

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 14th November, 1996

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of Catering Levy Trustees for the year ended 30th June, 1995 and the Certificate thereon by the Auditor-General (Corporations)

Annual Report and Accounts of Utalii Investments for the year ended 30th June, 1995 and the Certificate thereon by the Auditor-General (Corporations)

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

Annual Report and Accounts of Kenya Safari Lodges and Hotels Ltd for the year ended 30th June, 1993 and the Certificate thereon by the Auditor-General (Corporations)

Annual Report and Accounts of Kenya Safari Lodges and Hotels Ltd for the year ended 30th June, 1994 and the Certificate thereon by the Auditor-General (Corporations)

(By the Assistant Minister for Tourism and Wildlife (Mr. Kisiero) on behalf of the Minister for Tourism and Wildlife)

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

(By the Assistant Minister for Tourism and Wildlife (Mr. Kisiero) on behalf of the Minister for Transport and Communications)

NOTICES OF MOTIONS

REHABILITATION CENTRES FOR THE HOMELESS

Mr. Obure: Mr. Speaker, Sir, I beg to give notice of the following Motions:-

THAT, in view of too much vagrancy in our towns, noting the need for the Government to protect and provide for its citizens and aware that there is an ever increasing number of street children in our towns; this House urges the Government to urgently provide funds to built rehabilitation centres for the homeless until such a time when a lasting solution to this problem is found.

CONSTRUCTION OF RAILWAY LINE

THAT, recognising the economic potentiality of cane in Kisii and Nyamira District, noting the huge economic losses incurred by farmers due to high costs in road transport and aware that farm produce e.g. coffee, pyrethrum, sugarcane, bananas, maize, beans and fruits from the area contributes significantly in earning the much needed foreign exchange for the country; this

House urges the Government to secure funds to construct a railway line connecting Kijabe-Narok-Bomet-Sotik-Kisii-Homa Bay town.

Mr. Nyagah: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

ATTRACTIVE TERMS FOR CIVIL SERVANTS

THAT, in view of the fact that the Public Service glory has waned and morale of its employees extinguished beyond redemption when the Government banned the Kenya Civil Service Union; the

only voice on public workers grievances, this House urges the Government, in the spirit of being mindful of other's welfare, to restore the dwindling morale and glory by effecting the following with immediate effect:

- (i) Lift the ban on the Kenya Civil Service Union.
- (ii) Pay competitive salaries and benefits commensurate with the tasks.
- (iii) Provide medical and general insurance cover against foreseeable and unforeseeable occupational risks.
- (iv) Provide decent and habitable shelter and affordable mortgage to potential home owners.
- (vi) Provide transport to and from work to junior category civil servants and,
- (vii) Subsidise education for the children of such dedicated employees in the face of economic hardships.

ORAL ANSWERS TO QUESTIONS

Question No. 1117

DEATH OF MR. NG'ANG'A GACHANJA

Mr. Speaker: Mr. Gitau is not here? Next Question.

Question No. 979

UPGRADING OF MR. OPICHO

Mr. Kapten, asked the Minister for Education:-

- (a) why the Kenya National Examinations Council failed to release the examination results of Mr. Titim Juma Opicho, Index No.P2A 54287020 (TSC No. 192258) who did his in-service course at Chewoyet Centre in West Pokot during the years 1987/90; and,
- (b) why the Teachers Service Commission continues paying Mr. Opicho as an Untrained Teacher even after he completed his In-service Teacher Training Course.

The Assistant Minister for Education (Mrs. Ndeti): Mr. Speaker, Sir, I beg to reply.

(a) The in-service results for Mr. Titim Juma Opicho were not released by KNEC because he did not furnish the Council with his academic qualifications for a P2 course. Information furnished to the Council by the candidate indicates that the candidate sat for his EACE Examination in 1979 under Index No. 5051/037. When this information was verified with the Council's records, it was found out that it was not genuine.

(b) The Council is still waiting for the candidate to forward photocopies of his EACE certificate and if they match with the records of the Council, his results will be released and his salary adjusted by the Teachers Service Commission immediately.

Mr. Kapten: Mr. Speaker, Sir, it has taken about six years since this teacher was in-serviced. Why has the Council not tried to contact the teacher to get this information that the Assistant Minister is talking about?

Mrs. Ndeti: Mr. Speaker, Sir, it is incumbent upon the candidate, if he does not get what he has requested for within a certain period of time, to - write back and say that he has not received anything or whatever information he has and then the Council will tell him what is wrong with the information he has furnished.

Mr. Kapten: Mr. Speaker, Sir, the Assistant Minister is misleading the House. The teacher has written to the Council more than six letters and none of these letters have been acknowledged. Could the Assistant Minister go back and request the Council to furnish the Ministry with the letters which this teacher wrote because all the information she is talking about, the Council has already received it from the candidate?

Mrs. Ndetei: Mr. Speaker, Sir, I would be grateful if the hon. Member would perhaps give me copies of this correspondence and I will personally pursue it with KNEC. But if this particular candidate is giving the same index number, then this is a forged number. He is not a genuine candidate. That is what I am trying to say.

Mr. Nthenge: Mr. Speaker, Sir, does the Assistant Minister realise that there are a lot of people now in the civil service who do not want to do their work and when such a question is asked, they just give useless information to Ministers? Unless the Ministers reject them, they can mislead the Minister to mislead the House.

Mrs. Ndetei: Mr. Speaker, Sir, I do not think so. I think civil servants are still working and the information I have given here is the genuine information available in the Council records. But if these correspondence letters are made available to the Ministry through me, I will ensure I follow it up and give a feed back immediately. It is not a big problem.

Question No.842

NON-PAYMENT OF DUTY

Dr. Kituyi asked the Minister for Finance:-

(a) why the Financial Secretary authorised the release of 55,000 MT of cereal and 14,000 MT of sugar imported by M/s Jusan Limited without payment of duty, thus denying the State variable duty and tax amounting to Kshs1.015 million on 27th September, 1994; and,

(b) if the Minister could table copies of an appropriate legal notice authorising the waiver of duty and tax; the name and certificate of registration of the relief organization that purported to have authorized the importation for free distribution and its application for remission of duty and a letter of donation from the relief organization for the said imports.

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

(a) The Exemption from the Customs Duty, Excise Duty and VAT was granted to Jusan Limited on the recommendations from the Minister for Agriculture, Livestock Development and Marketing, on the basis that the foodstuff was for free distribution to Somali refugees in Kenya. The authority was given under specific conditions, that the inventor of the commodity shall not be used for free distribution of relief work, and that, appropriate duty shall become due and payable.

(b) The goods were imported by M/s Jusan Limited on behalf of the Italian Corporation for Somalia Emergency Project.

(c) Under Section 138, 2(c) of the Customs and Excise Act, the law provides that any authority granted for the duty remission, be gazetted within 90 days from the date of issue. If the legal notice is not published within this period, then the authority automatically expires without affecting the legality of any transaction effected within the 90 days. A similar provision exists under Section 23 of the VAT Act. If the goods were released within 90 days, this was proper and lawful.

(d) The Kenya Revenue Authority Customs and Excise Department has been instructed to carry out a comprehensive audit of any dutiable goods imported by this Company within the 90 days when the authority was valid in consultation with the Minister of Home Affairs and National Heritage under which the refugee portfolio falls. If it is established that any of these commodities did not reach the refugee camp, all duties, taxes plus penalties shall become due and payable as provided in the letter of exemption.

Dr. Kituyi: Mr. Speaker, Sir, I am glad that the Assistant Minister is concurring with me that there are certain procedures that have to be followed when a company is importing goods purporting to be gifts to be given for free. My Question is very specific; not asking the Assistant Minister what procedures are followed, which he is agreeing with me. I wanted him to Table here an appropriate legal notice authorising the waiver of duty and tax. There is no provision that if it is less than 90 days, you do not have a published duty waiver.

Can the Assistant Minister now Table documents to prove that M/s Jusan Enterprises was bringing goods that were being donated for free through this NGO to refugees and secondly, certificate of registration of the relief agency as I asked, which purported to authorise. Because, the Government wrote to M/s Jusan after the act, to ask them to look for legitimization of what they were doing illegally. Up to now, there has not been any publication of any notice.

Mr. Speaker: You are now debating.

Dr. Kituyi: Now, could he table the documents as requested in part (b) of the Question?

Mr. Koech: Mr. Speaker, Sir, if the hon. Member does not have some documents which show that this is legal, I will lay this on the Table.

(Mr. Koech laid the document on the Table)

But, Mr. Speaker, Sir, as I said before, if---

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. Are we not entitled to know from the Assistant Minister what exactly he is laying on the Table? He could be tabling blank papers.

Mr. Speaker: Order! He is laying it on the Table so that you can know what it is. Proceed, Assistant Minister!

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. I have requested for specific documents. Let the hon. Assistant Minister say: I am now tabling No.1, a legal notice authorising the waiver; No.2, a certificate of registration of the NGO and No.3, evidence of the goods reaching the beneficiaries as a gift. Let him not just say, I am tabling some documents.

Mr. Koech: Mr. Speaker, Sir, the information which I have is that, this particular organization has been assisting the Somali refugees at the Port not only for this particular project but [**Mr. Koech**] also for others.

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

Mr. Speaker: Rejected! Proceed!

Mr. Koech: Mr. Speaker, Sir, what I was saying came up very clearly in the answer to the Question I gave to the hon. Member. As to the question of a legal notice, I have stated very well that, if the goods are taken within 90 days, it is valid even without the gazette and this is shown very well in the section of the law which I have read.

Mr. Nyagah: Mr. Speaker, Sir, I am sure you agree with us that we as it were; privileged people who sit on this side of the House are being taken for a ride by the front bench on that side of the House. It is specific and very clear that certain documents are required to be laid on the Table of this House. Now that the Speaker and his Committee have approved this Question, can the Assistant Minister be ordered to meet the requirements so that we can ask other questions once the document has been tabled? Otherwise, he shall be named.

Mr. Koech: Mr. Speaker, Sir, the question asked is, the name of the organization, which I have named. I have also said that this organization has been dealing with relief work in that part of the world for a long time and it is known.

Mr. Wamae: Mr. Speaker, Sir, I think the hon. Assistant Minister is not serious. This issue is very clear. We want the hon. Assistant Minister to table these documents and instead of tabling the documents, he is going round and round, because he is aware that there is a veto in this issue. We would like to have copies laid on the Table. If he does not have anything, let him say so.

(Mr. Koech pulls away the laid document from Dr. Kituyi)

Mr. Koech: I think you do not need this one.

Now, Mr. Speaker, Sir, I do not want---

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Is it in order for an Assistant Minister of Government to purport to be tabling a document and when we want to peruse it, he retrieves it from the Table?

Mr. Speaker: Order! I am afraid, Mr. Koech. Once you have tabled a document, it ceases to be yours. It becomes property of the House.

Mr. Koech: But, Mr. Speaker, Sir, whilst I tabled this document, it appears that the hon. Member does not want this particular document; it is on the Table.

Mr. Farah: Mr. Speaker, Sir, all the Somali refugee camps are now situated in my constituency, Lagdera and the distribution of food to refugees comes under the UNHCR. Can this Assistant Minister tell us that UNHCR will confirm that actually this food was indeed distributed to the Somali refugees?

Hon. Members: Confirm!

