all the procedures required were followed. Those six people are now the rightful owners of the plots allocated to them.

Mr. Maore: Mr. Speaker, Sir, I would like to have some direction from the Minister. As the custodian of public land, he received a letter requesting change of user by the Meru County Council. Does it mean that the decision of what to do with public utility lands, as important as a bus park, is in very dangerous hands when they are under your Ministry? What would the people of Nkubu Market do with the buses and matatus now that you have allocated the bus park to private developers?

Gen. Mulinge: Mr. Speaker, Sir, we work on the information given by our officers in the field. This land is administered by Meru County Council and not by the Government. They are the ones who decided to make that area a bus park, and they are the ones who requested for a change of user. The reason is known to them.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. According to the procedures of this House, when an hon. Member or Minister, refers to any document, that document must be laid on the Table. Is it not only proper that we ask the hon. Minister to lay that letter on the Table, so that some of us can peruse it keenly, because he said, "I have the letter here"?

Gen. Mulinge: Mr. Speaker, Sir, I wish to lay the letter on the Table of the House.

(Gen. Mulinge laid the letter on the Table)

Mr. Magwaga: Mr. Speaker, Sir, if Meru County Council changed the user, did they find an alternative place for the bus park?

Gen. Mulinge: Mr. Speaker, Sir, I did not hear what the hon. Member said. Could he repeat the question?

Mr. Magwaga: Mr. Speaker, Sir, the Minister has told the House that Meru County Council changed the user of that land by dividing it into several plots and then allocated it to individuals, while the land was meant for a bus park. Have they got another alternative place for the bus park?

Gen. Mulinge: Mr. Speaker, Sir, there has been a lot of consultations here, I could not even hear. Can the hon. Member repeat his question?

Mr. Wamae: On a point of order, Mr. Speaker, Sir. Is the Minister in order to say that it is the work of the County Council to decide on the change of user when he knows there is the Department of Physical Planning which falls under his Ministry? It is supposed to make sure, physically, that there is land there for the people for all the functions.

Gen. Mulinge: Mr. Speaker, Sir, physical planners plan what is allocated by the Council.

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

Mr. Murungi: Mr. Speaker, Sir, the KANU people in South Imenti have banned the KANU Chairman, Meru District, Mr. Kirugi M'Mukindia from ever setting foot in South Imenti because of this plot. His name is among the six people who were allocated this plot and, as a matter of policy,---

Rev. Ommani: On a point of order, Mr. Speaker, Sir. Is it in order for hon. Kiraitu Murungi to keep on misleading this House, that the KANU people from South Imenti sent him to ask this Question when we know that he is a Democratic Party (DP) Member and he was sent by DP members?

Mr. Speaker: Order! Order! For the benefit of the integrity of this House and good conduct of business, I have on several occasions directed that hon. Members become civil in their language. In fact, there is a Standing Order that bars insulting or provocative language in this House. I have further said that hon. Members should never personalise debates in this House. I think it is in the interest of each one of us, if we were to keep to those standards. Let us be less personal and go to the subject.

Mr. P.N. Ndwiga: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Order, Mr. Ndwiga! Order, means you sit down. Mr. Murungi proceed.

Mr. Murungi: Mr. Speaker, Sir, I just want to ask the Minister a very simple question. He said that since the bus park was allocated to Mr. Jenaro Gikunda using the proper procedures, there is nothing which can be done. Supposing proper procedures are used to allocate a police station to an individual, will the Minister say nothing can be done because proper procedures were followed?

Mr. Mulinge: Mr. Speaker, Sir, I would still say the same thing. There will be a request of change of user and if that request is granted, then the police station will be allocated to the applicant.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. With all due respect to the Minister, the letter which he has just laid on the Table of the House says nothing about the bus park. It talks about residential plots and it reads as follows:

"I write to advise that this Council recommended the allocation of residential plots as applied in its full-council meeting, held on 21st April, 1994 and recommended that the applicants be issued with letters of allotment."

It has nothing to do with a bus park. This deals with residential plots. It has nothing to do with a bus park. So, can the Minister now give us the right letter, because this is about residential plots and not the bus park?

Mr. Speaker: Order, hon. Members! Having given the House a bonus of 35 minutes, Question Time is now up and out.

PERSONAL STATEMENTS

CORRECTION BY THE *DAILY NATION*

Mr. Mak'Onyango: Mr. Speaker, I rise under Standing Order No.69 to demand a correction from the *Daily Nation* newspaper on its reports on the proceedings of this House. On its front page, the *Daily Nation* wrote:

"Other MPs who were involved in the Mace saga but escaped the Speaker's censure were Prof. Rashid Mzee Ford(K)- Member for Kisauni and Otieno Mak'Onyango - Member for Alego/Usonga."

Mr. Speaker, Sir, I was not at any time involved in this matter. They also reported the same thing yesterday and I tried to raise it here but unfortunately, I did not make it. I would like the *Daily Nation* to know that I was not at any time involved in this matter and it should carry the necessary correction.

THREAT BY THUGS TO MR. MICHUKI

Mr. Michuki: Mr. Speaker, Sir, I thank you, for your indulgence in allowing me to talk on a matter of personal interest to me as raised by the *Kenya Times* newspaper of 5th December, 1996. While talking about what happened in Kikuyu, where apparently, thugs swept a chief's camp and took away fire arms, the newspaper continues to say:

"Later in the night, our source informed us that suspected gangsters had sent word to Mr. John Michuki, the Kangema MP, saying that they would raid his home. According to our sources, the gangsters even had the audacity to tell the police that they were armed with eight AK 47 rifles and assault rifles and had the fire power to take on the security in the area."

Mr. Speaker, Sir, first, there is no information that had come from gangsters to me that they were about to raid my house. The truth of the matter as I have stated to the *Kenya Times* is that, the District Criminal Investigation Officer approached my son with this information: That people would come and raid my hotel -Windsor Golf and Country Club last night and that they would also raid my House. That was information from the District Criminal Investigation Officer. He then suggested that I should have, particularly in my House, three policemen within my compound and two policemen at the hotel. I told my son to tell him that I have declined the offer, particularly within my own compound. I told him to inform the Criminal Investigation Officer that he could discuss the security of the hotel with the general manager of hotel, who has the discretion to decide what to do.

The reason why I have raised this matter is that on 23rd October, 1996, I told you in the afternoon of that day that I could not come to this House in the morning to ask Question No.937 because I was engaged in the matters that I mentioned to you. On this issue of security in that area on 22nd October, 1996 a host of policemen were sent to Windsor Golf and Country Club because they alleged that thugs were coming to attack the hotel. We went into this matter, the general manager, myself and the policemen. We sat there until 2.00 a.m, waiting for the gangsters to come. Information then came that the gangsters would come at about 9.00 a.m. After sleeping for about four hours, I went back to the hotel because I wanted to see what kind of action was going to take place. I did not want to be told. I wanted to see them for myself. We waited on the day I should have come to ask this Question, but nobody came. Since then, in addition to yesterday, I have been informed twice about the same kind of scenario and episodes. This is why I declined that assistance I was being given.

Mr. Speaker: Try to be brief.

Mr. Michuki: Mr. Speaker, Sir, I will be brief. From 21st to 23rd October, 1996, I have investigated in my own way. I have gone into this matter with all the means that are at my disposal. The conclusion I have come to, and I have been told, is that this matter is political, and that the reason why the people did not turn up on the night of the 22nd and the morning of 23rd October, 1996, is because they had not been paid. I want to state this because nobody is going to intimidate me on my political beliefs. The way I live is the way I will live. I have no quarrel with anybody, I do not do *magendo* and I do not take anything from anybody. So, it cannot be said that, maybe, somebody has disagreed with Michuki on a business deal. I do not do that kind of deals and *magendo*. Therefore, it is up to the Government. If they want to protect me, like they are obliged to do, they should go ahead and do so. If they do not want to do that, I am ready to die.

Mr. Speaker: Very well! The last one, Mr. Maundu.

MINISTERIAL STATEMENT

ASSISTANCE TO DIP OWNERS

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Maundu): Mr. Speaker, Sir, yesterday when I was answering a Question by hon. Sambu, I did promise to let the House know whether the facility given by the donors, particularly Germany, amounting to Kshs370 million was a grant or a loan. I have found out that this facility was a grant and it is intended to assist dip owners within the East and West of Rift Valley to create a revolving fund that will help them continue with the facilities of dipping in the country.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

[Mr. Chairman took the Chair]

THE CENTRAL BANK OF KENYA (AMENDMENT) BILL

Clause 2

Prof. Anyang'-Nyong'o: Mr. Chairman, Sir, I would like to propose the following amendment:- THAT, clause 2 be amended by deleting sub-clause 2(4B)(4) and inserting in place thereof the following:-

(4) in sub-section (2), the

An expression "appropriate committee" means the Committee of the National Assembly appointed to superintend, investigate into and deal with matters relating to monetary and fiscal policy, and that the Committee do report to the National Assembly on the operations of the Central Bank of Kenya annually.

The Minister for Finance (Mr. Mudavadi): Mr. Chairman, Sir, I beg to move that we do not adopt the proposal by the hon. Prof. Anyang'-Nyong'o. The point that is coming through here is that the proposal would seek to establish a committee that would superintend, investigate into and deal with matters relating to monetary and fiscal policy. Putting it in this Act in the format that is being proposed would, in a way, be actually suggesting that matters of monetary and fiscal policy are going to be run by a Committee of the House. That in itself is not going to enable the Central Bank manage its role efficiently in order to handle monetary policy efficiently.

Secondly, on the question of fiscal policy, aspects of fiscal policy are always brought to this House in terms of Government fiscal policy measures and budgetary processes. We have ample opportunity to deal with and discuss issues that relate to fiscal policy. So, I do not think that it would be proper to have it incorporated in the Act as proposed.

Mr. Chairman, Sir, I beg to oppose.

(Question of the amendment proposed)

Mr. Maore: Mr. Chairman, Sir, I would like to support the amendment due to the fact that the Minister has failed to clarify the demerits of that amendment. The merit of it is that when you have a committee of the National Assembly that is going to check on the operations of the Central Bank, it does not go to their bedrooms. They are supposed to come and report to the House. Now, the fact that the Minister is afraid of a report in the National Assembly is a clear indication of the several things that the Central Bank has been doing which are likely to come up in the next Motion. It is very serious and very frightening that the Minister is actually afraid of scrutiny of the Central Bank. If it is going to become autonomous, it is not under the Auditor-General(Corporations) because it has been exempted from the Corporations Act, and here, the Minister is trying to hide it and insulate it from more scrutiny. It is unfortunate.