Mr. Koech: Mr. Speaker, Sir, as I have said before, an audit team has been formed to look into this particular issue in detail, and if it is proved that there was any fishy deal, then appropriate action will be taken.

Dr. Kituyi: Mr. Speaker, Sir, I am glad that the hon. Assistant Minister has now told the House that he is not sure of what happened and that they are trying to look into the matter. The facts of the case are these: Bawaazir and Sajad are never involved in welfare work, but they are involved in trade. The date I have mentioned in the Question, is the date when they notified the authorities that they had imported goods and were

trying to dispose them off without paying duty. All attempts *a posterior* can---

Mr. Speaker: You are now debating---

Dr. Kituyi: Mr. Speaker, Sir, it is important for the Chair to understand the substance of the case.

Mr. Speaker: Order! Order, Dr. Kituyi! The Chair, even if it does not understand the substance of the case, will not breach the Standing Orders. It is Question Time! Can you put your question?

Dr. Kituyi: Mr. Speaker, Sir, since the hon. Assistant Minister has said that an investigation is still going on, and, therefore, he does not have sufficient information, can he now undertake to bring to the House among other things, very simple things like what I requested: the certificate of registration of the relief organisation; two, the Legal Notice exempting M/S Jusan from duty, and evidence that the consignment I have referred to has been distributed to the refugees he is purporting to have distributed to, because he brought an irrelevant document here?

Mr. Koech: Mr. Speaker, Sir, you can see that hon. Dr. Kituyi needs a lot of tutorial in this House. I have said some of these things for a long time, and I have given him sufficient answer. We are also very concerned in the Ministry, and if this food did not reach the refugees, then appropriate action will be taken. I do not know what else the hon. Member wants from me.

Mr. Farah: On a point of order, Mr. Speaker, Sir. This House is entitled to know what happened. Can the Assistant Minister carry out investigations and come back to the House, and tell us when he will tell us what happened?

Mr. Koech: But, Mr. Speaker, Sir, I was saying that quite a good number of hon. Members need some tutorials. When it is said that appropriate action will be taken, it means that when the answer comes, then it is obvious that it will come to the House.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to continue talking about appropriate action when we are specifically asking that he comes back prepared to answer part "b" of the Question? Can he tell us when he will answer that Question before the House? We are not caring about what he purports to do outside the House.

Mr. Koech: Mr. Speaker, Sir, I have answered the Question, and at the same time, I have said that some audit work is going on, and if there was any problem, then we shall take appropriate action. The hon. Member said that the House is entitled to the information, and I said, "you cannot ask the obvious".

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

Mr. Speaker: Next Question, Mr. Njoka Mutani.

Question No.1095

BROADENING OF NHIF

Mr. Mutani asked the Minister for Health:-

- (a) if he is aware that the National Health Insurance Fund (NHIF) meets only the bed charges for its members when admitted in hospitals;
- (b) if he is aware that many hospitals are reluctant to include the member's drugs and surgical fees in their (the hospitals) claims to the NHIF due to prolonged delays in remitting payments to the said hospitals; and,
- (c) if he could consider broadening this Fund to include drugs, investigations, medical and surgical services fees in order to be of meaningful use to its members.

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

(a) No, I am not aware that the NHIF meets only the bed charges for its members when they are admitted in hospitals. I am, however, aware that the rebate, that is daily allowance to admitted members in approved NHIF hospitals are inclusive of all medical services provided. The current rebates (daily allowance) meets part of the total bills incurred by members in NHIF approved hospitals.

(b) No, I am not aware of any reluctance to include charges related to drugs, and surgical fees due to prolonged delays in remitting payments to approved hospitals. The claims forwarded to NHIF for reimbursement purposes can be submitted anytime for upto 90 days from the date of admission. Appropriate measures have been taken to process and pay claims within 14 days from the date of admission, and a review is done twice a month to ensure all hospitals are reimbursed timely.

(c) As part of the wider health sector reforms being undertaken by the Government, measures are underway to broaden the services covered specifically by the Fund and which, will include drugs, investigation,

surgical and doctor's fees. The idea is to establish a social health insurance scheme away from the current hospital-based scheme and, in addition, based on the universality of risk-sharing by members. A broad-based representative management board will be introduced. It is envisaged that the Fund would develop improved operational autonomy and efficiency.

Mr. Mutani: Mr. Speaker, Sir, every one of us here is a member of this Fund, and for sure, when one is hospitalised, the Fund meets only the bed charges, but the rest of the charges, like surgical, drugs, investigation and doctor's fees are met by the contributor. Is the Assistant Minister aware that this burdens the contributor who, at the end of the month, is deducted money to this Fund, apart from what we pay to the hospitals?

Mr. Mutiso: Mr. Speaker, Sir, I am not aware of that, and if the hon. Member can provide some evidence to that effect, I will investigate.

Mr. Karenga: Thank you, Mr. Speaker, Sir. I am surprised to hear the Assistant Minister saying that he is not aware that this Fund grossly underpays its members. I personally have personal evidence, because I was involved in an accident. Can the Assistant Minister tell this House, when this Fund will increase the amount payable in terms of compensation to the members?

Mr. Mutiso: Mr. Speaker, Sir, I have just told the House, that arrangements are underway to improve on this Fund and make it more meaningful than it is at the present moment. It is just a matter of time.

Mr. P.N. Ndwiga: On a point of order, Mr. Speaker, Sir. It is common knowledge that the problem with this Fund is that the people who run it do not understand the first thing about insurance. The people who are running this Fund are the politically correct group! Instead of this Fund being used to assist the contributors it is being used---

Mr. Speaker: Mr. Ndwiga, are you debating or asking a question?

Mr. P.N. Ndwiga: Mr. Speaker, Sir, I am building the question. Instead of this fund being used to help its members it is being used to lend money to politically correct banks. This Fund has now lost a lot of money to Heritage Bank. Could the Assistant Minister tell this House when they will consider getting a proper board of directors to manage this Fund, and when they will stop lending contributors' money to politically correct banks?

Mr. Mutiso: Mr. Speaker, Sir, I am not aware of the allegation the hon. Member is making. If he gives us proof, then the matter will be investigated. But I would like to say, as I have just stated here, that we are in the process of re-organising NHIF

Dr. Kituyi: On a point of information, Mr. Speaker, Sir. I thank the Assistant Minister very much, and wish to inform him that NHIF ploughed Kshs800 million into Heritage Bank. Now that he knows that, what is he going to do to retrieve that money?

Mr. Mutiso: Mr. Speaker, Sir, I challenge the hon. Member to produce evidence to support his statement and then I will investigate his claim.

Question No.863

ALLOCATION OF PLOTS IN EMBU MUNICIPALITY

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

- (a) whether he could give a comprehensive list of all plots allocated within Embu Municipality in 1992, 1993 and 1994, indicating their corresponding LR numbers and sizes;
- (b) out of the ones not previously surveyed as at 26.7.94, how many of them, to date, remain unsurveyed; and,
- (c) whether he is fully satisfied that Section 117(1) of the Constitution, regarding Trust Land, was strictly followed in the allocation of the above plots.

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

(a) A total of 38 plots were allocated in Embu Municipality as follows: 1992 - 21 plots; 1993 - 12 plots and in 1994 - 5 plots. I would like to lay on the Table here a comprehensive list of all plots which were allocated during that period in Embu Municipality.

(Hon. Sumbeiywo laid the list on the Table)

(b) All the plots, including the five which were allocated in 1994, have been surveyed and arrangements are under way to document, check and authenticate them, after which land registration (LR) numbers will be

issued.

(c) I am satisfied that Section 117(1) of the Constitution of Kenya, regarding Trust Land, as read together with Section 13(1) of the Trust Land Act, Cap 288 of the laws of Kenya, was followed in the above allocations.

Mr. Nyagah: Mr. Speaker, Sir, I would like to lend you my glasses so that you can see what I will produce. The reason why this Question was brought back to this House is because the Assistant Minister---

Mr. Speaker: Order, Mr. Nyagah! Will you leave the Chair out of all this? I do not need glasses to hear you! Proceed.

Mr. Nyagah: Mr. Speaker, Sir, I know you can hear me. The Question was deferred because the Assistant Minister was unable to give me a correct answer. You rightly deferred this Question and I thank you. I have two answers here, both signed by the Minister for Lands and Settlement, hon. Mulinge. One answer states that plots allocated within the period in question were 673. It states that the allocation was as follows: 1992 - 142 plots; 1993 - 243 plots and 1994 - 288 plots. The other answer states what the Assistant Minister has told me. Which is which? How can I proceed to ask questions? Who, between the Assistant Minister and his Minister, is telling me the truth?

Mr. Sumbeiywo: Mr. Speaker, Sir, it is true that the Question had to be deferred because we wanted to get the correct answer. The first answer that we gave, which is now cancelled by the second answer, is wrong. The correct answer is the one which says that 38 plots were allocated.

Mr. Nyagah: On a point of order, Mr. Speaker, Sir. We want to be clear on this issue and we do not want the House to be misled. The Question was not deferred because they gave a wrong answer: It was deferred because they were incapable of producing a comprehensive list of allocations, as was required by my Question.

Mr. Sumbeiywo: Mr. Speaker, Sir, it is true that we never produced a comprehensive list of the allocations, but now I have produced and laid it on the Table.

Mr. P.N. Ndwiga: Mr. Speaker, Sir, I sympathise with the Assistant Minister, who happens to be my friend. But it is apparent that somebody is misusing him. In 1992 alone, when the councillors were in recess, 162 plots were given out illegally through direct allocations. In 1993, half of Embu Town, where we used to have the market, was given out through the chaplaincy of hon. Munyi. He is the one who has given out land in Embu Town. **[Mr. P. N. Ndwiga]**

Since this list is not comprehensive, could the Assistant Minister go back and get a comprehensive one?

Mr. Sumbeiywo: Mr. Speaker, Sir, if some more plots were allocated after we prepared this answer then I can go back and prepare another list. However, if no plots were allocated after we prepared this answer then there is no need for me go back for more information.

Mr. Nthenge: On a point of order, Mr. Speaker, Sir. Can you save us from this situation? Each of these hon. Members is stating a different thing. Where are we? Hon. Ndwiga says that 162 plots were given out in 1992, but the Assistant Minister is disputing that!

Mr. Sumbeiywo: Mr. Speaker, Sir, hon. Ndwiga's is an allegation, but what I have given is from an official allotment record of plots in Embu Town. So, what I have given is the official position.

Mr. Nyagah: Mr. Speaker, Sir, in the last part of his reply the Assistant Minister has told me that they have adhered to the law governing Trust land. The whole of Embu Town is Trust Land. There are many names and I take one with a lot of exception; that of Bishop Kitonga, He was allocated land by the Commissioner of Lands. I want to make reference to the relevant Act, and for the benefit of this House, I would like to quote it.

Mr. P.N. Ndwiga: On a point of information, Mr. Speaker, Sir. I would like to inform hon. Nyagah that actually the plot that was given to the Bishop is---

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Speaker, Sir. I thought this was Question Time! Is it in order for the hon. Member to inform a Questioner?

Mr. Speaker: Order! This is exactly what I have told hon. Members. I have even told Mr. Ndwiga just a few minutes ago that when it is Question Time he is supposed to seek information by interrogating the Minister on the opposite side. If you refer to Standing Order 35 you will find that it makes it absolutely clear that you cannot use a question as a pretext for debate. So, can we follow the rules?

Mr. P.N. Ndwiga: Mr. Speaker, Sir, can I finish my point of information?

Mr. Speaker: No. I am sorry, you are out of order.

Mr. Nyagah: Mr. Speaker, Sir, I do not intend to read the whole Act. Section 13(2)(b) reads: "The Council shall bring the proposal to set apart the land to the notice of the people concerned and shall inform them of the day and time of the meeting of the Division Board which shall propose to be considered."

Sub-Section 2 (d) continues to say:

"The recommendation of the Division Board shall be considered by the Council and the proposal to set apart the land shall not be taken to have been approved by the Council except by a resolution passed by a majority of all the members of the Council."

My question to the Assistant Minister is: Is he ready to give us this resolution by a full council that set a part of the land in Embu in 1992, 1993 and 1994 to be allocated to people? He should also bear in mind that Section 53 (6) says:

"The Commissioner is only an agent---".

Mr. Speaker: Let him answer your first question because he might forget.

Mr. Sumbeiywo: Mr. Speaker, Sir, Section 53, Cap. 288 provides *inter alia* as follows:

"The Commissioner of Lands shall administer the Trust Land of each council, as the agent of the council and for the purpose, either personally or by a public officer, execute on behalf of the council and such grants, leases, licenses and other documents relating to the Trust Land as may be necessary or expedient."

Mr. Speaker, Sir, the allocation did not violate the Constitution governing the Trust Land Act. The allocations were recommended by the local council, the provisions were complied with as the Ministry effected the allocation.

*(Hon. Nyagah and hon. P.N. Ndwiga
stood up in their places)*

Mr. Speaker: Order! Order, the two of you! It does look like what is in contention is not a question of fact. It is the interpretation of the law. That is outside our province. Any Member who wants to challenge the behaviour of the Commissioner of Lands as to the interpretation of the Constitution can go to court and have a remedy.

Question No.1105

AWARDING OF CONTRACT

Mr. Karan, on behalf of **Mr. Ogeka** asked the Minister for Public Works and Housing:-

(a) whether he is satisfied with the contractors awarded contract to construct Mamboleo/Chemelil/Muhoroni (C34) Road;

(b) if the answer to "a" above is in the affirmative, whether he could name any four such projects the contractors have undertaken in Nyanza Province in the years 1994/95 and 1995/96 and their present condition; and,

(c) if the answer to "a" above is in the negative, whether he could consider terminating their contract and awarding it to a reputable contractor?

Mr. Speaker: Is there anybody from the Ministry of Public Works and Housing? Next Question! Mr. Ojode!

Question No.1123

MURRAMING OF WACHARA-AMOYO ROAD

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

(a) whether he is aware that the murraming of Wachara-Amoyo Road in Kabwai and Kanyidoto locations has stalled;

(b) whether he is further aware that Oyumbe Bridge on this road is impassable and needs urgent construction; and,

(c) what he is doing to repair roads in Nyarongi Division.

Mr. Speaker: I presume that there is nobody from Public Works and Housing. Next Question! Mr. Mak'Onyango!

Question No.1058

UNIONIZATION OF EPZ EMPLOYEES

Mr. Mak'Onyango asked the Minister for Labour and Manpower Development:-

- (a) whether he is aware that Kenyans employed by companies operating under the Export Processing Zones work under slavery-like conditions; and,
- (b) whether he is further aware that the workers in question are not allowed to belong to a union and have no job security of any sort, and are sacked at will whenever one demands for his or her rights.

The Assistant Minister for Labour and Manpower Development (Mr. Ali): Mr. Speaker, Sir, I beg to reply.

- (a) I am not aware.
- (b) I am also not aware.

Mr. Mak'Onyango: Arising from that ridiculous answer, I want to draw the attention of the Assistant Minister to a visit which was made to the Kenya Export Processing Zones, by a team of Commonwealth Parliamentarians sometime last year. During that visit, the message from the workers was very clear; they are not allowed to belong to any union and they have no job security. Can the Assistant Minister tell this House, how many people working with the Export Processing Zones are members of a union and which are these unions?

Mr. Ali: Mr. Speaker, Sir, I have no records of the number of employees who are members of any union. However, employees are free to join a union in accordance with the law.

Mr. Ndicho: Mr. Speaker, Sir, a few weeks ago, I asked a similar question on the employees of the Export Processing Zones and the answer which the Minister gave is totally different from what he has said today. Our people have been misused, they are being overworked and overloaded by the owners of these zones. Can the Assistant Minister consider sending some inspectors to these factories to see the deplorable conditions under which our people are working?

Mr. Ali: Mr. Speaker, Sir, I have not received any complaints yet and our routine inspections reveal that there is no evidence of the existence of such pathetic situations.

Mr. Rotino: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to evade the question? This is slavery being imposed on our people. It is so pathetic that when you visit the Export Processing Zones and hear what the people there are saying, it is so annoying. Can he respond to the question by sending a team of inspectors to find out whether what is being alleged here is true or not?

Mr. Ali: Mr. Speaker, Sir, as I said earlier, we have not received any complaints yet. Our routine inspections reveal that the situation is not pathetic. However, if hon. Members can bring to this House---

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. The Assistant Minister is saying they have not received complaints from the people. We are the representatives of the people. They come to us to complain and we have brought this to the attention of the Assistant Minister so that he can understand the feelings of the people. Is he in order to say that these people have not gone to them, when they have come to us, and now we have told him the position? Can he consider sending his inspectors there to see the slavery-like conditions there?

Mr. Ali: Mr. Speaker, Sir, I would appreciate if the hon. Member would bring a specific case and we would investigate.

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

Mr. Speaker: Order! Hon. Members must be tolerant enough to catch my eye. They should not hijack it by standing on a point of order which is not actually a point of order!

Mr. Mnyasia: Mr. Speaker, Sir, since the Assistant Minister has now heard through us that those people working in the Export Processing Zones are complaining that they are not allowed to be unionized, could he undertake to write to the EPZ to instruct them that those employees should be free to join unions of their own choice? Then, from next week, the secretary-generals of the various unions will be there to recruit them into their unions, to help improve the conditions of work there.

Mr. Ali: Mr. Speaker, Sir, joining a union is the right of all employees in this country. All employers are aware that they cannot refuse anybody to join a union in accordance with the law.

Mr. Mak'Onyango: Mr. Speaker, Sir, the Assistant Minister says that no complaints have been filed with him. Is he aware that since most of these people are employed under conditions that they are made to look temporary, their own jobs are threatened and, because the jobs are threatened, they dare not complain to anybody? Can the Assistant Minister deny that part of the problem is that the Inspectors he sends to the factories are bribed and end up making negative reports instead of positive reports?

Mr. Ali: Mr. Speaker, Sir, I trust my officers. They have carried out proper inspections and the reports reveal no existence of any pathetic situations.

Question No. 989

LOAN WAIVER FOR CO-OPERATIVE SOCIETY

Mr. Obwocha, on behalf of **Bishop Kimani**, asked the Minister for Co-operative Development:-

- (a) whether he is aware that Bahati Cereals Co-operative Society, which was formed by unemployed youth to buy and sell maize in Bahati, is no longer operational;
- (b) if he is further aware that the Society's weighing scale was confiscated together with Kshs4 million by the District Co-operative Officer, Nakuru, in conjunction with the Co-operative Bank Manager, in lieu of a Bank loan of Kshs400,000 given to the Society; and,
- (c) if the answers to "a" and "b" above are in the affirmative, whether he could ensure that the weighing scale and the money are returned to the Co-operative Society and that the loan to the Society is written off.

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

(a) Yes, I am aware that Bahati Cereals Co-operative Society which was formed by farmers and not by unemployed youth has not been operational since 1992.

(b) I am aware that the weighing scale which was given to the Society by my Ministry as a grant, was withdrawn when the Society became dormant. Therefore my Ministry had to withdraw the weighing scale which was given to them. I would like to appeal to the hon. Member to tell the members of this Society to be more active and as soon as they are active, we shall return what was taken away from them.

(The Minister retreated to his seat)

(Laughter)

Hon. Members: What about part "c" of the Question?

Mr. Obwocha: Mr. Speaker, Sir, you have heard that funny answer from the Minister. This Co-operative Society was given an advance of Kshs400,000 by the Co-operative Bank of Kenya, Nakuru Branch. They have accumulated their savings with that bank. The Minister says here that they have taken away the weighing scale because of inactivity and this is a Society of small traders where they were saving and banking the money. Could he, as a matter of urgency, table the accounts of that Society here from the Co-operative Bank of Kenya to show how much they owe that Bank now?

Mr. Munyi: Mr. Speaker, Sir, whatever information I have given is correct and I hereby lay the accounts of the Society on the Table.

(Mr. Munyi laid the accounts on the Table)

Mr. Githiomi: Mr. Speaker, Sir, now that the Minister has conceded to the fact that the weighing scale and Kshs4 million has been confiscated by the District Co-operative Officer, can he consider paying the loan of the Kshs400,000 and then refund the remainder to the Co-operative Society and also return the weighing scale?

Mr. Munyi: Mr. Speaker, Sir, as soon as the members of this Society become more active, the weighing scale will be returned to them.

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

Mr. Speaker: Order! Overruled. Mr. Gitau's Question, for the second time. Is Mr. Gitau still not here?

Mr. Gitau: Mr. Speaker, Sir, I wear a red tie to make sure that you see me from where you are sitting.

Mr. Speaker: Will you put your Question?

Mr. Gitau: Mr. Speaker, Sir, if you cannot see me from here, then next time I will sit in front.

Question No. 1117

DEATH OF MR. NG'ANG'A GACHANJA

Mr. Gitau: Due to the importance attached to the lives of Kenyans by the Ministry, the Minister has prevailed upon me that he does not have a proper answer and that he will provide a proper answer next week.

Mr. Speaker: Very well.

(Question deferred)

Mr. Speaker: Mr. Ogeka's Question for the second time.

Question No. 1105

AWARDING OF CONTRACT

Mr. Karan, on behalf of **Mr. Ogeka,** asked the Minister for Public Works and Housing:-

(a) whether he is satisfied with the contractors awarded contract to construct Mamboleo/Chemelil/ Muhoroni (C34) road;

(b) if the answer to "a" above is in the affirmative, if he could name any four (4) such projects the contractors have undertaken in Nyanza Province in the years 1994/95 and 1995/96 and their present condition; and,

(c) if the answer to "a" above is in the negative, if he could consider terminating their contract and awarding it to a reputable contractor

An hon. Member: Apologise!

Mr. Karan: It is the Minister who should apologise to me.

Mr. Speaker: Is anyone here from the Minister of Public Works and Housing? Therefore, the Question is accordingly deferred.

(Question deferred)

Mr. Speaker: Mr. Ojode's Question for the second time.

Question 1123

MURRAMING OF WACHARA-AMOYO ROAD

Mr. Ojode 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 of Nyarongi Divisions.

Mr. Speaker: There is still nobody from the Ministry of Public Works and Housing.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

ISSUANCE OF NEW ID CARDS IN KINANGOP

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

(a) How many people have been registered in the current second generation of ID/Cards in Kinangop Constituency as at 5th November, 1996?