Mr. Otieno: Mr. Chairman, Sir, I find this proposed amendment superfluous. In addition to being superfluous, it does create some other problems. First, we are talking about the monetary policy statement which the Central Bank is now being obligated to issue every six months and to submit to the Minister of Finance. Once they submit the monetary---

*(Hon. Makau was applauded as
he entered the Chamber)*

Once the monetary statement is submitted to the Minister for Finance, the general amendments under the Central Bank Act now require the Minister for Finance to submit that monetary statement to an appropriate Committee of the House. It is the definition of that appropriate Committee of the House--- It would help if the other hon. Members would listen.

(Loud consultations)

Mr. Chairman: Order!

Mr. Otieno: It would help if the other hon. Members would listen to this technicality. It is the definition of the appropriate Committee of the House that Prof. Anyang'-Nyong'o is proposing to amend. Already in the proposed Act, the appropriate Committee of the House is defined as the Committee of the National Assembly, appointed to investigate and inquire into matters relating to monetary policy. The amendment as proposed by the Minister in the Act, is restricting the affairs to monetary policy. The Committee of the House that is supposed to inquire and investigate monetary policies is General Purposes Committee "G". General Purposes Committee "G" is a Committee on finance, economic planning, trade and industry. And the general purpose committee shall investigate and enquire into the activities and administration of the Ministries or departments assigned to them and such investigations may extend to proposals for legislations.

Mr. Chairman, I am saying that the amendment by Prof. Anyang'-Nyong'o is superfluous because we do have a committee and as he is suggesting it, it is as if we are going to put into the Central Bank Act a new committee of the House outside the Standing Orders. So, since the Standing Orders already provide the committee to do precisely what Prof. Anyang'-Nyong'o is proposing, and the report must come not later than the end of every subsequent session of the House, which automatically means annually, the additional word Prof. Anyang'-Nyong'o is adding in this definition of "superintend," which will give additional powers not within the Standing Orders or fiscal policy, which is not within the Central Bank itself, is not necessary. Central Bank is handling only monetary policies. Fiscal policies are still handled directly by Treasury. The term "annually" is already accommodated within the Act because he says, "not later than the subsequent session of Parliament," which means it will automatically be annually. So, we are not achieving anything. If anything, we are creating a complication by establishing, under a separate Act, a committee of the House when the Standing Orders have already established adequate number of committees.

Mr. Shikuku: Mr. Chairman, having listened to my friend and taking into account the Standing Order he is quoting, what this amendment is seeking is quite precise. In the Bill it is merely stated, "appropriate committee". We have so many committees in this House, now which one will this be?

Mr. Otieno: The definition is already in the Bill. The expression "appropriate committee" means the committee of the National Assembly appointed to investigate and enquire into matters relating to monetary policy. The monetary policy statement shall be submitted to that committee not later than the end of every subsequent session of Parliament.

Mr. Shikuku: I must thank the hon. Member for that information. He tried to marry that definition in the Bill with the Standing Order No.151(g). It is all well said. I am glad that for the first time this kind of situation has been provided for in the Standing Orders, but we know that most of these committees that come under the Ministry of Finance do not function. For the last so many years that he has been an hon. Member in this House, can he recall any single day when these committees functioned? They are there, but never function at all.

Mr. Otieno: They may not have been functioning because they were not given the agenda, but the proposed Bill now gives them specific agenda virtually like the Public Investments Committee and Public Accounts Committee. There will be a monetary policy statement which must be issued every six months by the Central Bank and once it is issued, the Ministry of Finance must lay it in the House for the appropriate committee to handle it and that committee is duty-bound to report to the House. Other general purposes committees may have no function because they had not been given adequate agenda, but this one is being given adequate agenda with the independence of the Central Bank.

Mr. Shikuku: Mr. Chairman, it appears that there is a dialogue between me and hon. Otieno.

Mr. Chairman: Just submit your arguments. **Mr. Shikuku:** Whenever I try to submit my arguments, he comes in with a reply.

Mr. Chairman: I have to remind Members that this is committee stage and you have to be brief. Give your comments.

Mr. Shikuku: Mr. Chairman, I do not see any reasons offered by the Minister for Finance, but if this committee is going to function, that will be agreeable, but from the experience I have, these committees do not function. It is not the first time we are having this provision in our Standing Orders. It has been there since I came to this House. No committee of that nature has ever sat. I think if he can assure us that it will function, then we may start thinking.

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Chairman, I do know that at this particular stage, usually we do not renew the debate which was in the Second

Reading, but I think the real objection to this amendment has to do with the fact that it is intended that this committee will be the one to superintend. The word "superintend" does amount to basically running the monetary policy. Monetary policy and fiscal policies are formulated by the Government. If you do have a situation where it is going to be the committee of this House that goes on superintending fiscal and monetary policies, the monetary policy being the Central Bank, essentially it amounts to that particular committee running the Central Bank. There is a body that is intended to superintend the Central Bank and that is the Board of the Central Bank. The Board of the Central Bank is the one that superintends what really goes on there, but the question of investigation is fully covered in the Bill.

So, when the whole formulation of the monetary policy is done, every six months, the report is submitted to the Minister, he presents it in this House and then it is looked into very carefully by the appropriate committee. I do not think that we want the committee to superintend the Central Bank because then it is going to end up taking over the duties of the Board.

Prof. Anyang'-Nyong'o: Mr. Chairman, the only amendment to my proposed amendment that I accept is to delete, "report to the National Assembly annually" if indeed the Minister says that, that is covered by Clause 4(2) where it says, "The Minister shall lay every statement submitted under subsection (1) before the appropriate committee of the National Assembly not later than the end of the subsequent session of Parliament---" Then repeating "annually" subsequently becomes redundant. I agree with that, but I do not agree with the hon. Dalmas Otieno who was my Minister for Finance when I was president of Makerere Students Guild and he is still very eloquent to this day. I do not agree with the Vice-President and Minister for Finance in their interpretation of the word "superintend", in this respect.

I also do not agree with the Minister for Finance when he says that we should not have fiscal and monetary policies in the same clause. Our Standing Orders are very deficient and for hon. Otieno to say that it will be covered by Committee G, it is actually misleading the House because I do not see where Committee G's powers cover effectively monetary and fiscal policies. We are already saying that Parliament does not have enough resources to put up several committees. I would rather we have one committee that deals with budgetary affairs, estimates and monetary policy where budgetary affairs and estimates become fiscal policy and monetary policy becomes Central Banks' affair. Consolidate those two and, therefore, the affairs of the Central Bank will be referred to one committee in Parliament that deals with both monetary and fiscal policies. Therefore, although the Government is resisting my amendment, my amendment is actually helping both the National Assembly and Government to have one committee in Parliament that looks after the affairs of Central Bank. That is what I meant by superintend. They do not just simply investigate and enquire into but they are charged with a general responsibility of looking after the affairs of fiscal and monetary policies on behalf of the National Assembly, not so much on behalf of the Government which is the body that the Vice-President was talking about.

(Question, that the words to be left out be left out, put and negatived)

(Clauses 2 and 3 agreed to)

Clause 4

The Minister for Finance (Mr. Mudavadi): Mr. Chairman, I beg to move:-

THAT, clause 4 be amended as follows:-

- (a) by deleting the words "by deleting subsection (1) and inserting the following new subsection" and inserting the words "by deleting subsection (1) and (2) and inserting the following new subsection";
 - (b) by inserting the following new subsection immediately after subsection (1)-
- (2) Subject to subsection (1) and section 51, the next annual profits of the Bank, calculated in accordance with this section, shall be paid into the Consolidated Fund.

The Chairman: We are now dealing with the proposed amendment to clause 4 and not with the new clause.

(Question of the amendment proposed)

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

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 4 as amended agreed to)

Clauses 5

Mr. Muite: Mr. Chairman, these are very many clauses that we are having to deal with at the same time. But nevertheless, first, I would like to propose that Clause 5(2) be amended as follows. Immediately after the phrase: "The Governor, Deputy Governor and the directors appointed under paragraph D(1) shall be appointed by the President", insert the following words; "subject to confirmation by a resolution of the National Assembly".

The Chairman: Under which rules?

Mr. Muite: Under the rules for Motions, but not for the Bills.

The Chairman: Standing Order No. 106(2) states that:-

"No amendment shall be moved to any part of a Bill by any Member, other than the Member in charge of the Bill, unless written notification thereof shall have been given to the Clerk before the commencement of the sitting at which that part of the Bill is considered in the Committee."

It further states that:-

"Provided that where an amendment has been moved to any part of the Bill in accordance with the provisions of this paragraph, any Member may move an amendment to that amendment on delivering to the Chairman the terms of his amendment in writing."

In other words, your amendment is inadmissible because you should have given written notice through the Clerk before the Sitting started. If on the other hand, you had done that, somebody could move here without prior notice through the Clerk, by giving his version in writing an amendment to the amendment.

Mr. Muite: Mr. Speaker, Sir, I was looking at subsection 112(2) on the Third Reading of a Bill---

The Chairman: Are you sure we are in the Third Reading? We are in the Committee Stage.

Mr. Muite: Mr. Chairman, I will wait until the Third Reading.

Prof. Anyang'-Nyong'o: Mr. Chairman, can the Minister for Finance explain to the House why after so many entreaties to amend Clause 5 with reference to both the fixed tenure and the security of tenure issue, he still found it inconvenient to bring the appropriate amendment? There were very many entreaties in this House for interpreting the security of tenure of the Governor of the Central Bank to mean the security of tenure and not fixed term service.

The Minister for Finance (Mr. Mudavadi): Mr. Chairman, on this matter, we felt that the question of the fixed term at two-term period of four years was adequate because after that, the Governor shall not be eligible for re-appointment to the Central Bank. We felt that was adequate as provided for in the Act as it was before. So, we did not see any reason or any merit in providing any changes to that particular Clause where, in particular, some hon. Members were of the view that the Governor should have an eight-year fixed term. We feel that two terms of four-years at the maximum is appropriate.

Mr. Shikuku: Mr. Chairman, I am surprised at the Minister's non-cooperation with the feelings of the House. We thought it should be eight-year-term renewal and we gave reasons for that when we said that the Governor, for one, will have to behave in a manner that will enable him to be re-appointed. Since we are not able to change the Constitution to give him security of tenure, similar to the office of the Attorney-General or the Controller and Auditor-General, it cannot be done unless we amend the Constitution, we explained and said if he is given eight-years, he can have some sort of security of tenure he will do his job well instead of pleasing somebody with the hope of being reappointed. I do not know why the Minister did not take that into account and it was a very reasonable way of doing things. I know that we cannot give him the security of tenure provided for in the Bill when it is not in the Constitution. That, we understand. Can he explain why he did not agree to make it an eight-year term?