- (b) How many registration units are there in Kinangop Constituency?
- (c) Could the Minister consider increasing the registration units in the said Constituency?

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

(a) A total of 33,090 people have been registered in the current second generation Identity card registration exercise in Kinangop Constituency.

(b) There is one registration unit at the Engineer Divisional Headquarters and one mobile unit covering different centres.

(c) The Constituency is adequately covered and the monthly programme of the mobile unit has managed to cover registration in most centres. There is, therefore, no need for increasing the units.

Mrs. Wanjiru: Mr. Speaker, Sir, I am grateful for the answer the Assistant Minister has given me, and these votes are enough to bring me back to Parliament. But, bearing in mind that---

Mr. Speaker: Can you use the microphone? I cannot hear you.

Mrs. Wanjiru: Mr. Speaker, Sir, bearing in mind that roads in my Constituency are in a terrible state and even this mobile unit vehicle is not able to move properly to serve my constituents, would I be in order to request the Assistant Minister to request the Ministry of Public Works and Housing to look into the state of the roads so that they can facilitate and ease the registration exercise?

Mr. Awori: Yes, Mr. Speaker, Sir, I will speak to my colleagues in the Ministry of Public Works and Housing to see that the Graciously lady's people are helped.

Mr. Githioni: Mr. Speaker, Sir, what action is the Assistant Minister going to take on the Chiefs who are charging for the issuance of the identity cards? I asked this question here some time back and the Minister confirmed that there is no Chief charging for issuance of identity cards. I want to confirm to him today that in Miragini location, the chief is charging Kshs200 per identity card.

Mr. Awori: Mr. Speaker, Sir, indeed, I remember this question was asked here before and my answer at the time is the same answer I am going to give now. Chiefs are not supposed to charge anything for giving the forms of application for a new identity card. Any Chief who does that and there is evidence that he has done that, will not only be charged, he will be taken to the court of law and he will lose his job.

Dr. Oburu: Mr. Speaker, Sir, it takes up to six months from the time of application to the time identity cards are issued to people. Now, could the Assistant Minister tell us exactly why it takes so long to get these identity cards and what is the duration designated for issuance of identity cards?

Mr. Awori: Mr. Speaker, Sir, certainly, I was not aware that they were taking that long. I would be prepared to invite the hon. Member to give me the details. I will travel to that constituency and I will make sure that the period is certainly not six months.

NON-COMPLIANCE WITH EMPLOYMENT ACT

Mr. Anyona: Mr. Speaker, Sir, I beg to ask the Minister for Labour and Manpower Development the following Question by Private Notice.

(a) Is the Minister aware that Orbit Chemical Industries Limited has about 500 casual employees who have served for periods ranging from one month to six years and on terms contrary to provisions of Sections 4 and 14 of the Employment Act (Cap.226)?

(b) Is he further aware that Orbit Chemical Industries Limited has about 300 permanent employees, but the employer has refused to accept and sign a "**Recognition Agreement**" with Kenya Chemical and Allied Workers Union for the last 10 years contrary to the provisions of Section 5(2) and (3) of the Trade Disputes Act, (Cap.234), despite the fact that the Trade Union has recruited about 175 members?

(c) Will the Minister take urgent measures to ensure that Orbit Chemical Industries Limited adheres to and complies with the Employment Act and the Trade Disputes Act in (a) and (b) above?

The Assistant Minister for Labour and Manpower Development (Mr. Ali): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) I am aware that M/S Kenya Chemical and Allied Workers Union reported a Trade Dispute to me on the same. Upon investigations, I have recommended that M/S Orbit Chemicals Limited accords the Union recognition.

(c) Appropriate measures have been taken in accordance with the provisions of the law.

Mr. Anyona: I have said in this House that the Ministry of Labour and Manpower Development is a real enemy of the workers of this country because they collude with the employers to oppress the workers. This

particular Assistant Minister has been giving the same answer. He is not aware of anything. In the first part of my Question, I have said that there are about 500 employers employed on casual terms for six years and in part "c" I have asked him to make sure that that employer complies with the law in respect of that employment. Now, I have a massive document here with names of the people who have worked as casual workers for six years and this Assistant Minister says that he is not aware of this fact. Can he now tell this House the policy of the Ministry of Labour and Manpower Development with regard to casual employment and explain why these workers have been on casual terms for six years? I will be laying the document on the Table.

Mr. Ali: Mr. Speaker, Sir, the policy is very specific. You cannot keep an employee on casual terms for more than three months, but I would appreciate if the hon. Member would table the list for further investigations.

Mr. Shikuku: Arising from the last reply, is the Assistant Minister aware that one time there was a Question brought to this House of an assistant chief from Baringo who had worked for 27 years on casual terms and it was stated he was not entitled to any pension scheme? Is he really being serious by saying that an employee is only supposed to be on casual terms for only three months when we know that there are people who have worked for 10 or 15 years as casual employees? Is he going to redress all the evils that have been committed against our people?

Mr. Ali: Mr. Speaker, Sir, hon. Shikuku's question is different from what hon. Anyona had asked and I would not be in a position to answer it.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. I was referring to employees employed on casual terms. He has said that an employee should be on casual terms for only three months. We know of cases where there are people who have worked as casual employees for 10 or 15 years. After he gets that list from hon. Anyona, can he assure this House that these people will have their case reviewed and given their right?

Mr. Ali: Mr. Speaker, Sir, as I said earlier on, we will abide by the law and investigate the matter in accordance with the law.

Mr. Magwaga: Mr. Speaker, Sir, can the Assistant Minister tell this House what measures he has taken so far as required by part "c" of the Question? In his reply, he did admit that he has taken measures. It seems as if these employees are in a big problem which the Assistant Minister is evading.

Mr. Ali: Mr. Speaker, Sir, immediately we receive the employees' grievances we shall undertake to investigate the matter.

Mr. Anyona: Mr. Speaker, Sir, this Assistant Minister comes here and says that he is not aware that there 500 casual employees in this company. Now, I have told him and I have a list of those employees. Would he in the first place apologise to the House for misleading the House that he is not aware when this information exists? What investigation does he need to carry out? Can he state categorically in this House what he is going to do about those employees who have worked for up to six years on casual terms because our fear is that after this they will be thrown out of their employment?

Mr. Ali: Mr. Speaker, Sir, I surely do not have to apologise to the House. The hon. Member should table that list for further investigations.

REGISTRATION OF NEW SOCIETIES

Mr. Wamae: Mr. Speaker, Sir, I beg to ask the Minister for Co-operative Development the following Question by Private Notice.

(a) Is the Minister aware that the Commissioner of Co-operatives placed the Mathira Farmers Co-operative Society under liquidation and created 13 new societies on 6th October, 1996?

(b) Is he further aware that as a result of the above action, the Co-operative Bank confiscated over Kshs.60 million from the farmers' proceeds on account of outstanding loans and, consequently, the 22,000 farmers are not receiving cash payment for their crops?

(c) What will the Minister do to expedite the registration of the new societies to assist them (the new societies) to borrow funds for payment of school fees in January, 1997?

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

I am happy that the Member did ask this Question. This was done according to the wishes of the farmers in Mathira. They wanted Mathira Co-operative Society to be sub-divided into 13 co-operative societies and that is what we did.

Two, I would like to tell the Member that the Kenya Co-operative Bank loaned the Mathira Co-operative Society over Kshs63 million. The money which has been retained is over Kshs 64 million and the money which has not been retained is only Kshs8 million.

I would like to tell the Member that registration was done on 26th September, 1996 and 29th September 1996. All the 13 co-operatives societies have been registered.

Mr. Wamae: Mr. Speaker, Sir, the Mathira farmers are not uprooting their coffee, but they have continued to grow it. So, when they decided to form the 13 co-operatives societies why did the Co-operative Bank confiscate their Kshs60 million? How are they supposed to look after their coffee and pay for the chemicals and other things? Would the Minister consider directing the Co-operative Bank to grant these 13 societies loans equivalent to the amount already taken away from the farmers?

Mr. Munyi: Mr. Speaker, Sir, we have seen that the farmers in Mathira Co-operative Society are very active and, therefore, I will ask the Co-operative Bank to consider them so that they can be given loans.

Mr. Mathenge: Mr. Speaker, Sir, is the Minister aware that the proposed fragmentation of Mathira Coffee Society is likely to be injurious to the good farming of coffee in Mathira?

Mr. Munyi: Mr. Speaker, Sir, in actual fact, hon. Mathenge comes from Mathira and he is very much satisfied with what I have told him.

Mr. Wamae: Mr. Speaker, Sir, if the hon. Minister who is my friend wants to help Mathira farmers, could he instruct the Co-operative Bank of Kenya to send officers to the 13 societies to assist them to prepare applications so that they can get loans before December so that they have money to pay school fees in January?

Mr. Munyi: Mr. Speaker, Sir, I will communicate that message to the Managing Director of the Co-operative Bank of Kenya by tomorrow.

(Applause)

Mr. Speaker: Very well. That is the end of Question Time now. Next Order!

MINISTERIAL STATEMENTS

SECURITY SITUATION IN TANA RIVER DISTRICT

The Assistant Minister, Office of the President (Mr. Awori): Mr. Speaker, Sir, on Wednesday, 6th November, hon. Farah Maalim requested for a Ministerial Statement in respect to the security situation in Tana River District. While making the request, hon. Maalim indicated that the district is experiencing ethnic clashes which have already resulted in the deaths of 45 people. In this connection, let me shed some light on the goings-on in relation to the issues raised.

First and foremost, Mr. Speaker, Sir---

(Loud consultations)

Mr. Speaker: Order! Order! Can we hear what the Minister has to say? Proceed, hon. Awori.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. You have shouted many times "order! Order!". Is it not time you reminded hon. Members, particularly, hon. Kirima, that once you shout "order" whatever he is doing, he should "freeze" and should not move so that you save yourself this breath of shouting; "order! order!", while the man is still moving? He is supposed to "freeze" wherever he is!

Mr. Speaker: Order! Hon. Members, what the hon. Member for Butere says is true. Once the Chair calls "order", the House must go to silence and those Members who are "mobile" must cease to be "mobile" immediately. Proceed, hon. Awori.

(Applause)

The Assistant Minister, Office of the President (Mr. Awori): First and foremost, Mr. Speaker, Sir, let me make it quite clear that there are no ethnic clashes in Tana River as alleged by the hon. Member. The problem in Tana River District is one of sporadic banditry incidents creating animosity between the different ethnic groups in the district culminating in missions of revenge against rival communities suspected to be responsible for attacking or harbouring enemies of the aggrieved party.

This phenomenon has given rise to suspicion and ethnic tension which the Government is trying to defuse before it degenerates into a worse scenario. In the last 20 months, a total of 62 people were killed in these banditry incidents. It has also been noted with concern that in the recent past, the incidents have taken a turn for

the worse with the attackers seemingly getting more ruthless and killing defenceless victims. In the last four months, for instance, deaths were reported as follows:- August - one person; September - 17 people; October -14 people; and November (to-date) - 11 people. In the most recent incident that took place on 8th November, at 8 a.m., at Nanighi, about 15 heavily armed bandits raided a manyatta and killed ten people.

The Government regrets this savage act and following---

(Loud consultations)

Mr. Nthenge: On a point of order, Mr. Speaker, Sir. Consultations have become so loud that we cannot hear what the hon. Minister is saying about security.

Mr. Speaker: Order! Order! Will you "freeze!" When an hon. Member is in this House, he is supposed to be behaving in two ways: either he is moving or seated. But I cannot have hon. Members standing all over the place in the House! Can we have some form of order? And can we listen to the Minister? It is about Kenyans who have been killed, if you do not know.

The Assistant Minister, Office of the President (Mr. Awori): Mr. Speaker, Sir, the Government regrets this savage act and following the incident, the Kenya Police, the Administration Police and the General Service Unit have been despatched to the area to pursue the bandits and ensure that the security in that region is brought back to normal.

Mr. Speaker, Sir, the Coast Provincial Security Team, led by the Provincial Commissioner, held a series of barazas in Tana River District between 14th and 16th October, 1996. Follow-up meetings meant to educate wananchi on the need for peaceful co-existence at grassroots level are being organised by the Provincial Administration.

Lastly, Mr. Speaker, Sir, as I have said in the past, I reiterate again that the Government abhors violence as a way of solving disputes. We are committed to putting a stop to this wanton destruction of property and human life and we are requesting all people concerned to exercise restraint and co-operate fully with the Government, even in the face of severe provocation, so that the Government can deal with the perpetrators of violence.

Thank you, Mr. Speaker.

Mr. Farah: Mr. Speaker, Sir, the Minister has told us that only since August this year, over 60 people have died in ethnic clashes in Tana River District. The machinery of the Government has always been there. What local and new component is he initiating now to try and solve the problem? This is because the Government has always been there and the conventional methods they have been using have not stopped deaths of very many people. Can he tell us what domestic, local and new component he has in the initiative?

The Assistant Minister, Office of the President (Mr. Awori): Mr. Speaker, Sir, the component that is being followed is not new. That is really educating wananchi of different ethnicity to co-exist and to accept dialogue and also accept the fact that there is a Government in this country.

ALLEGATION: TURKANAS RAID THE POKOTS

The Assistant Minister, Office of the President (Mr. Awori): Mr. Speaker, Sir, on Wednesday, 6th October, 1996, hon. Philip Rotino requested for a Ministerial Statement in connection with an incident that took place on Wednesday, 30th October, and in which he indicated that the Turkana raided the Pokots and took away a large number of livestock. Hon. Rotino also alleged that the Provincial Administration was not taking the matter seriously, and that the District Commissioner in the area had said that the stolen animals were recovered and returned while he, hon. Rotino, contends that, that was not true.

Mr. Speaker, Sir, before I address myself to the problem of cattle rustling which has been persistent menace between the Turkana and the Pokots, allow me to put the records straight with regards to the specific incident that hon. Rotino alluded to. This incident took place at Korwa in Baringo District when a group of armed Turkana tribesmen raided the said area and made away with approximately 6,000 heads of cattle. During the raid three Pokots were killed. Following this incident the Pokot quickly organised and armed themselves and went after the Turkana raiders whom they encountered several hours later. Fierce battle ensued and the Pokots managed to recover 4,000 herds of cattle which had been stolen. The battle left three Turkana dead and three Pokots seriously injured. The injured people were admitted at Ortum Mission Hospital. The remaining animals were recovered by the security personnel later and returned to the owners.

Mr. Speaker, Sir, our officers on the ground, both in the security and Provincial Administration, are

under firm instructions to deal with the perpetrators of acts of lawlessness such as cattle rustling with impartiality and firmness in order to eradicate or at least to minimise this retrogressive menace.

So far, the Government is satisfied that the officers are complying with the instructions and what they need is the full support and co-operation of the affected people so that they can operate more effectively.

The incident that took place on 30th October, 1996, is not an isolated one, but just one of the many attacks and counter-attacks between the two tribes. For a long time, hostilities have existed between the two tribes over grazing land and water points. As expected, these hostilities become more serious during the dry season when rivalry over water points and pasture escalates leading to armed confrontation. In the last six months, for example, the Turkanas have raided their neighbours, the Pokots and Samburu, 11 times. The Pokots have also raided the Turkanas eight times.

Mr. Speaker, Sir, it is incumbent upon the Government to ensure that security is maintained at all times. The Government has the ability and is willing to bring to an end cattle rustling and all other criminal activities. However, the Government cannot succeed in this noble task without the actual participation and co-operation of all citizens. Leaders cannot afford to sit on the fence and point accusing fingers at the Government. All of us have a responsibility to work towards getting a lasting solution to this problem.

In conclusion, let me retaliate that Government will not condone cattle rustling anywhere in the Republic.

I am warning those who engage in such acts that they will be dealt with severely so that they can serve as a lesson to others who may be thinking of engaging themselves in such savage and barbaric acts. Thank you.

Mr. Rotino: Mr. Speaker, Sir, the Assistant Minister has given a blanket statement. Through the district security team and DDC meetings, we have recommended for setting up of stations where the GSU or the police personnel can be deployed to improve the security. The Assistant Minister should address himself to those areas so that the Government can be seen to be improving security in the area. We are proposing, and I mentioned to him, a Maleli Police Post to be set up so that police or GSU personnel can improve security in the area.

Mr. Speaker: Next Order.

MOTION

ADOPTION OF SESSIONAL PAPER NO.2 OF 1996: STANDING ORDERS COMMITTEE REPORT

THAT, the Sessional Paper No.2 of 1996 on the Report of the Standing Orders Committee laid on the Table of the House on November 13, 1996, be adopted and the amendments to the Standing Orders recommended in the First Schedule be made, and are hereby made, with effect from the date of adoption of the said Paper.

*(The Assistant Minister, Office of
the President (Mr. Sunkuli) on 13.11.96)
(Resumption of Debate interrupted on 13.11.96)*

Mr. Wamalwa: Mr. Speaker, Sir, I do thank you for giving me the opportunity to contribute to this debate on the amendment of Standing Orders No.147 and 148.

I would like to take a little time to look at the proceedings of the Committee that have brought this matter before the House. At its very first meeting on 4th July, 1996, the Chairman of that Committee---

Mr. Anyona: On point of order, Mr. Speaker, Sir. I do not wish to interrupt the hon. Leader of the Official Opposition, but I want to seek the guidance from the Chair on this Motion. As you know, I have been grumbling with the problem of trying to get this Motion amended appropriately. I have not succeed yet, but I think there are two important things we need to clear before we proceed with the debate of this Motion, and, maybe, the Chair can help us to do that.

The first point is this: If we deal with this Motion as it stands now, it means that we shall pass this Motion and by that action, the Sessional Paper will be adopted. But I thought the procedure in the past and the procedure which was sought to be followed yesterday was to take the House into the Committee of the whole House to be able to go through each deletion and each insertion in the new Standing Orders.

Now, I do not know, if we pass this Motion where the opportunity would come from for us to go to the Committee Stage to do exactly that. That is the first point I would like the Chair to clarify.

As I said yesterday, you redeemed the House not because what was on the Order Paper would have been

right, but it was only wrong in that the House was not properly moved or the House was not requested, under Standing Order 45(d), to resolve itself into a Committee of the whole House to be able to deal with the issue. That was not done. That was what the Leader of Government Business failed to do and you rescued the House yesterday. But it is still necessary for the House to resolve itself into a Committee of the whole House under Standing Order No.45(d) to be able to deal with the proposed amendments of the Standing Orders.

But if we pass this Motion, it appears to me that opportunity will not be available and it means that the adoption of the amendment will not be procedural.

The second point I would like to seek clarification on before we proceed is: The wording of the Motion, the fourth line; "---and are hereby made, with effect from the date of adoption of the said Paper."

If the House adopts this Sessional Paper today or next week, the implication is that the new Standing Order and the new provisions will come into effect immediately. Therefore, the two Committees will have to comply with the new provisions of the new Standing Orders. If we do that, we are going to paralyse the operation of the current Committees, PIC and PAC. How will you reconstitute those Committees to be able to comply with the new provisions?

I would like to submit that the only way we can reconstitute a Committee of Parliament after it has been constituted by the House is under the provision of Section 121 of the Constitution of Kenya. You cannot do it otherwise! But how then shall we be able to comply with the new revised Standing Orders?

Mr. Speaker, Sir, it would be dangerous---

Mr. Speaker: Mr. Anyona, you are certainly no longer on a point of order. Would you come now to the point of order?

Mr. Anyona: Mr. Speaker, Sir, I would like the Chair to clarify what would happen if we pass this Motion. Does that mean that we are going to paralyse these Committees? How will they be able to carry out the work they have been doing? If you reconstitute them and bring in new hon. Members, what will happen to the work that has been done before? What will happen after that? I think it is important to clarify those two points. Thank you.

Mr. Speaker: Order, hon. Members! I would first of all address you on the question of [**Mr. Speaker**] procedures. If the hon. Members can look at their booklets of the Standing Orders, the Standing Orders themselves do not provide for a procedure for amending the Standing Orders. There is no procedure. If the Standing Orders themselves do not provide for that, how we can amend them?

What normally happens is that, one would like to look at written works on procedures and the best, of course we know, is Erskine and May. Hon. Members are invited to look at Erskine and May. You will find nothing to guide you on how you go about amending Standing Orders because in the House of Commons, they do not have written Standing Orders. Therefore, the only thing left to guide the House and the Chair is the procedure and practice that has been used in this House. We have looked at various times when this House had occasions to amend its Standing Orders and adopt those procedures. Hon. Members are invited, for example, to look at the HANSARD copies relating to the amendment of Standing Orders in 1964.

Unfortunately, I was not aware that hon. Anyona would raise that particular issue. If hon. Members were to look at the HANSARD copies for May and November of 1964, they will find that the House was invited to amend the Standing Orders by way of a Sessional Paper introduced in the House by way of a Motion. Once that Sessional Paper is accepted by the House, it becomes a resolution of the House that the Standing Orders be amended as indicated in that Sessional Paper. That is one way it was done. I believe it was done twice or three times in 1964, and also in 1967; in the same way. We had also another occasion, in 1979, when again the House was invited to amend the Standing Orders and fortunately, I do have this one. This was done by way of a Motion and it was headed: Adoption of Sessional Paper No.10 of 1979: Review of Standing Orders. The Motion in this particular occasion, asked the Speaker to leave the Chair and after that debate, the House resolved itself into a Committee. But twice, in 1964 and in 1967, it was done by way of ordinary Motion as it is now. In 1992, again the House was invited to amend the Standing Orders and I believe a different procedure was used. In 1992, the House went straight into Committee.

Now, having regard to all those various practices that have developed in this House, and lacking any guidance from the Standing Orders, and lacking any guidance from written works, the Chair adopted the earlier procedures where a resolution of the House was sought by way of a Motion, asking the House to accept the Sessional Paper for the amendment of the Standing Orders. That is as far as the procedure goes. With regard to the second part where you were asking the Chair what happens when we change the Standing Orders that question surely, should not be put to the Chair but to the House, so that either the House agrees with you that it is the wrong thing to do, or it disagrees with you that it is the right thing to do. I cannot answer that and instead you should direct it to the House.