The Minister for Finance (Mr. Mudavadi): Mr. Chairman, we reflected on the position that hon. Shikuku is referring to, but we still did not feel, as a Government, that it was appropriate for the Government to have one-fixed term of eight years.

I would like to confirm to this House, because the impression created is that there is some ill-motive in proposing a two four-year fixed term. Very clearly within this Act, it is also coming out that the Governor, once

in office, cannot be tampered with and if there was any way of removing the Governor, it has to be a very elaborate process which is also spelt out in this Act. Therefore, we felt that it does not make any sense at this point in time to say that the Governor has one long-term of eight years. In any case, I think it is important that the public and Kenyans should be able to evaluate the performance of the Governor during that entire period. And if we give them eight years, you are not giving the Kenyan public any opportunity to evaluate the performance of the Governor.

Mr. Muite: Mr. Chairman, Sir, I was also going to propose amendments, but your interpretation of the rules did not permit me to proceed.

Mr. Chairman: It is not "my" interpretation. It is the correct interpretation of the rules.

Mr. Muite: I was saying that the interpretation of the rules by the Chair---

Mr. Chairman: No! No! I am sure you accept my interpretation as the correct one.

Mr. Muite: I am obliged to accept them. But it appears as if the Minister for Finance, is being more difficult than the most difficult judges of the High Court to persuade and see our point of view. We are really trying to be persuasive. If eight years are too long, then perhaps, he could come down to seven or six years. But a governor who is going to be looking over his shoulder and thinking about reappointment is not going to enjoy the security of tenure that the Bill is seeking to give to the governor.

Mr. Chairman, Sir, through you, I would like to persuade the Minister to reconsider that point of giving the governor a fixed term, and in addition, to consider whether it is actually not in the better interest of securing the discipline that we are looking for, by enabling the Central Bank, the governor and the other directors to have the security of tenure, in order for them to operate in a manner that is going to benefit the monetary policies in this country.

Could he consider, for example, bringing amendments at an appropriate time, so that instead of the governor being appointed by the President alone--- this culture of one person--- we do not know who will be the President tomorrow--- this culture of concentrating everything on one individual does not augur well for the Central Bank of Kenya or for this nation, for that matter.

Mr. Chairman, Sir, not only does the President appoint the governor single-handedly, but where the question of removing the governor arises, the President again is going to appoint the committee which is going to inquire into whether the governor should be removed or not. As if that is not enough, when the committee has carried out the investigations, it shall take its report to the President. We might have a situation where, when a committee like that has carried out the investigations, and where like today, a Minister of State, Office of the President was telling us that he is not aware that the President appointed a Commission to inquire into the burglary that occurred into Bishop Gitari's house, a committee like this could inquire whether a governor should be removed and when the report is taken to the President, it is just put in the drawer.

I would suggest that the Minister should consider this very seriously, by suitably amending Clause 5.2 so that the President should appoint the governor, subject to confirmation by a resolution of this House. That would go some way towards securing the total independence that we are thinking the governor should have.

May I also through you, Mr. Chairman, Sir, suggest that the Minister considers Clause 8, Sub-Clause 3 on page 431. Again, instead of the President alone appointing this committee which is going to inquire whether 3(a) should not be awarded; "the President should appoint a tribunal which shall consist of a chairman and two other members, selected by the President". I mean, let the President do the appointing, but let the selection be done by the National Assembly. This is what the balances and checks are all about.

With regard to Clause 18,---

Mr. Shikuku: On a point of order, Mr. Chairman, Sir. I am sorry to interrupt my hon. friend, but from experience, if the amendments he is proposing, which are quite---

Mr. Chairman: He is not proposing any amendments!

Mr. Shikuku: Is he just asking the Minister a question?

Mr. Chairman: Yes.

Mr. Shikuku: But by appealing to the Minister, he is wasting his breath because the Minister will not bring any amendments here. He is just talking to a stone!

Mr. Chairman: Well, as far as the Chair is concerned, he is within his rights.

Mr. Muite: Mr. Chairman, I saw the Minister nodding and taking notes.

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): On a point of order, Mr. Chairman, Sir. If I do recall, I think hon. Muite did ventilate on these issues at the Second Reading and we heard all those arguments. At this particular stage, we normally do not get involved in very lengthy deliberations, which were properly exhausted in the Second Reading. I do believe that hon. Muite did actually

bring up these issues. This is because he is now bringing all kinds of various amendments here.

Mr. Muite: Mr. Chairman, Sir, may I make it quite clear that when an hon. Member from that side of the House moved that the Mover be called upon to reply, only three hon. Members from this side of the House had spoken.

Mr. Chairman: What has that got to do with what is before the House?

Mr. Muite: But he is misleading this House. To begin with, Prof. Saitoti is saying that I articulated my views during the Second Reading. But I did not have the opportunity and, in fact, only three hon. Members of the Opposition were able to speak on this Bill, during the Second Reading. I tried to raise a point of order, but under Standing Order No. 80---

Mr. Chairman: Order, hon. Muite! I think all that is irrelevant. The point is that in the Committee Stage, we are not supposed to reopen arguments which were advanced in the course of his debate during the Second Reading. Therefore, at this point, any speeches together with your pleas will have to be very brief. We are really on the ground of reopening arguments which were advanced earlier.

Mr. Muite: Mr. Chairman, Sir, I shall sit down by appealing very briefly to the Minister, to delete---

Mr. Maore: On a point of order, Mr. Chairman, Sir. It is very important that whatever we are saying here is Verbatim and is going on record.

Mr. Chairman: It is going on Verbatim record, and you know that!

Mr. Maore: Mr. Chairman, it is very misleading for the Vice-President and Minister for Planning and National Development to say that we exhausted this argument! It is actually four hon. Members who spoke from this side of the House. It was an ambush and misleading, and we cannot accept to be blackmailed into that kind of argument!

Mr. Chairman: Order, hon. Maore! Nobody is blackmailing you, and I assure you that the Chair will never allow any side to be blackmailed into any position. But the point is that technically, it is correct. Once you come to the Committee Stage, you are not supposed to reopen arguments which were advanced on the Floor, even if there was only one speaker.

Mr. Muite: Mr. Chairman, Sir, I was merely answering the point raised by Prof. Saitoti. If he checks the records, that is the HANSARD, he will find that I did not speak, and indeed, these arguments were not advanced at all. I am not advancing any arguments now, but I am trying to persuade the Minister to consider certain issues that are in the best interests of this nation.

I was suggesting that he should really consider deleting Clause 18, the proviso to Sub-Clause 3. This is because when you limit the Government to five per cent, as is sought to be done in Sub-Clause 3, when the Government is exempting itself from what it has already borrowed; and it has already borrowed Kshs81 billion, that makes nonsense of the limitation on Government borrowing. It would appear that this is a pact which this Government has made with the World Bank and the donor community, to bring some cosmetic changes here, which are not going to affect what we have already borrowed. As a result, the donor community can continue to give us more money, which will be repaid by the small coffee and tea farmers in this country.

Please, consider these amendments and bring them at an appropriate time.

*(Clauses 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,
16, 17, 18, 19, 20, 21 and 22 agreed to)*

New Clause

The Minister for Finance (Mr. Mudavadi): Thank you, Mr. Chairman.

I just want to assure hon. Muite before I propose the New Clause that I did take note of the point he made and at an appropriate time, the Government and this House will have the opportunity to even consider further amendments to the various acts including the Central Bank Act.

Mr. Speaker, Sir, the New Clause that I wish to propose to be inserted immediately after Clause 22 is that, it becomes Clause 23. The Principal Act should be amendment by repealing Section 51 and inserting the following new sections:-

THAT, the following new clause be inserted immediately after 22-23. The Principal Act is amendment by repealing section 51 and inserting the following new section-
51. (1) Profits or losses which are attributable to any revaluation of the Bank's net assets or liabilities in gold, foreign exchange or foreign securities made as a result of any change in the value of any currency units shall be taken into account in the computation of the annual profits

and losses of the Bank;

Provided that the accounts of the Bank shall distinguish the profits or losses arising from normal operations of the Bank and those resulting from profits or loss from exchange fluctuations.

(2) The balance outstanding in the Revaluation Account existing immediately before the commencement of this section be repaid from the net annual profits of the Bank by instalments of such amounts as the Board, in consultation with the Minister, may determine.

Mr. Chairman, I will not belabour the issues here, but I am just trying to, first of all, bring this amendment because it is about time that we harmonised the question of the annual accounts of the Central Bank with modern accounting procedures because as the law stands, the amendment I have proposed has not usually been taken into account. So, we are proposing that this be taken into account provided that we can also distinguish between the profits arising from the Revaluation Account and those arising from the normal operations of the Bank.

Secondly the way the account has continued to appear under that law in the Balance Sheets, tends to give the impression that there is an asset when we actually have a fictitious asset in that it is yet to be realised. So this is purely an amendment which will streamline the presentation of the Balance Sheet of the Central Bank in accordance with the Act and also in conformity with proper accounting procedure.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause
be read a Second Time, proposed)*

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be
added to the Bill, put and agreed to)*

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Mudavadi): Mr. Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Central Bank of Kenya (amendment) Bill and its approval thereof with amendments.

(Question proposed)

Mr. Shikuku: On a point of order, Mr. Chairman, Sir. The Members have already said "aye". Did you hear that? These are indeed, voting machines!

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

REPORT, CONSIDERATION OF
REPORT AND THIRD READING

THE CENTRAL BANK OF KENYA (AMENDMENT) BILL

Dr. Godana: Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered the Central Bank of Kenya (Amendment) Bill and approved the same with amendments.

The Minister for Finance (Mr. Mudavadi): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Labour and Manpower Development (Mr. Masinde) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Mudavadi): Mr. Speaker, Sir, I beg to move that the Central Bank of Kenya (Amendment) Bill be now read the Third Time.

The Minister for Public Works and Housing (Prof. Ng'eno) seconded.