As far as I am concerned, the best we could have done is to look at what we have done in the past and adopt it exactly as it was, and this is what we have done. So, I rule that the procedure is quite right. If this House feels that we should somehow also provide for particular provisions on how to amend the Standing Orders, then the House is at liberty to make that provision. I can also assure the House that the Chair will be very happy with the House, if they made that provision so that it becomes clear.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Time and again we have been told in this House that the laws of this country are derived from the Constitution and Standing Orders of this House are derived from the Constitution and anything that is contrary to the Constitution becomes null and void. Now, in these amendments, you will find that you are talking of proportional representation. This is not provided for in the Constitution. Are we really right to go ahead and debate proportional representation which is not provided for in the present Kenyan Constitution?

Mr. Speaker: May I ask you one thing, Mr. Shikuku? Have you ever read the Constitution to find out who is the authority that will interpret the Constitution. It is not the Speaker! Proceed, Mr. Wamalwa.

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

Mr. Speaker: Order! If this House was ever to pass a Bill that is in contravention of the Constitution, or passes any law that contravene of the Constitution, you will find that the remedy is the Constitution itself. It declares that law to be null and void and the authority to make that decision is not the Chair, it is the court. Any aggrieved party is at liberty to go to Court.

Mr. Orenko: On a point of order, Mr. Speaker, Sir. It is a valid one!

Mr. Speaker: Order! Order, Mr. Orenko! Can we have some form of order? Can we give the Leader of Opposition a chance to say his bit, at least as a matter of courtesy to him?

Mr. Orenko: On a point of order, Mr. Speaker, Sir. On the issue of procedure, I believe that the procedure should be determined on how this entire process started. This is a report emanating from the Standing Orders Committee, which is the Select Committee of the House and it is provided under Standing Order No.152. This procedure can only be determined by the rules to be followed. The Standing Orders Committee is the one which is making a report to this House as a Select Committee of this House.

Standing Order Number 152 (2) says that:-

"The Standing Orders Committee shall from time to time consider and report on all matters relating to these Standing Orders".

Now Standing Order 162 explains how a Select Committee reports to the House and it says:-

"The report of a Select Committee shall be signed by the Chairman on behalf of the Committee. Provided that if the Chairman is absent or is not readily available, the Committee shall nominate another member to sign the report on behalf of the Committee. A report of a Select Committee together with the minutes of the proceedings of the Committee and with such note or records of any evidence received by the Committee as the Committee may deem fit, shall be laid on the Table of the House by the Chairman of the Select Committee or by some other person authorised by the Committee in that behalf".

So, the procedure is already there in the Standing Orders. The Committee must lay a report in the House. Without anticipating a point of order which I know one of the hon. Members is going to raise, I think the essential question to ask is whether this is a report and if you look at various reports that have come before this House for instance the Public Accounts Committee Report and the Public Investments Committee Report---

Mr. Speaker: Order! Let me I say this hon. Members. I have just explained by taking this House on a historical journey on how the Standing Orders of this House have been amended in the past, in fact, since the inception of this House. Now, the practice of the House is adapted as a rule to be followed.

(Hon. Orenko stood up in his place)

Order, Mr. Orenko! Order! Now if the hon. Member for Ugenya cannot at least give the Chair the right to make a ruling, then I do not know where we are going. Now, I have already ruled that the procedure to be used in amending the Standing Orders, and has been used from the beginning of this Parliament to-date has been by way, not of tabling of a report as you are saying now, and I invite you to look at the HANSARDS of this House since its beginning in 1963---

(Hon. Orenko interjected)

Order Mr. Orengo! You do not even understand that you cannot interrupt my speech! I find it extremely difficult to deal with Members who cannot hold themselves to respect the Chair. I have explained to this House that from the beginning of this House, all amendments to Standing Orders have been by way of a Sessional Paper and never a Report. That has been the procedure of this House. Now, what has happened in this particular occasion is to follow exactly the same procedure that has been followed since 1963; that is to introduce the issue by way of a Sessional Paper which was also laid on the Table of this House. I have ruled and I will not go back on it. I have ruled---

(Hon. Orengo interjected)

Order Mr. Orengo! Order! Mr. Orengo, you forget that you are the Vice-chairman of the Official Opposition Party. You have a duty to respect the Chair first and foremost. I have now ruled that the procedures adapted in 1964, 1967 and 1979 by way of Sessional Paper are the procedures that the Chair deems to be the correct ones and the matter is properly before the House.

(Several Members stood up in their places)

Order! Order! Proceed Mr. Wamalwa.

Mr. Wamalwa: Mr. Speaker, Sir, I had just began my submission by referring to the proceedings of the Committee that has brought this Sessional Paper to the House.

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

Mr. Speaker: Order, Mr. Mulusya! Can you give the Member on the Floor time?

Mr. Mulusya: Mr. Speaker, Sir, it is very important.

Mr. Speaker: What is it?

Mr. Mulusya: Mr. Speaker, Sir, my point of order is to seek guidance from the Chair. I do not intend to contradict the ruling you have already made with regard to the point of order earlier raised by hon. Shikuku. The Chair has said that if a matter that is brought to this Parliament is eventually found to contravene the Constitution, this House and the Chair are not the arbiter of what is *ultra vires* to the Constitution. Is it in order for this House to knowingly go on debating and make resolutions which are eventually going to make us go to court?

Mr. Speaker: Order, Mr. Mulusya! Order! Mr. Mulusya, you may think that something is unconstitutional but that is your view and I have mentioned the authority that can definitively decide what is and what is not. But, it is my duty, as the Speaker, to guide the House on the law and Standing Orders. I would also like to say to this House, as I said yesterday, that I do not want hon. Members to fail to debate this issue and to try to detract the whole thing back to the Chair. This is not an argument between the Chair and the House. It must be an argument between the House itself. It is apparent to me that some Members want to derail the whole thing by returning it back to the Chair. I have nothing to do with whether it is passed or it is not passed. I have no particular interest either way as the Speaker and I would like to restate here again that the Chair must be left out of inter-party conflicts. The Chair must be allowed to adjudicate these issues in a fair manner. I do not want to get involved. Proceed Mr. Wamalwa.

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

Mr. Speaker: I am sorry I am not going to allow any further points of order. Proceed Mr. Wamalwa!

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

Mr. Speaker: Sit down Mr. Obwocha!

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

Mr. Speaker: Order, Mr. Kapten! Proceed Mr. Wamalwa!

Mr. Wamalwa: Thank you Mr. Speaker, Sir. I must confess that these are not the most ideal conditions under which to make a contribution but be that as it may, I think the best place to start would naturally be the originating Committee. The best place to start to make a contribution to this Motion, would be the originating Committee that dealt with this matter and brought it to the House.

Mr. Speaker, Sir, the Standing Orders Committee at its meeting of 4th July, 1996 was informed by its Chairman that the duty and the work involved as far as the Standing Orders Committee was concerned, was a continuous review of the Standing Orders either on their own volition or on the basis of suggestions and proposals received from the Members. The Chairman then went on to tell the Committee that he had received a letter dated 31st May, 1996 addressed to him by the Leader of Government Business. The letter which he read out to the

Committee had requested the Committee to review the current provisions of Standing Orders No.147 and 148 in order for them to provide for Membership to be on the basis of proportional representation of Parliamentary parties, a practice the letter said was prevalent in other Commonwealth Parliaments.

Mr. Speaker: Sir, it would seem that the Committee was just doing what it should have been doing for a long time; a continuous review of the Standing Orders as and when need arose. That statement as factual as it may be, in fact, begs the question as to why---

Mr. Kiliku: On a point of order, Mr. Speaker, Sir. I know that the Chair has powers to rule this House, but I must say that this document is not valid before the House because as a Member of the Committee, we did not confirm the minutes of 12th November, 1996 and neither did we see this report nor even as a Committee authorise somebody to lay this Sessional Paper on the Table as per Standing Order No.152. Therefore, this document is not valid.

Mr. Speaker: Order! That, Mr. Kiliku, is your opinion. Proceed!

Mr. Wamae: It is true!

Mr. Speaker: Order! Order, hon. Members! Mr. Matu Wamae, I do not think you really have evidence to that effect.

The Assistant Minister for Commerce and Industry (Mr. Osogo): On a point of order, Mr. Speaker, Sir. Lest the point of order raised by the hon. Member for Changamwe, is taken for granted, and that you have told him, because you know what happened, he is actually misinforming the House, shall I be in order to correct him?

Mr. Speaker: Order! Order! The hon. Kiliku - if the House wants to hear the truth - on that date came very late to the Committee. He probably did not know what went on. But I have asked this House not to detract its own problems and try to shift them to the Chair. Because that is what Mr. Kiliku is trying to do, which is absolutely wrong. I was the Chairman of the Standing Orders Committee by virtue of my position as Speaker. I have nothing to do with the introduction or non-introduction of any change in the Standing Orders, it is this House to decide. So, if Members have anger on any issue, it should never be misdirected to the Chair, direct it to yourselves in the House.

Hon. Members: How?

Mr. Speaker: Continue, Mr. Wamalwa!

Mr. Kibaki: On a point of order, Mr. Speaker, Sir. As a House, you can see we are trying to get an orderly procedure. A Member of the Committee has stated that this document is not properly before this House to the extent that it had never been adopted as the report of that Committee and more important, that the minutes of the final meeting of that Committee had not been approved and confirmed and, therefore, they are still waiting to be confirmed. Thirdly, that, there was going to be a decision in that Committee according to our Standing Orders to nominate who would introduce this report to the Parliament. So, as Members of Parliament and in the presence of that information, we cannot see any rational way of proceeding until that particular question is resolved. Otherwise, we may be committing an illegality.

Mr. Biwott: On a point of order, Mr. Speaker, Sir. There is nothing more disturbing from an hon. Member of this House than to deliberately mislead this House. I am a Member of that Committee, and lest it is believed that those minutes were not confirmed, I would like to categorically say that those minutes were confirmed.

Hon. Members: Where?

Mr. Biwott: They were confirmed in that meeting and on the question of Standing Order No.172, we went through the whole matter in detail and then we drafted and redrafted it and confirmed. Then we gave---

Hon. Members: When?

Mr. Biwott: On the same day.

Mr. Speaker: Order! Order, Members! Even if Members do not like something, somehow, they still have to be honourable Members. Now as Chairman of the Committee, the position is this: Because Mr. Kiliku has made a statement pertaining to this particular document, I have already sent the Clerk upstairs to get the original record (file) indicating, and it will indicate, as I explained yesterday to Mr. Kiliku, that the minutes of our last meeting relating to Standing Orders No.147 and No.148 were confirmed on Tuesday of this week. I explained to the House yesterday that as far as Minute No.172 is concerned, it was lately introduced by the hon. Obwocha to the Committee and after confirming the minutes relating to Standing Orders No.147 and No.148, the Committee then proceeded to deal with the matter relating to Standing Order No.172 and approved the wording of Standing Order No.147 and No.148.

It was also instructed to the Clerk, that should Standing Orders No.147 and 148 be introduced to the House, Standing Order No.170 should also come along with it. To the extent that Mr. Kiliku could object that the

minutes relating to the amendments to Standing Order No.172 are unconfirmed as of date, there, he is right.

(Applause)

But as far as it relates to Standing Orders No.147 and 148, those minutes were confirmed by me on Tuesday this week under my hand and at the proposal of hon. Members there present, and unanimously agreed. That is the position. But I would like to say this, if by any chance hon. Members would like to take time on this document, please, use all the other available sources, but, please, do not kick it back to the Chair, because that is what it does appear to me. Proceed, Mr. Wamalwa.