(Question proposed)

Mr. Muite: Mr. Speaker, Sir This new Bill is about to become law and I would like to place on record the frustration that some of us faced on this side of House the Second Reading of this Bill. I seek your indulgence to point out that my reading of Standing Order No.80 where an hon. Member stands up to move the Motion that the Mover be now called upon to reply. There is a responsibility which is placed in the Chair by the wording of Standing Order No.80. The way it is worded, is that where a Member moves a Motion that the Mover be now called upon to reply, the Speaker has to direct his mind as to whether putting the question would amount to an infringement of the rights of Members. One of the most important fundamental rights of Members is the right to speak. So, if the Speaker is of the view objectively, that sufficient time has not been accorded to Members of the House who wish to articulate and eventually air views, the Speaker can decline and ought to decline putting the question. Putting the question must not amount to an infringement of the rights of Members nor must it amount to an abuse of the rules of the House. Only four Members from this side of the House had spoken and many of us wanted to speak on this important matter, but that is a matter that I feel I have got an obligation to point out during this Third Reading of this Bill.

The reality is that when this Bill becomes an Act of Parliament, it is not going to operate in a vacuum; it is not going to operate in the abstract. The implementation of the provisions of this Bill is part and parcel of the wider economic framework; both the constitutional framework and political framework. We have to create an environment where the intentions of this Bill can be realised. Unless we conceptualise this law that we are passing here, then the objectives, however noble, are not going to be realised. We need to question ourselves: Do we have the constitutional environment that is conducive to the realisation of the objectives of this Bill? Do we have the legal environment? Do we have the political environment? We have got to conceptualise these important legislations that we are passing because they are part and parcel of the wider sum total of the nation which is Kenya. This is part of the economic reforms that we are undertaking. We should have undertaken these reforms on our own without waiting to be told to do so by the World Bank and by the donor community. It would appear as if a rather unholy conspiracy has been hatched up between this Government, the World Bank and the donor community to the effect that this Government will pretend to be effecting certain cosmetic reforms. That is all that the World Bank is looking for; pretense at reforms so that the World Bank bends over backwards to lend money to this nation. We need to remember that that money is not a grant nor a donation. It has to be repaid by Kenyans, including the very smallholder farmers who grow tea, coffee and what-have-you. These are the people we are placing this burden on. So, what I am saying is that if these economic reforms are going to realise the benefit of turning round the economy of this nation that is, resuscitating and making the economy grow, then these reforms have to be conceptualised in the wider constitutional, political and administrative reforms that we are asking for. Nothing would be better than to see the KANU Government coming to the National Convention and Planning Committee which is now chaired by the churches and the NGOs and in which all the Opposition political parties are participating. The KANU Government should come to this Committee so that we can discuss as Kenyans about the constitutional reforms, political reforms and about the legal reforms that we want. Only then are we going to be able, as a nation, to reap the benefits from these economic reforms. If we do not do that, then we are wasting our time enacting these economic reforms. I do know that the hon. J.J. Kamotho has received several

letters of invitation from Bishop Nthamburi to come and attend---

Mr. Speaker: Order! Order! Hon. Muite, by the way we are now dealing with the Central Bank of Kenya (Amendment) Bill. Whenever another subject relating to meetings of political parties is debated here, you will be at liberty to address it. For now, address the Bill.

Mr. Muite: Mr. Speaker, Sir, I was obviously endeavouring without any success---

The Assistant Minister for Public Works and Housing (Mr. Mwamzandi): On a point of order Mr. Speaker, Sir. It has always been the practice of this House, during the Third Reading, for Members to just comment briefly on the Bill. The hon. Member is making a speech as if we are on the Second Reading of the Bill. So, that is not the practice of this House.

Mr. Speaker: Order! What I am asking hon. Muite to do is, to please, keep away his meetings. Talk about the Central Bank of Kenya (Amendment) Bill.

Mr. Muite: Yes, Mr. Speaker, Sir. Through you, I would like to remind the hon. Member that this the first Parliament that is having an elected Opposition here. So, we are not going to be bound by the one-party tradition. I am doing no more than making my observation. I was endeavouring to persuade that side of the House, through you, to see that there is a nexus between this Bill and the lack of reforms. I am not going to go beyond that other than to renew the invitation to KANU to come to the National Convention Planning Committee so that we can discuss these reforms with you. We want to talk with you. You should not be afraid of us.

I thank you, Mr. Speaker, Sir.

Mr. Speaker: Prof. Anyang'-Nyong'o has the Floor. I hope that you will stick to the Bill.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I am a teacher and so I will stick to the Bill. Nonetheless, the point that hon. Muite raised regarding Section 8 (3) when he was contributing to the Bill during the Committee Stage --- In Section 8 (3) it is said that:

"If the President considered that the question of terminating the appointment of the Governor under sub-section 2 (f), ought to be investigated then,

- (a) The President shall appoint a tribunal which shall consist of a chairman and two other members selected by the President from among persons:
- (i) who hold or have held office as judges of the High Court or of a Court of Appeal or,
 - (ii) who are qualified to be appointed as judges of the High Court under sub-section 61 (3) of the Constitution".

Mr. Speaker, Sir, there are two points here. The first one is that I would like to support hon. Muite that the appointment of this tribunal should involve more than just the President, and that Parliament should be involved. The second point is that I do not see why this tribunal should be confined to judges. What do judges know about finance and monetary affairs? If they are going to review what the Governor has done, they have to know something about money and not just law. So, if you have the Committee stacked by judges, and there are very few of them; there are only three; one is the Chairman and two are members, this is "incest". You cannot have legal officers incestuously trying to decide matters for the Central Bank. I made this point during the Second Reading and I would like to appeal to the Minister that this tribunal is so important that first, in its appointment, it should not just be the President appointing it; two stacking the whole thing with judges, is not fair to the Central Bank. I would appeal to the Minister that we should have some people from the business community and from the insurance world who know something about banking and about bad behaviour in the financial world. We should not just have judges who might have been promoted through the system just because they have hanged a few people along the line.

Thank you Mr. Speaker, Sir.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, I wish to say a few words now that we are in the final stages of transforming this Bill into an Act of Parliament. One thing that I would like to appeal to the Central Bank is---

(Bishop Njeru crossed the Floor)

Mr. Falana: On a point of order, Mr. Speaker, Sir. The hon. Bishop Allan Njeru crossed the Floor of this House in total disregard to the rules of the House!

Mr. Speaker: Order! Order! Hon. Bishop, thou shall not cross the Floor that way! Proceed Dr. Lwali-Oyondi.

(Laughter)

Dr. Lwali-Oyondi: Thank you Mr. Speaker, Sir. I think the Bishop thought that he was in the church. Now, I would like to appeal to the Central Bank, now that it has been given a bit of independence, that it should avoid the temptation of following the politicians and begin printing money. What has "killed" Africa and we saw the most typical example from Uganda when Idi Amin wondered why money is not printed in large quantities like the newspapers. He, therefore, ordered the printing of paper which he called "money". That has had an adverse effect on the Ugandan economy to-date. To a small extent, other African countries have done the same to their detriment. Money is some certificate to show that work has been done. If work has not been done and money is printed, it becomes no money at all. It is like awarding a certificate to a student on a subject that he never studied. You give him a certificate in engineering and he has never read even one word in engineering. That will not make him an engineer and he will be of no use to anybody. This is what happens in Africa and it has happened in Kenya, whereby money has been printed for political purposes, thereby really putting our economy to a very precarious position. The Minister for Finance has tried all he can to mop up this printed money, but it has not been all that successful, because, this has resulted into very high interest rates. This has made the business community completely unable to borrow money, because those high interest rates are impossible to pay in order to make the economy going.

Mr. Speaker, Sir, because of that, I hope the Central Bank of Kenya will never again print money and it will not succumb to any orders by politicians who want either to advance themselves by getting this money to "buy" people or trying to meet the Government expenditure or to make up for deficits in the Budget.

Mr. Speaker, Sir, the Government should concentrate not only on trying to make the Central Government bring down prices as they have stated in the Bill. The Central Government has no ways by which it can bring prices down. Prices can only come down if you allow competition in the trade, so that those who are trading can compete among themselves for prices to come down. This is a vicious cycle because you cannot compete in trade, if there are no investors because of high interests. These are the issues that should be looked into. We should encourage a lot of production and once we encourage a lot of production in agriculture and so on, then the money that we have will have some value. But controlling money by itself, letting the ordinary commercial banks to keep on making money from the Central Bank will never help us.

With those few remarks, I wish to support the Bill.

(Question proposed)

(Question put and agreed to)

*The Bill was accordingly read
The Third Time and passed)*

MOTION

ADOPTION OF PIC REPORT

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

Amendment proposed:

THAT, the Motion be amended by deleting the full stop at the end thereof and inserting the words "subject to the following amendments:-

(i) by deleting the following words:

"banished from holding any public office in the Republic of Kenya" (page 67)

"banned from holding public office" (page 74)

"banned from holding a public office" (page 123)

"banned from holding any public office in the Republic of Kenya" (page 231)

"banned from holding public office" (page 237)

"banned from holding public office in Kenya" (page 238, 261 and 264)

(ii) and inserting in places thereof the following words:

"investigated and where ample evidence is available the Attorney-General should then follow up with

prosecution in court and if consequently found guilty of the offences be considered unfit to hold public office"

(Prof. Anyang'-Nyongo'o on 03.10.96)

*(Amendment proposed by the Minister
for Finance on 04.12.96)*

(Resumption of debate interrupted on 04.12.96)

Mr. Shikuku: Bw. Spika, ningependa kuahidi Bunge hili kwamba nitazungumza kwa dakika kumi tu ili wengine wapate nafasi yakuzungumza. Ukweli ni kwamba, kazi ya Public Investments Committee kama Public Accounts Committee, ni kuchunguza vile fedha zinatumiwa. Na hii amendment ambayo imeletwa, eti kwamba Mkuu wa Sheria sasa anapewa uwezo awatafute wale waliokula mali, lakini waendeleo kukaa hivyo hivyo, baada ya Public Investments Committee kuwapata na hatia, haifai. Tunaambiwa kwamba, Public Investments Committee siyo korti, lakini ukweli ni kwamba, na ningependa raia wasikie, Auditor-General (Corporations) huleta ushahidi wake kwa Public Investments Committee. Na baada ya kuleta ushahidi wake (queries), yule anayehusika katika kila Wizara yaani yule anayeitwa Accounting Officer, ni Permanent Secretary. Yeye ndiye atakayeulizwa maswali. Na wakati mwingi tukimkaba huyu Permanent Secretary na maswali anasema tungojee kidogo, kwamba, yule anayehusika ni mtu fulani. Public Investments Committee na Public Accounts Committee huita huyo anayehusika aje kwa Kamati ili ajibu maswali. Na huyo mtu hupewa nafasi ya kueleza vile mambo yalivyokuwa na Permanent Secretary hukaa kimya. Kwa hivyo, Waziri wa Fedha au mtu yeyote kwa upande ule kusema kwamba hatuwezi kumsimamisha mtu kazi au kusema kwamba huyo mtu asifanye kazi ya Serikali tena, eti kwamba hatukuwapa nafasi ya kujieleza, hiyo si kweli. Walipewa nafasi, wakaeleza, wakaulizwa maswali, wakajibu na mengine wakashindwa. Na ndiposa, tunatoa recommendation.

Bw. Spika, recommendation ni ya Kamati hii, lakini ikiwa watu walioko katika Serikali wanataka Public Investments Committee na Public Accounts Committee zisifanye recommendations zozote, yafaa walete hoja ya kupinga hali hiyo hapa. Kuna maana gani kupewa kazi na hatuwezi kutoa hata recommendations? Sisi tukitoka recommendations zinakwenda kwa Executive, ambayo ni Serikali au Cabinet. Na inaweza kusema huyu mtu afutwe, awe suspended ama apelekwe kortini. Lakini sisi ni lazima tufanye kazi yetu. Kwa hivyo, kuwadanganya wananchi kwamba sisi tumejifanya mawakili si kweli hata kidogo. Sisi katika Public Accounts Committee na Public Investments Committee ni kazi tu, ambayo tunafanya. Wakati huu ukiangalia Ripoti ya Public Investments Committee, ni kitabu kikubwa kabisa ambacho kina recommendations kuhusu kila State Corporation. Imekuwa hawaongei juu ya recommendations zingine, wanaangalia mahali palipo na wizi ndipo wanakinga. Lakini zile recommendations zingine ambazo tunafanya hawaongei juu ya hizo. Kuna hila hapo kwa Serikali hii. Haitaki kuangalia recommendations zingine, bali ni zile za wizi tu, pekee. Yafaa raia wajue ya kwamba, wanapokosa huduma, ni kwa sababu fedha zimeibiwa. Na sisi tulio katika kamati hizi tunasema ya kwamba, zimeibiwa. Ukweli ni kwamba, hii Serikali haitaki tutoe wizi huu nje. Hata wewe unajua kulikuwa na Hoja hapa ambayo ilikuwa na nia ya kwamba, Serikali iwe na Members wengi katika Kamati hizi ili waweze kufunika uchafu. Hiyo ni kwa sababu Wabunge wa Upinzani kwa wakati huu ndio wengi na wanatoa dhambi hizi zote nje. Huko katika Kamati tunawashinda kwa kura na tukileta recommendations hapa, wanataka kufanya amendment. Hali hii inaonyesha wazi wazi kwamba, nia ya Serikali hii siyo nzuri. Na wale wanounga Serikali hii mkono, pia wajue kuna hila hii. Sisi katika Upinzani tunataka maendeleo kwa Serikali. Wale wanaounga Serikali mkono pia wanataka daraja zijengwe kwao. Mara nyingi tumewasikia wakilia hapa: "Barabara za sehemu yangu ni mbovu na hazipitiki". Pande zote mbili za Bunge hili zinauliza maswali, na sote tunalia. Sasa tunataka kuzuia wezi wasiendeleo na wizi, lakini wenzetu katika upande ule mwingine wanasema: "Wacheni waendeleo".

Inafaa wananchi wajue kinachoendelea. Lakini watu wa magazeti wakati mwingine hawaandiki mambo yanayotendeka. Najua wao pia wanafanya mahali fulani. Hata redio haiyatangazi mambo kama hayo. Lakini hii si hoja: Ukweli na Mungu ni kitu kimoja. Anayeupinga ukweli anampinga Mungu, na bila shaka ataangamia, hata ikiwa yeye ni Waziri wa Fedha au mhe. Nassir. Inafaa ajue kwamba anapambana na Mungu na mwisho tutakwenda kwa mazishi yake.

Ingawa sisi ni wachache na tunajua kwamba upande ule mwingine utashinda katika kura, ningependa kusema kwamba marekebisho ambayo yameletwa na Serikali ni mazuri kidogo. Mbeleni upande wa Serikali ulikuwa unanataka kuyaondoa kabisa mapendekezo yetu, lakini sasa unataka Mkuu wa Sheria ayachunguze mapendekezo hayo. Hii inaonyesha kwamba sisi tulio katika Upinzani tunafanya kazi katika Bunge hili. Hata hivyo, upande wa Serikali unajua kwamba Mkuu wa Sheria hawezi kufanya lolote kwa sababu ana wakubwa

wake. Wengi wa wakubwa hao "walikula" pesa za Wizara za Serikali.

Niliahidi kuongea kwa muda wa dakika 10, na ningependa kumalizia kwa kusema kwamba tunazungumza hapa kwa niaba ya wananchi ambao hawawezi kuja hapa kuzungumza. Mimi sina uadui na watu walio katika Serikali. Wao na mimi tumechaguliwa na watu, na kazi yetu sote ni kuona kwamba wananchi wanapata huduma. Ikiwa watu "wamekula" pesa za Serikali ambazo zingetumiwa kutoa huduma na wananchi hawawezi kupata dawa na barabara, na Nairobi imejaa takataka na shida nyinginezo, ni wajibu wa Wabunge wa KANU na wa Upinzani kuona kwamba jambo hili haliendelei. Ikiwa wenzetu katika upande ule mwingine wanadhani kwamba sisi tunapiga kelele hilo si jambo zuri. Ningependa kumjulisha Bw. Nyachae kwamba inafaa afanye adabu. Mimi nilisaidia kuiletea nchi hii Uhuru ndipo akawa Mkuu wa Mkoa, Katibu Mkuu na sasa yuko katika Bunge hili. Rika langu na lake ni sawa, lakini hakuweza kusema chochote wakati wa kupigania Uhuru.

The Assistant Minister for Public Works and Housing (Mr. Mwamzandi): Jambo wa nidhamu, Bw. Spika. Mhe. Shikuku anajua lugha ya kutumiwa hapa Bungeni, lakini anasema "inafaa mhe. Nyachae afanye adabu". Hii si lugha ya kibunge. He is a Minister and our fellow Parliamentarian!

Mr. Speaker: Order! I think whatever has a beginning has to have an end. Yesterday, I did caution hon. Shikuku against personal attacks on other hon. Members, unless, of course, he brings a substantive Motion. Mr. Shikuku, I think you have had your share and it is my duty to bring you back to order: Thou shall not attack another hon. Member on this particular Motion.

Mr. Shikuku: Ahsante sana, Bw. Spika. Lakini nimetukanwa, ingawa si hapa Bungeni.

Mr. Speaker: Order, hon. Shikuku! To the best of the Chair's recollection, hon. Nyachae has not insulted you here. If he did it outside this House, you can as well go to that particular area and say whatever you wish about him. So, can we now stick to the rules of the House?

Mr. Shikuku: Bw. Spika, wengine wetu hatupigi kelele. Tuliwaletea watu wa nchi hii Uhuru. Watu wengine hawangukuwa katika Bunge hili kama Uhuru haukuletwa; badala yake wangukuwa wakichunga mbuzi huko nyumbani. Inafaa sisi tuliouleta Uhuru tuheshimiwe. Watu wengine wangukuwa wanachunga mbuzi wa baba zao, lakini leo ni Wabunge na wengine ni Mawaziri. Inafaa wafanye adabu kwa sisi tuliouleta nchi hii Uhuru.

Kwa hayo machache, naunga mkono.

Mr. Sankori: Mr. Speaker, Sir, I take this opportunity to support the amendment moved by the Minister for Finance. I will make sure that I take the shortest time possible because a lot has been said about the Public Investments Committee Report. It is my wish that we in this House should debate issues---

Mr. Shikuku: Jambo la nidhamu, Bw. Spika. Namuomba mhe. Sankori anisamehe kidogo. Nimeambiwa na marafiki zangu ati nimeyaunga mkono marekebisho tunayojadili. Kama niliyaunga mkono nasikitika sana. Napenda kusema kwamba ninayapinga sana marekebisho hayo!

Mr. Speaker: Order! First of all, you had finished your speech and supported the amendments. You have no other chance to talk.

Mr. Shikuku: Jambo la nidhamu, Bw. Spika. Huko kuunga mkono kulitokana na kuteleza kwa ulimi. Nimekumbushwa kwamba niliunga mkono. Sasa ninasema kwamba ninayapinga kabisa marekebisho hayo.

Mr. Speaker: Order! Mimi sina uwezo wa kujua anachotaka kusema Mbunge. Sisi tunafuata kile mhe. Shikuku alichosema.

Mr. Badawy: Jambo la nidhamu, Bw. Spika. Muda mfupi uliopita rafiki yangu, mhe. Shikuku, alisema Mungu ni ukweli. Kwa nini hataki kukubali kwamba alilazimishwa na ukweli kuunga mkono?

Mr. Speaker: Hayo nimeyamaliza. Endelea, mhe. Sankori.

Mr. Sankori: Mr. Speaker, Sir, we in this House should try our level best to ensure that what we say does not offend anybody. This should be so whether we talk as individuals, a community or a Government. It has been the practice of our friends in the Opposition, most of the time, to attack this side of the House. It is not anybody's wish for wrongs to be done in our society. It was unfortunate for some people to have taken an opportunity to brag that they have been here for the last 33 years that we have been independent. If somebody went to Lancaster House, that was because he happened to be there. Also, some other people went elsewhere, where he did not go. Surely, we have first-term young Parliamentarians who want to learn from elderly people like hon. Shikuku. It is only fair that such elderly hon. Members should give advice to---

Mr. Shikuku: Jambo la nidhamu, Bw. Spika. Sitaki kumkatiza mhe. Sankori, lakini ningependa kujua anaongea juu ya marekebisho gani. Je, anaongea juu ya marekebisho ya kwanza au ya pili? Jina langu liko katika marekebisho gani?

Mr. Speaker: Bw. Sankori, mhe. Shikuku yuko wapi katika marekebisho hayo?

Mr. Sankori: Mr. Speaker, Sir, I am on the amendments introduced by the Minister for Finance.

When hon. Shikuku attacks other people, he should not go scot-free. At least, he should also hear something. I think he wanted us to hear him, otherwise he should not have talked. I do not think that the KANU or Government side has a bottomless reservoir of patience. We also have limited patience. When we talk we should know that we are addressing the nation and not individuals.

Mr. Speaker, Sir, we want all the people whom the Public Investments Committee found involved in some malpractice to be investigated, and if evidence is found they should be taken to court. We should not usurp the powers of the courts.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. I take great exceptions to the hon. Member's allegation. The PIC has not done anything other than recommending. We have not usurped anybody's powers, but we only recommend, and it is up to the Executive to take action. We have only recommended. Is he in order to say that we have usurped the powers or does he not understand English?