Mr. Obwocha: On a point of order, Mr. Speaker, Sir. Thank you for recognising me at last---

Mr. Speaker: Mr. Obwocha, I am not duty-bound to recognise any Member.

Mr. Obwocha: Well, I was thanking the Chair for recognising me, Mr. Speaker, Sir. The truth of the matter is that the Paper that is before this House, is for both Standing Orders No.147, 148 and 172. That Standing Orders Committee has not confirmed the minutes of last Tuesday. While the previous minutes have been confirmed by that Committee, or the Chairman of that Committee, Tuesday's proceedings have not been confirmed. That is number one. Number two is that on the Standing Order No.162, while I do not want to argue with the Chair in interpretation, the Standing Orders Committee did not nominate one of their own Members to table that Report before this House.

(Applause)

Since you are in the Chair and unable to lay the Report yourself, it was incumbent upon that Committee to nominate one of them to lay the Report before this House.

Mr. Speaker: Order! Order! I think in the dignity of this House and of hon. Members themselves believe it is not right for a Member to make a categorical statement without ever doing any research. I have already done my own research. I have told you that I have gone through the procedure started by this House since Independence on changing the Standing Orders. In all those instances, the Motion to introduce a Sessional Paper to change the Standing Orders has always been either introduced by the Leader of Government Business, or his Deputy. If you looked at the Motion, it is being introduced by the Leader of Government Business. I have already told the House that we are following a procedure that is correct and there is not very much I can tell the House any further. Proceed, Mr. Wamalwa.

The Assistant Minister for Commerce and Industry (Mr. Osogo): On a point of order, Mr. Speaker, Sir. I am a sad man in this House this afternoon, to find that hon. Members who know facts relating to this Motion, are misleading the House at the moment. Hon. Kiliku arrived very late. That is why you had ignored his point of order. He arrived very late when we were concluding the minutes. Hon. Obwocha has stated the truth, but what he failed to tell the House, is that as it is conveyed in the minutes on the last page of this document, when we concluded discussing amendments to Standing Order No.172 - we agreed unanimously that, that was the version we had and that it could be presented to the House since we were not going to meet any other time in order to allow the Sub-Committee of that Committee to meet and arrange for its trip overseas. That is what we agreed on. In fact, I am surprised that the hon. Kibaki has also fallen into the trap of misleading the House.

Mr. Speaker, Sir, the HANSARD you are referring to, refers to me as having presented the Report of the Standing Orders Committee, twice, and I was doing that as the Deputy Leader of Government Business for hon. Kibaki. This is the fact that the Standing Orders Committee, at no time has ever appointed anybody from among themselves to come and present the Report here. That is the fact.

(Applause)

Mr. Speaker: Order! Order, hon. Members! There is a saying that there is no point in labouring on this. The Chair, at least, has given the procedure. I do not think there is any way I am going to adopt a different procedure from what has been adopted since 1963. Can we now go to the Motion?

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I do myself appreciate the difficulties in which the Chair is at the moment. I do not think that we, as a House, are closing ranks to be able to deal with a lacuna in our system. I do not believe so. What I would like to find out and maybe the Chair can help us here, is that as this Motion stands on the Order Paper, it denies this House the opportunity and the right to go through the proposed amendments of the Standing Orders and either approve, or disapprove, or amend them further. This

House has a final authority on what shape the Standing Orders take. This Motion denies us the opportunity of going through these proposed amendments, and once we pass them, that is the end of the matter. Can the Chair help us on how we are going to go through Schedule one, clause by clause? What procedure is available in this Motion?

Mr. Speaker: What will happen, Mr. Anyona, once this House resolves that the Sessional Paper be adopted, if that is the resolution of the House, the House would then be moved by Motion into Committee Stage to peruse each individual proposal for amendment. But that will be after the House has adopted the Sessional Paper.

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

Mr. Speaker: Order! I do not know whether somehow we should introduce something called in the United States of America a filibuster. If that be the position, then hon. Members must be filibustering each other and not the Chair. I quite frankly think that this is what it is. If that is what it is, then it should be between hon. Members and not between hon. Members and the Chair. So, can we make some progress?

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

Mr. Speaker: I am afraid, I will not allow nagging! Mr. Wamalwa, will you proceed?

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

Mr. Speaker: I am sorry, Mr. Raila! Can we hear Mr. Wamalwa, at least for a while? Mr. Wamalwa, will you revisit your point?

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

Mr. Speaker: Order, Mr. Raila! Please, let the Chair, at least, hear the voice of Mr. Wamalwa. You can rise later. Proceed, Mr. Wamalwa.

An hon. Member: We want to hear "With those few remarks---"

Mr. Wamalwa: That is wishful thinking! There is a lot more to come.

Mr. Speaker, Sir, the controversy that surrounds the tabling and debating of these amendments, perhaps, has a lot to do with what hon. Members perceive to be the reasons for the desired change. As Chairman of this Committee, you pointed out that the work of the Committee was to continuously review the Standing Orders. The question in the minds of most people is: How come that the Standing Orders Committee was dormant for three full years, and all of a sudden, in what might be the final, or certainly the second last session of this Parliament, very important changes are sought to be made?

Changes are always welcome, but the question that one has to answer is: Is it change for the better or for the worse?

(Mr. Speaker left the Chair)

[Mr. Deputy Speaker took the Chair]

The only way in which we can capture the essence of change is to look at the history of these Committees and how they have performed in the past. During the one-party system of Government in this country, all the members of the Committees belonged to KANU. It was a KANU Committee with a KANU Chairman, KANU Acting Chairman and KANU membership. The House must bear in mind all the time that whatever the Committees may recommend, the final decision rests with this House itself. This House has the power to reject whatever a Committee brings before it, no matter what this Committee is. So, it is incumbent upon hon. Members of this House---

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. It is unfortunate that you have just taken the Chair when the matter that I want to raise has not been resolved. This has to do with a very fundamental issue, namely the validity of the minutes themselves. This matter has been raised by hon. Obwocha, who is a member of that standing Committee. The minutes of Tuesday of this week have not been confirmed. I have a copy of them here, which is not signed by the Chairman of that Committee. When are the minutes---

Mr. Deputy Speaker: Order, Mr. Raila! There is no point allowing someone to finish when it is obvious that what he wants to finish is a repetitive and frivolous point of order. That is a point which has been laboured so repeatedly, and it is clear to me that Mr. Speaker himself did take a very clear decision against that argument. So, if you repeat it, it becomes repetition and a violation of Standing Order No.87. Continue, Mr. Wamalwa.

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

Mr. Deputy Speaker: Mr. Raila, I am sorry you will not repeat that point. I have already warned you about the consequences of your repeating the same argument, in terms of Standing Order 87.

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. This is not repetition. As a lawyer---

Mr. Deputy Speaker: Are you labouring the same argument?

Mr. Raila: No, Mr. Deputy Speaker, Sir. I want to seek your guidance, as a very learned and respected lawyer. The validity of minutes of any meeting---

Mr. Deputy Speaker: Order! I will not entertain any argument questioning the validity of those minutes, on the ground that the Speaker did specifically deal with it, and you know it. I will not, therefore, at this point entertain any further argument. Mr. Raila, I am afraid, if you repeat the same, then dealing with you effectively will be the only alternative.

Mr. Orenge: On a point of order, Mr. Deputy Speaker, Sir. I am sorry to rise again on a point of order. I plead with you that we should resolve this matter before we really proceed to debate. I rose on a point of order and said that the Standing Orders themselves are clear. If you are coming before the House in terms of Standing Order 152, which is quoted by the Speaker in his preface---

Mr. Deputy Speaker: Mr. Orenge, did you raise this point when the Speaker was in the Chair?

Mr. Orenge: No, I did not. This is a different point of order, and you will determine whether what I raised earlier was the same as what I am raising.

What I am saying is that in the very first page of the Sessional Paper, the Speaker, as the Chairman of the Standing Orders Committee, says that the work of the Committee is mandated by Standing Order No.152, and he quotes that Standing Order. This preface does not describe this document as a Sessional Paper. So long as it remains a report of the Standing Orders Committee, you are duty bound to comply with Standing Order No. 162, which states, describes and explains the procedures to be followed to lay on the Table a report of the Standing Orders Committee.

Part of the difficulty that we are having is that the Speaker himself was the Chairman of that Committee. I think that this is something that we need to look into. Probably, he may be sensitive on that basis. But what I am saying is that the Committee itself, in accordance with Standing Order No.162, should nominate the person who should move this Motion. It should not be moved by the Leader of Government Business. This is the position according to the Standing Orders. We are talking about a situation where there is no lacuna. You can only go back to practice or precedent when there is no clear spelt out procedure. But the Standing Orders are clear on the procedures. Under Standing Order No.162, the Speaker, should have laid this Paper on the Table himself but he is unable. So, the Standing Orders Committee should have sat down and resolved the issue of who should lay the report on the Table. But this document, on the face of it, was a Sessional Paper and the most famous Sessional Paper that has ever been produced in this House was Sessional Paper No.10 of 1965. If you read the late Jomo Kenyatta's thesis to that Sessional Paper, he described it as a Sessional Paper!

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

An hon. Member: Sit down you defector!

Mr. Orenge: Why is this document described as a Sessional Paper? The Speaker, calls it a report. It is not a Sessional Paper at all. If it is not a Sessional Paper and it is a report, it should be laid and introduced to this House in accordance with Standing Order No.162.

Mr. Deputy Speaker: I must state that I know hon. Orenge as a very good lawyer. That is why I find it very difficult to understand why he has to insist on this point of order, only to talk that much. This point was quite clearly addressed to the Speaker himself and he made his ruling. I was listening in my Chambers to the Speaker's ruling and I got it quite clearly before I came here. He had to labour many times to explain that the procedure was followed in the presentation of the document to the House. It is strictly in accordance with the past practice of this House. Hon. Orenge, surely knows that the law governing the House is found both within the express rules as contained in the Standing Orders and interpretations as contained in the conventions and practices of the House. The Speaker has said that it is perfectly in order in terms of the past practices of this House.

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

Mr. Deputy Speaker: I am afraid I will not entertain any points of orders before hon. Wamalwa has made his contribution! Unless you are raising a point of order on my ruling, which will be out of order. You know that you cannot raise a point of order on another point of order. A point of order should not be an occasion for debate. Hon. Orenge has argued his point of order and I have given my response. It is fair that hon. Wamalwa should be given chance to proceed.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, while respecting your ruling, it might help the House to sit. If a procedural Motion were moved to change the description of this document to a Sessional Paper, instead of a report as it appears on the front page, then we will receive it as a Sessional Paper and not as a report. The

Speaker has described it as a report and hon. Members are probably justified!

Mr. Obwocha: On a point of information, Mr. Deputy Speaker, Sir. I wish to inform hon. Wamalwa that, in the Standing Orders Committee, this issue came up through hon. Sunkuli, as to whether we were ready to present any report here. The Chair at that time told him that the Committee was looking at all the Standing Orders and we have no business presenting any report. And if he intended to present a report to this House, then the Chair should not be dragged into this matter. Hon. Sunkuli then went through the back-door to the Sessional Committee to introduce this matter through something like this.