Mr. Sankori: Mr. Speaker, Sir, it is just fair if I could tell my friend, Mr. Shikuku, the meaning of "banishing" somebody. It means that you have already decided that this person is wrong and recommended that he should never hold any public office. What I am saying here is that in written law, a suspect is presumed innocent until proved guilty. But here, the Opposition wants to say that those people are guilty until proved innocent. So, I do not know whether they want us to follow the---

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. The PIC has Members both from the Opposition and the Government side, who made the recommendation. Is the hon. Member in order to say that it is the Opposition that was recommending the banning of these suspects from holding any public office?

Mr. Speaker: Did you say that, Mr. Sankori?

Mr. Sankori: Yes, Mr. Speaker, Sir.

Mr. Speaker: What page of the Report bears you out?

Mr. Sankori: They are the majority in the Committee and they bulldoze the recommendation.

Mr. Speaker: Order! Order! It does not follow. Whereas, if a Committee or a sub-committee or even this House is divided on an issue, then the issue is recorded as divided. Unless, of course, you can remove the words in the Report "unanimously agreed on", then I think you better read the Report.

(Applause)

Mr. Sankori: Mr. Speaker, Sir, we should take these people as innocent until they are proved guilty. I am saying that because when the Committee investigates these reports, we have got limited knowledge on the investigation as far as that Committee is concerned, because, we do not involve the police and CID. If that Committee wants more powers, it is this House that will give them more powers and they should bring an amendment within the Standing Orders of this House, so that they can be given those powers, if they so wish.

Mr. Speaker, Sir, I am saying that because, most of the civil servants are very dedicated people to this nation. It is very demoralising when we start banishing them from holding any public office because, who knows whether some of those members who recommended that those officers should be banished, were not given any favours or that they wanted some favours and they could not get it from those officers. It is very unlikely.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member speaking to impute improper motives on the Members of this Committee, that they made this recommendation because they were refused some favours from the officers?

Mr. Speaker: Mr. Sankori, did you say that?

Mr. Sankori: Mr. Speaker, Sir, I did not make any allegation, but what I said is that "it maybe so". I did not specify that hon. Shikuku wanted some favours.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Speaker, Sir. Would it be in order for hon. Sankori to deny before the House what he has said and what would, definitely, appear in the HANSARD tomorrow? Secondly, I would appeal to hon. Members of this House who have not read the Report, not to assume what is in the Report when it is not there.

Mr. Sankori: Mr. Speaker, Sir, I am ready to wait until the HANSARD is out tomorrow, because I did not mention anybody's name. What I am saying---

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. Hon. Sankori said, "who knows whether the Members of this Committee who made this Report wanted favours from these people they are now recommending to be banned from holding any public office and they were refused".

Mr. Speaker: Order! I have to get this out and the hon. Member on the Floor must understand the rules of the House. You have no right whatsoever to impute any ill-motive, either real or imagined, to hon. Members

of this House or its Committee, unless, you have evidence under a Substantive Motion. So, go, please, through the facts.

Mr. Sankori: Thank you, Mr. Speaker, Sir. I am glad that they are now feeling it. That is what we feel when they also say a lot of unpalatable things about this side.

Mr. Speaker, Sir, I support the amendments.

The Minister for Information and Broadcasting (Mr. Makau): Mr. Speaker, Sir, this is a very important Motion in the sense that we are debating a report of one of the select Committees of this House. The PIC is one of the select Committees of this House and it has its own functions spelt out in Standing Order No.148.

It clearly states what are the functions of that Committee or what the Members of that Committee are supposed to examine.

The PIC is supposed to examine the reports and accounts of the public investments. Two, to examine the reports, if any, of the Controller and Auditor-General on the public investments. Three, they are supposed to examine whether the chief executives managing these public investments are following business principles and prudent financial management. Those are the major objectives that are to be achieved by the PIC. But sometimes it becomes a little bit embarrassing when the Members of the PIC or any other Committee that is investigating the various financial reports, during the time that they are examining and investigating whether those who are given those responsibilities---

Dr. Kituyi: Mr. Speaker, Sir, in view of the fact that the hon. Minister's contribution can actually be made after disposing of the matter of the amendments, and since both substantive arguments on whether or not to adopt the amendments have been made, would it be in order to request the Chair to put the question of the amendment?

Mr. Speaker: Very well. I suppose it is the right time to do so, then we can go to the main Report. I do straight away accede to that request and I will put the question of the amendment.

*(Question of the first part of the amendment,
that the words to be left out be left out,
put and agreed to)*

*(Question of the second part of the amendment,
that the words to be inserted in place thereof
be inserted, proposed)*

*(Question of the second part of the amendment,
that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Question of the Motion as amended proposed)

The Motion as amended will read:

"THAT, this House adopts the Sixth Report of the Public Investments Committee on the Accounts of State Corporations laid on the Table of the House on Tuesday, 7th May, 1996 subject to the following amendments:

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

The Minister for Information and Broadcasting (Mr. Makau): Mr. Speaker, Sir, earlier on, I had said that the Standing Order No. 148 talks about the functions of the PIC. I had mentioned that during the deliberations of the PIC, it is advisable that those who are Members of that Committee should not use whatever information they get from the people they interview and from the materials they examine, to convene Press conferences to inform the public because the Standing Orders do not allow them to disclose what they have found out until the time the Report is tabled in the House. The Public Corporations and the managers of those Corporations are supposed to use prudent management practices and they are supposed to operate those Corporations as business enterprises that are commercial. In view of that, we should call upon those who man

those Corporations to make sure that they are run well. Those who have been given the responsibility as Members of the PIC should do their work without witch-hunting. When they are examining the accounts of any Corporation, they should bear in mind that those who are working there are expected to be transparent and accountable in their practices to the public and they are supposed to use the management principles that will bring profit to that Corporation. When examining the accounts and how those Corporations are being run, they should do so without bias. If a given Corporation is run by somebody whom one does not like politically or in whatever way, they should not try to malign that person just for the sake of it. When the reports come out, and it is very important that this amendment has been adopted by the House and accepted that Parliament, as a supreme body in this country, has the powers of having this Select Committee which looks and examines the operations of State Corporations. After examining the accounts of those Corporations and finding out that some of the methods used are not prudent as far as the management of the Corporation is concerned or if there malpractices---

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Probably due to the fact that the hon. Minister has been out of this House for some time, he is talking about public companies. Public Investments and Public Accounts Committees do not look at companies. We examine the accounts of the Government Ministries and State Corporations. Is he in order to talk of companies? We do not examine companies' accounts.

The Minister for Information and Broadcasting (Mr. Makau): The hon. Member claims to be the oldest here and is a master of the Standing Orders. I wish to remind him that: Standing Order No.148 (c) states clearly that one function of the Public Investments Committee is to examine whether those who are running the State Corporations are using prudent management principles or whether they are running the Corporations in a commercially viable manner, that is transparent and accountable. They should not be people who are going to be accused of stealing money from those Corporations.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Is this word "companies" a correct terminology? We examine State Corporations and we have got the Auditor-General (Corporations) who audits State Corporations and Government accounts. We do not talk of companies. These are State Corporations.

The Minister for Information and Broadcasting (Mr. Makau): I have said where we have public investment enterprises. I have omitted using the word companies. So, when those people who are running those Corporations mismanage the funds of that Corporation like the case of Nzoia Sugar Company where it was found that those who were running that Corporation have made the Corporation collapse, and the Members of the PIC have found that there were those malpractices - after they had written their report, that was the end of their work. The other arm of the Government takes over and using the existing laws, they should prosecute them. The Sixth Parliament amended the Corruption Act so that those who are caught in corrupt dealings and, especially, if they are running State Corporations can be jailed for 14 years. That was the amendment that was done by the Sixth Parliament. Now that we have said that, the Attorney-General and those others concerned with investigation can investigate those who have been named and if there is any criminal evidence, these people can be taken to court. This is a role that has moved to another arm of the Government so that action can be taken. A Select Committee cannot take the role of another arm of the Government.

Another area which I would like to caution regarding the PIC Report and examination by those who are Members of the PIC Committee, is that of witch-hunting. When we are contributing to the Report, we should try as much as possible not to come and settle scores here by thinking in terms of various people one might not want politically or in whatever way and start maligning them on the Floor of this House because they cannot defend themselves here.

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

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Ahsante sana, Bw. Naibu Spika wa Muda. Yangu ni kuunga mkono mabadiliko yaliyotolewa. Lakini kazi ya Wabunge 11 waliopewa hii nafasi na Wabunge 200 ili kuchunguza namna pesa za Serikali zinavyotumika, ni kazi nzuri kwa sababu kila mmoja katika Kenya ajue kwamba akifanya mambo mabaya yatajulikana baadaye. Kati ya Wabunge walioko hapa, mhe. Shikuku ni mmoja ambaye amekuwa hapa kwa miaka mingi. Yale yalikuwa katika Ripoti ya Kamati hiyo ikifanya kazi ya kuchunguza yale yaliyokuwako zamani, yalikuwa mara 100 kushinda ya sasa. Tena, kama ilikuwa kwamba watu wanafungwa, hata wengine katika pande zote mbili za Bunge hili hawangekuwa hapa. Lakini, kwa sababu tunawaambia watu kwamba Serikali ya Kenya ni ya Wakenya, na ukifanya kitendo lazima kionekane. Hawa Wabunge 11 wamefanya wajibu wao, uchunguzi wamefanya na wakaleta Ripoti vile pesa zilivyotumika, lakini sisi ndiyo wenye sauti. Sisi tuliowatuma kufanya hiyo kazi ndiyo wenye sauti ya kutoa amri gani itafwatwa; kama hawa watu wateswe, wauliwe au wafungwe. Baada ya kufanya uchunguzi, Ripoti wameleta, lakini hawa watu 11 wote si Majaji, hawawezi kuhukumu, waliambiwa kuenda kuchunguza uchafu gani uko.

Bw. Naibu Spika wa Muda, nilifikiria pia, wakati mwingine tuunde kamati ya kuchunguza Serikali inafanya nini ili tuwe na mizani. Yale mabaya na mazuri ambayo Serikali ya Kenya inafanya na ya KANU yachunguzwe, yapi mazito na yapi mepesi, halafu watu waseme zaidi. Maana yake tukilinganisha Serikali za majirani wetu kwingineko, tukisikiliza ripoti kwenye redio na kusoma kwenye magazeti, ni afadhali tuwe na mizani ya kuangalia yale yaliyofanywa vizuri na yale yaliyoharibiwa. Siyo miaka nenda miaka rudi, kutoka Serikali ya hayati Mzee Jomo Kenyatta mpaka Serikali hii, ni mabaya tu. Hakuna hata kitu kimoja kizuri kilichofanywa.

Kwa hivyo, mimi ninafurahia matamshi ya Prof. Anyang'-Nyong'o, mwenzangu kulingana na alivyosema kutoka rohani mwake. Prof. Anyang'-Nyong'o hana roho chafu na hana nia mbaya na mtu yeyote wa kabila lolote. Mtu kama Prof. Anyang'-Nyong'o na Bw. Shikuku ni watu ambao hawana ukabila, au kusema huyu afungwe na huyu awachwe, walisema kila mtu atangazwe. Na mimi ninasema Mungu awabiriki tupate Wabunge kama hawa na viongozi kama hawa katika Kenya.

Lakini ilipofika kwenye mabadiliko---wanajua, ni watu waliosoma, siyo kama mimi niliyefika kidato cha nne tu. Wao walifika Chuo Kikuu, na wanajua kwamba hapa kweli mambo fulani yalitendeka na lazima tuyatengeneze na wakasema wamekubaliana kutengeneza. Hii ndiyo ninataka watu wa ulimwengu wapate kujua.

Wale wanaofikiri kwamba Kenya itamwaga damu kama Rwanda na Burundi, wasahau kwa sababu sisi tunapendana, na hicho kipawa ni cha Mungu. Tunapendana, na hakuna mtu yeyote anayeweza kuharibu upendo huo. Hata watu gani watie uchochezi gani, watie uchafu gani, hayo yatabakia maneno kama Baniani.

Kwa hivyo, mambo yaliyotokea ni ya sawa. Ninawashukuru kwa kutoa ripoti ya rohani mwao. Pale walipopotea tumekubaliana kwamba lazima turekebishe mambo. Binadamu ni binadamu. Ni mtu dhaifu sana, lakini lazima tujirekebishe. Kama ukifanya makosa inafaa urekebishwe. Ninaishukuru sana Kamati hii---

Mr. Mutere: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the fact that our hon. friend seems to be going slightly astray, and in view of the fact that this matter has already been ventilated thoroughly, would I be in order to ask that the Mover reply?

The Temporary Deputy Speaker (Mr. Wetangula): Bw. Mutere, wacha tumsikilize hon. Nassir kwanza.

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, huyo mhe. Mbunge ni rafiki yangu sana, hata tulikula sima and wali pamoja.

Mambo yangu ninayasema hapa. Ninasema kwamba Kamati hii imetekeleza wajibu wake na waliopotea njia kidogo tumewaelekeza kwenye njia. Pia, tumekubaliana kwamba hicho ndicho kitu kikubwa sana katika Serikali yetu. Mimi nauliza, kwani hakuna siku moja ambapo Kamati hii itaona mazuri yaliyofanywa na Serikali hii? Nitasema tuunde kamati moja ambayo itachunguza maendeleo ya Serikali ya KANU kama vile kuchunguza Harambee ngapi zimefanyika; imejenga maskuli mangapi, na kadhalika. Haya mambo yote tunayafanya na hali sisi hatuna pesa, mafuta wala dhahabu, bali ni kahawa na majani chai peke yake. Kwa hivyo, ninakubaliana na amendment hii.

The Assistant Minister for Finance (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to also contribute on this Motion as amended.

Mr. Kamuyu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order to call upon the Mover to reply? I am certain you will put the question this time.

(Question, that the Mover be now called upon to reply, put and agreed to)

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I rise to reply, but before that, I do not know whether it is in order for me to grant hon. Keah five minutes to say what he was saying.

The Assistant Minister for Finance (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir I want to thank the hon. Member for the five minutes he has given me and I will restrict myself to those five minutes.

First of all, I want to thank this House for the new spirit that has emerged, not only in the way in which the amendment was agreed upon, but also as seen here by hon. Anyang'-Nyong'o granting me five minutes to make a few comments.

One, the PIC deliberates on accounts and report of the Auditor-General (Corporations). My observation is that some of the accounts relate to the 1991/92 and 1992/93 Financial Years. The lesson to be learnt is that all of us should do the best we can to, make sure that these accounts are up-to-date. I, therefore, call upon my colleagues, particularly the accountants wherever they are in the Government departments, in the Ministries and parastatals,

to make sure that they have a professional duty to ensure that the accounts are up-to-date.

Secondly, these accounts have to be audited and I want to call upon all the auditors in this country; those who audit parastatals as well as the Government Ministries, to ensure that the audits are done on time. It is incumbent upon us, accountants, as professionals, to see to it, whether we are in practice as auditors or working as chief accountants or finance managers, that we ensure that we have produced the accounts timely.

It is really a shame that in 1996, the Committee is forced to look at the accounts of the 1991/92 financial year. That means, come the year 2000, we will be looking at the accounts of the 1995/96 financial year, and the recommendations will still be the same. This is totally unacceptable and I call upon the professionals to live up to their profession.

Mr. Temporary Deputy Speaker, Sir, we are just going through a learning process. Let me add here that Kenyans should take note that Parliament is very serious. Not only will these people now be prosecuted, but they also stand a chance of being banished from holding any public office for life, if convicted.

Mr. Temporary Deputy Speaker, Sir, this is the point that I must emphasise to all Kenyans, to take note of the serious aspect that this Parliament has taken on this matter. This must not be belittled in anyway and everyone should be wary, careful and take note of the fact that any mismanagement; any corruptive practice, fraud and so on, will be dealt with the severity that it really deserves. This includes, also, being banished for life from holding any public office.

Mr. Temporary Deputy Speaker, Sir, I am happy that the Committee has done a commendable job and the recommendations that have been made should be executed to the letter. I want to urge all those responsible, or entrusted with the responsibility of executing the recommendations, to take due cognisance of the seriousness that Parliament takes of these recommendations. It is our duty here to pass laws and make recommendations as we have done, and it is the responsibility of others, the Executive, to take the necessary actions that have been recommended here.

The Temporary Deputy Speaker (Mr. Wetangula): Your five minutes are over!

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I want to thank you for reminding me that the five minutes are over. Indeed, I want to thank hon. Prof. Anyang'-Nyong'o for giving me those five minutes, and also thank the House for the new spirit that has emerged out of this.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support the Motion as amended.

Prof. Anyang'-Nyong'o: Thank you very much, hon. Keah.

Mr. Temporary Deputy Speaker, Sir, I would like to thank all the hon. Members who have contributed to this Motion. I would also like to thank the hon. Minister for Finance for having engaged us in a discussion over the amendment.

Mr. Temporary Deputy Speaker, Sir, but to emphasise, the amendments must take into account the seriousness with which the Opposition takes the looting of public resources. The opposite side should realise that the words of hon. Shikuku yesterday and today, regarding the responsibility that the Government has to the people to ensure that the resources are used in the interest of the public, will remain ringing in the ears of hon. Members of this House till we leave.

Mr. Temporary Deputy Speaker, Sir, I would like to remind this House that in law, there is what is called equitable remedy of tracing. That is, if somebody has misappropriated public resources, and he is, indeed, convicted in a court of law for fraud, the prosecution itself is not enough, nor is the imprisonment enough. The Government should make a civil suit against the person, so as to ensure that what he or she stole from the public is completely recovered from his or her assets, or anything he or she owns on this earth. So, being found guilty itself is not enough. You must, under equitable remedy of tracing, be made to pay back to the public coffers, what you have stolen.

I would like to remind the Government that there is no statute of limitation on this issue; that this Report commands the Attorney-General to take prosecution against these people and subsequently, to institute civil proceedings against them under equitable remedy of tracing, so that they finally pay back what they have stolen from the public. I think this is the essence of what hon. Shikuku was telling this House. There is no time in the life of this Parliament, or the future Parliament, that any hon. Member who has sat on this side of the House and has served in this Committee or Parliament, will forget that.

Secondly, I read our proceedings from the HANSARD. I did draw the attention of the House to the fact that the National Assembly Powers and Privileges Act, Cap. 6 of the Laws of Kenya, Section 18 (3) does state that:

An individual is not expected to refuse to give evidence to the Committee except when they are given permission by the President.

You cannot refuse to give evidence to the Committee except with permission from the President.

Mr. Temporary Deputy Speaker, Sir, in the case of National Social Security Fund (NSSF), it is quite clear

from the HANSARD - and we did discuss this thing with the "Big Five"; we laid this evidence before them that Mr. Gachanja, the Commissioner of Lands, and Mr. Sang, the Permanent Secretary in the Ministry of Lands and Settlement, deliberately tried to refuse to give evidence before the Committee. There is evidence to that effect in the HANSARD, and we discussed these things with the "Big Five".

I would like the Leader of Government Business and the Attorney-General to take this very seriously. Otherwise, there is no reason why we should have the National Assembly Powers and Privileges Act. It is the authority of this Parliament which was put in question. This is because the two committees of Parliament, the Public Investments Committee (PIC) and the Public Accounts Committee (PAC) exercise the supremacy of this Parliament when they call upon people to give evidence before them, so that the two committees can come before this Parliament, having thoroughly investigated and discussed this evidence. When it is very clear that people have stalled and deliberately tried to refuse, or even refused to give evidence to these committees, then the Government must invoke the National Assembly Powers and Privileges Act, so that the supremacy of Parliament is maintained. This will help civil servants to know who is looking after the taxpayers, money, and who is voted into this National Assembly to represent the people in being guardians to the public assets of our land.

Mr. Temporary Deputy Speaker, Sir, the third issue that I want to revisit is the issue of privatisation. We know that at this point in the history of Kenya, privatisation is the most important policy weapon, by which the Government can cut down on both public expenditure and public borrowing, improve domestic savings, attract investments in the economy and improve economic growth. Those are the five most important objectives of privatisation. We do not privatise to steal from Paul to pay Peter, or from Kamau to pay Njoroge. We privatise to introduce efficiency and good performance in our economy, so as to achieve those five objectives that I have mentioned. But if privatisation is going to mean removing monopoly from the public sector and giving that monopoly to certain individuals, using their positions in the State or in politics, then privatisation is not going to achieve its objectives. One of the things that the Public Investments Committee observed was that the Executive Secretariat and Technical Unit of the Parastatal Reform Programme Committee (PRPC) was poorly constituted and is not effectively fulfilling the mission of privatisation that the National Assembly is looking for. This is why we have asked the Government to bring to this House a Bill to be debated by this House so that the privatisation process can continue and achieve those objectives that the Committee has identified.

Mr. Temporary Deputy Speaker, Sir, at the moment we are trying to restructure the Kenya Railways Corporation and the Kenya Posts and Telecommunications Corporation. The Government is having problems in restructuring those corporations so as to prepare them for privatisation precisely because there are no clear guidelines that this National Assembly has given the Government to privatise in general and to restructure these two important Corporations in our economy. It should be realised that the Kenya Posts and Telecommunications Corporation and Kenya Railways Corporations control about 67 per cent of the wealth of this economy. In terms of land assets, KPTC and Kenya Railways are the biggest land owners in this country. In terms of real estate ownership, the two are the biggest. If we begin privatising the assets of these two corporations with the proper guidelines from this National Assembly, then we are setting up a scene of conflict in the future in this nation.

Mr. Temporary Deputy Speaker, Sir, I have the evidence of a whole file that I have compiled regarding the Kenya Railways Corporation. First, as we are speaking today, the Board of Directors of Kenya Railways Corporation is being chaired by the Permanent Secretary because the management of the Kenya Railways Corporation has let down this Government tremendously. As we are speaking now, Kshs700 million that was allocated for payment of retired workers of the Kenya Railways Corporation under the 'golden handshake' is in doubt as to how it has been used. For the last two months, the Kenya Railways Corporation's workers have gone without pay.

At the moment, there are hundreds of those who have retired under the early retirement scheme and the 'golden handshake' who have not got their dues. This is why we are saying that the privatisation programme should first of all be debated in this House so that this House gives the Government advice on how to do these things; otherwise, many, many Kenyans who are bread-winners for their families are going to be thrown out of their jobs and this Government is going to assume that they have been paid while they are not paid and are suffering in the streets. That means that people are not earning incomes; they are not participating in our economy, and that is, indeed, one of the sources of economic backwardness in this economy.

Mr. Temporary Deputy Speaker, Sir, as we speak, 200 wagons have been given to some Asian traders without paying anything to the Kenya Railways Corporation. Now, the mess in that Corporation is precisely as a result of--

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know whether I should believe my ears or not, but I think you heard what the Professor said, that over 210 wagons have been given to Asians who have paid nothing for them. I cannot believe it. Could he, as a matter of fact, substantiate, and is there

no Minister who can challenge him to substantiate his claim? How come they are sitting here waiting only to vote? It is a very serious statement.

The Temporary Deputy Speaker (Mr. Wetangula): So, hon. Shikuku, what do you want?

Mr. Shikuku: Mr. Temporary Deputy Speaker, Sir, that is a very serious allegation which I expect the Professor to substantiate and, above all, I am surprised that the Government side is sitting quiet and not challenging him.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, some of what I have said has appeared in both the local and the international Press and there is documentary evidence to that effect. I would like the Minister for Transport and Communications to come here with a Ministerial Statement to clear this anomaly.

Mr. Gatabaki: On a point of information, Mr. Temporary Speaker, Sir. One minute ago, when hon. Shikuku asked from the other side to raise a finger, hon. Dalmas Otieno, who was the Minister responsible for that mess, walked out of this House. It should be noted that hon. Dalmas Otieno is responsible for the mess at Kenya Railways Corporation because he walked out of this House.

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Gatabaki. Hon. Gatabaki, you have been here for a fairly long time and I am sure you know Standing Order No. 73 (3). If you want to discuss the mess of hon. Otieno, you are quite at liberty to bring a substantive Motion and discuss him.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, let me just request the hon. Members to allow me time since this is the last time I am speaking on this Report.

The Temporary Deputy Speaker (Mr. Wetangula) You are the one allowing them time to misinform you.

Prof. Anyang'-Nyong'o: Okay, I will not allow them to misinform me, Mr. Temporary Deputy Speaker, Sir.

One other thing I wanted to say is that again, in the privatisation, the East African Fine Spinners is one of those companies that was privatised. To this very day, the workers who were working for the East African Fine Spinners have not been paid their dues. These are 200 workers and the Committee received so much evidence regarding some of these injustices in the privatisation process. I would like the Government to pay particular attention to those recommendations so that the privatisation exercise can be put on a firm footing in law, so that we can debate it in this House and look at all aspects. This is because the two corporations which will be re-structured and then privatised, that, is the Kenya Railways Corporation and Kenya Posts and Telecommunications Corporation, are so important to this country that we should not allow anybody, be it the World Bank or the IMF and so on, to dictate to our Government how this is done. It is this National Assembly which has the sovereign right to do that.

Mr. Temporary Deputy Speaker, Sir, the other issue that I wanted to talk about is that we have said in this Report that one of the biggest problems in the running of public corporations is the question of procurement and tendering procedures. On page xxxiv, under the Executive Summary; that is, Procurement and Tendering Procedures, it is written that:

"The Committee observed with concern and deplored the manner in which certain State Corporations either procure goods and services or disposed off goods in total disregard of the laid-down procurement procedures. The Committee was informed that it takes time to discover the laid-down procurement procedures and financial regulations have not been adhered to while awarding tenders and contracts. The Committee was further informed that the Inspectorate of State Corporations has been strengthened to prevent financial mismanagement by the Chief Executives of State Corporations. The Committee recommends that legal action should be taken against the culprits. The Committee further recommends that the job market should be liberalised in order to ensure efficiency in the management of State Corporations."

It takes the Auditor-General (Corporations) to find out that Government procedures have been violated. The Auditor-General (Corporations) does this thing after the events. We would like the Government, through the Inspectorate of State Corporations, to be more vigilant in ensuring that procurement procedures and tendering procedures are properly followed. For example, recently, SONY Sugar Mills, the South Nyanza Sugar Company which is owned by the Government, was involved in a process of modernization and it was looking for tenders for electrical and instrumentation work, and also for mechanical work. Under Government regulations, this should have been open tendering. And under procurement regulations, the Corporation should have been in a position to get the lowest and most effective tender.

As it happened, a company called H. Young, has been given both electrical and instrumentation supply without open tendering. The same company has also been given the mechanical aspect of it. The Government

stands to lose a lot of money in SONY because if I read you the figures, you will find out that H. Young was the highest bidder, and it was the one which was given the tender whereas there are other companies which should have been given the tender but were not. These are some of the irregularities we are observing.

Mr. Temporary Deputy Speaker, Sir, I will lay this document here on the Table, so that the details of the other companies which were not given the tender can be known to this House. But let me emphasise that H. Young has "nyakuad" a tender in SONY without open tendering as the law required, and that the Government stands to lose close to Kshs120 million if this thing is allowed to go on.

An. hon. Member: Who is the owner?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I have not looked into the registry of companies to know who the owner is, but I am sure the Fourth Estate, which is the Press, will definitely find out and let the public know. But those sitting opposite me would know who the owner of H. Young is.

Mr. Temporary Deputy Speaker, Sir, I hope that by making this information available to the House, the Government will realise that we, in the Opposition, are trying to do our best to ensure that public assets are looked after properly. The Government will realise that when we deliberated in the Public Investments Committee, we were---

The Assistant Minister for Finance (Mr. Keah): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order that the hon. Gatabaki should stand simultaneously with the hon. Prof. Anyang'-Nyong'o?

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Gatabaki, it is out of order to walk to your colleague who is on the Floor and whisper to him. If you have anything, you stand on a point of order.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I apologise. In conclusion, Parliament must not seek scapegoats for past failures in State Corporations. Parliament must read the report and find out what the State Corporations Act says and who should bear responsibility. That is two people; the Chief Executives of these parastatals and the Boards of Directors. That is what the State Corporations Act says. Unless the Chief Executives and the Boards can explain to the Public Investments Committee which other people are responsible for mismanagement of these Corporations, Parliament, according to the State Corporations Act, must hold the Chief Executives and the Boards responsible.

Mr. Temporary Deputy Speaker, Sir, confidence in the institution of Parliament must be restored and sustained when the reports of the Public Investments and Public Accounts Committees are approved by this House.

When these reports are approved, the public must have confidence in this Parliament through the implementation of those reports. When the Treasury submits its memorandum, after the reports have been approved by this House, the implementation rate of the recommendations should, at least, be 80 per cent. At the moment, the implementation rate of our recommendations is just about 50 per cent. This is not good enough to inspire public confidence in this august House.

Fourthly, the confidence and good will of investors, both domestic and foreign, must be improved by this House, by ensuring that the Government of the Republic of Kenya runs its affairs transparently and accountably, and that public corporations are run without corruption and mismanagement. Unless this is done, we are not going to inspire confidence in domestic and foreign investors alike.

I do not want this Government, or the public in Kenya, to have the mentality that we want to please donors. Donors are not the prime movers of this economy. This economy is moved by domestic and foreign investors. The first investor in this economy is the farmer, and the second one is the business person. These two people cannot invest unless the working class in this economy have confidence in it. It is the worker who produces wealth. It is the sweat of the worker from which national wealth is created. Unless this Government can improve conditions for the working class in this economy, there will not be economic growth. I, therefore, insist that the one most important institution in improving the conditions of the working class in this economy is the National Social Security Fund (NSSF). The NSSF has the money of the workers which is to be used for their retirement and investment in social welfare, particularly in housing and social services.

Finally, I would like to draw the attention of the Minister for Finance to the fact that we, in the Committee, have for three years resolved in our reports that the remuneration of the staff of the Clerk of the National Assembly who work for both the Public Investments and Public Accounts Committees should be improved. For three years running, this recommendation has been ignored while it has been implemented in the case of the workers who come to service the Committees from the Treasury and the Office of the Secretary for Public Investments and so on. Why is it that the National Assembly employees are being ignored when the recommendations of these reports have been approved by this House?

With those words, I beg to move.

*(Question of the Motion as amended
put and agreed to)*

Resolved Accordingly:

THAT, this House adopts the Sixth Report of the Public Investments Committee on the Accounts of State Corporations laid on the Table of the House on Tuesday, May 7, 1996, subject to the following amendments:-

(i) by deleting the following words:

"banished from holding any public office in the Republic of Kenya", (page 67);

"banned from holding public office", (page 74);

"banned from holding a public office", (page 123);

"banned from holding any public office in the Republic of Kenya", (page 231);

"banned from holding public office (page 237);

"banned from holding public office in Kenya", (pages 238, 261 and 264);

(ii) and inserting in places thereof the following words:

"investigated and where ample evidence is available

the Attorney-General should then follow up with prosecution in court and if consequently found guilty of the offences, be considered unfit to hold public office".

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Wetangula): Order! Hon. Members, it is now time for us to interrupt today's business. The House, therefore, now stands adjourned until Tuesday, 10th December, 1996, at 2.30 p.m.

The House rose at 6.30 p.m.