Mr. Wamalwa: I interrupted myself on a point of information. I was saying that it might help the House if there were to be an amendment to describe the report as a Sessional Paper instead of a report as it appears now. That seems to be the bone of contention.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. This is a very important procedural matter. There is a structural problem with this Motion. It reflects the hurry in which it was done and the truth is coming out. This Motion says: "As soon as we pass this Motion, this Paper, if adopted, takes effect---" I did consult with the Chair and the Chair kindly gave me an opportunity to raise the issue.

Mr. Deputy Speaker: Did you raise it when the Speaker was here?

Mr. Anyona: Mr. Deputy Speaker, Sir, give me a chance to raise it. The ruling that was made by the Chair, which I am at least happy with, is that even after passing this Motion, we are not through with this business. The House must go into the Committee of the whole House, moved by a Motion, which is the correct procedure. But this Motion stands in the way of that ruling of the Chair! Can we either have the Leader of Government Business withdraw this Motion or amend it accordingly to accommodate the ruling of the Speaker, so that we have a chance through the amendment?

Mr. Deputy Speaker: Order! Order, hon. Anyona, you have made your point. I am sure the Leader of Government Business has heard. Whether he will accede to your request or not, that is upto the Government side. If you want to advance that point, I think you should have waited for your time to contribute. That is really a point of argument on how we should proceed. I think, the House is now in a mood to hear the Official Leader of the Opposition.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I will accept information from hon. Kiliku.

Mr. Kiliku: Mr. Deputy Speaker, Sir, the powers of the Select Committee were given by this House. I would like to inform hon. Wamalwa, before he contributes, that this document was illegally introduced to this House. The person who introduced the document was not authorised by the Committee as per Standing Order No.162. If hon. Wamalwa continues to debate on this document, then, he is debating on an illegal document which is not valid.

Mr. Deputy Speaker: That must be perverted logic. Please, Mr. Wamalwa, you are entitled to decide who is worthy of giving you a good point of information or not. I think it is your turn to proceed.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I made a very rational decision to accept that information from hon. Kiliku because he is a Member of the originating Committee that brought this document to this House. I thought he might have some useful information. I will accept information from hon. Biwott.

Mr. Biwott: On a point of information, Mr. Deputy Speaker, Sir. The correct information is that the Standing Orders Committee deliberated in detail about Standing Orders No. 147 and 148, confirmed all the Minutes as the Speaker said. Hon. Kiliku was not there.

Mr. Biwott: Mr. Deputy Speaker, Sir, hon. Kiliku was not there. He only came in as we were going out. As for Standing Order No.172, which, in fact was discussed at the request of hon. Obwocha, we discussed it in detail. His interest was that we should discuss his proposals in detail, draft it accordingly, re-draft it and confirm that, that will now form the contents of the presentation that will come here along with the others. At that point, when we were now wrapping up and perfecting the exact wording of his own draft and according to everybody's, and after it was a unanimous thing, hon. Kiliku walked in. First of all, he should be reprimanded for failing to represent his party effectively by absenting himself until the last minute. The same draft was introduced in the Sessional Committee and it went through.

Mr. Deputy Speaker: Is that information?

Mr. Biwott: I am just informing him. The proposal to introduce these amendments to this House was deliberated and unanimously agreed upon by the Sessional Committee. Therefore, what has come to the House is nothing more than the normal Business which normally comes through the Sessional Committee. I challenge any hon. Member who was there to say to the contrary.

Dr. Kituyi: I am on a point of order and you will sit down and listen to me!

Mr. Biwott: Mr. Deputy Speaker, Sir, I think the hon. Members---I am on a point of order.

Hon. Members: No! Sit down.

Mr. Deputy Speaker: Order, hon. Biwott. Dr. Kituyi has the Floor.

Dr. Kituyi: Mr. Deputy Speaker, Sir, I am on a point of order and I rise to the challenge which is being offered by hon. Biwott. Hon. Biwott is deliberately misleading this House to purport to report that the Sessional Committee was unanimous on a matter which was totally, roundly condemned and rejected by Opposition Members of the Sessional Committee who saw it as an imposition from the Government. It is not true to claim that, as a Committee, we agreed that this Business be brought here.

(Hon. Biwott stood up in his place)

Mr. Deputy Speaker: Order! I think this is a bit unfortunate, and whatever happens, in the ultimate analysis, the House will proceed to decide whether to adopt the Motion or not. I think once you have made your point about your dissatisfactions, it is important that we continue with the business of debating the matter which is before the House. I do not want to pretend to lecture colleagues, but if you look at the history of other Parliaments, from where we have borrowed our procedures, and particularly restrictions in procedures, developed in response to incidents like this, perhaps we will not be doing great justice to the future of this House by filibustering like this. May I plead to all, please, let us allow hon. Wamalwa to continue. For heavens sake, hon. Wamalwa, will you please continue and not accede to unnecessary points of information!

(Laughter)

(Hon. Kibaki stood on his feet)

Mr. Wamalwa: Is it information?

Mr. Kibaki: Mr. Deputy Speaker, Sir, there is a major handicap which ought to be reported.

Mr. Deputy Speaker: Is it a matter of procedure which has not been raised earlier this afternoon or yesterday afternoon and has not been ruled on by the Speaker?

Mr. Kibaki: Mr. Deputy Speaker, Sir, I have tried to understand the ruling because the ruling which was made to the point of order made by Mr. Anyona says that, after the Motion has been passed, it is at that stage that we shall look into how to go into the detail of the amendments, clause by clause. But, that is not tenable procedurally because if you pass this Motion the way it is worded, you will have already adopted the First Schedule, which will comprise of the Standing Orders. If you pass this Schedule, it will take effect immediately. So, you cannot go back to debating the same issue after you have passed it. Procedurally, it is not possible in Parliamentary procedure. Although that ruling was made, I do not know whether it was serious. I cannot see how we shall have passed a resolution and then go back to discuss it, clause by clause. The two things are not compatible. It cannot go together. So, either we adjourn now and get an amendment so that Mr. Wamalwa can go on talking, or---

Hon. Members: He is right!

(The Clerk consulted with Mr. Deputy Speaker)

Mr. Kibaki: But now, Mr. Deputy Speaker is listening to somebody else.

An hon. Member: He is trying to draw the attention of the Deputy Speaker.

Mr. Kibaki: Mr. Deputy Speaker, Sir, no, I have not finished. I know that the Clerk is quite helpful, but I was trying to draw your attention to the fact that if we pass this Motion the way it is worded, in accordance with our procedures, we cannot go back to debating the amendments, clause by clause.

Mr. Deputy Speaker: We can do that in the Committee.

Mr. Kibaki: No, Mr. Deputy Speaker, Sir, it will not be possible because this resolution---

Mr. Deputy Speaker: You can do that in the Committee, but I stand to be corrected as I was not here when the Speaker made that ruling. Mr. Speaker himself will be back here and if you need further clarification, you better raise that point, it will be without prejudice. The continuity of the debate, before Mr. Speaker comes back, will be without prejudice to your interest.

Mr. Kibaki: Mr. Deputy Speaker, Sir, according to our own Standing Orders, after we have passed a Motion---

Mr. Deputy Speaker: Which Standing Order are you referring to?

Mr. Kibaki: Mr. Speaker, Sir, the Standing Orders that we follow in passing anything which is here.

Mr. Deputy Speaker: Which one? I want to refer to that particular Standing Order.

Mr. Kibaki: Mr. Deputy Speaker, Sir, any business on which Parliament has resolved cannot be re-opened during the same Session. I am saying that this resolution is so final. One must read it. There is no way of reopening this subject during this Session of this Parliament. I do not know what the Clerk is saying, but there is no way of re-opening this subject, whatsoever.

(The Clerk consulted with Mr. Deputy Speaker)

An hon. Member: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Hon. Kibaki, I have taken note of your argument, and without prejudice to the validity or otherwise of your argument either way, I will request that hon. Wamalwa proceeds. I expect that the Speaker will be back in the Chair in the next 20 or 30 minutes. In any case, the debate will not be finalised before then.

Mr. Kiliku: (Inaudible)

Mr. Deputy Speaker: Order! I promise you that it will not be finalised before then and, perhaps we can do the consultations then if there is anything really worth repeating.

Will you continue now, hon. Wamalwa?

(Loud consultations)

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I am always serious. Are you imputing motives?

Mr. Wamalwa: Mr. Deputy Speaker, Sir, before I was interrupted I was making the point that--

Mr. Orengo: On a point of information Mr. Deputy Speaker, Sir. Hon. Biwott did give hon. Wamalwa, the Leader of Official Opposition, some information, but what he forgot to inform him was that hon. Biwott and hon. Prof. Saitoti are not by coincidence Members of the Standing Orders Committee. Right now, we know that this House is at their mercy because they are likely to appear before the PAC on Goldenberg and other issues. So, they want to rush this matter.

(Applause)

I wish to inform Mr. Wamalwa further that, as he can see on the opposite side, they are not in hurry. It is just Biwott, Prof. Saitoti and Moi's son---

Mr. Sankori: On a point of order, Mr. Deputy Speaker, Sir. I am standing to seek your guidance on this Motion. It is clear that the Leader of the Opposition in Parliament is not prepared for any debate. It is a clear fact that the Opposition Members are opposing this Motion. Let them stand up and oppose and give us time to support it.

Mr. Deputy Speaker: I would rather Mr. Wamalwa responded to that point of order.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, that is a very wise decision. I am responding to a point of order right now. I resent very strongly the insinuations by the hon. Sankori who should know better than to try an attempt to ridicule his betters by saying that. I am not prepared to continue with this debate. I can assure you that I am extremely well prepared and if I get a chance to proceed with my contribution, I will make mince-meat of hon. Sankori.

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

Mr. Deputy Speaker: Order! I recognise hon. Biwott to request for a point of order. From now hence forth, I will not allow further points of order or points of information. I am entitled to take, as it were, judicial cognizance of how points of order and points of information have been used this afternoon and I think the House should expect hon. Wamalwa to contribute seriously. Whereas it is a matter of courtesy or the practice of the House to allow the Member on the Floor to accept or not accept a point of information from another Member, the Chair has the ultimate authority and I think I intend to exercise it.

Mr. Biwott: On a point of order, Mr. Deputy Speaker, Sir. I take the greatest exception to the insinuation by the notorious hon. Member for Ugenya which he made about--

Mr. Deputy Speaker: Before you proceed, will you withdraw the word "notorious".

Mr. Biwott: Mr. Deputy Speaker, Sir, because I am a civilized man, I will withdraw that word. I take exception to the insinuation made by the hon. Member about the Goldenberg issue. I have nothing whatsoever to

do with the Goldenberg and he must not link my name with anything far away from me.

Secondly, I think it is also wrong to mislead this House by saying that hon. Prof. Saitoti is a Member of the Standing Orders Committee. He is not.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. I was trying to hold my horse on this issue. I do believe that if you are coming to deal with a matter regarding the Standing Orders, it is a matter on which both sides of the House should have a consensus. It is very clear that there is disharmony, gross distrust and absolutely no faith in what is going on. Is it worth your while to sit on that Chair and pretend that there is a meaningful discourse taking place in this House or is it much better to adjourn the House so that there can be consensus outside this House and we can come back here and have a meaningful discourse?

Mr. Deputy Speaker: Order! In the circumstances, it is worthwhile to continue than to adjourn the house because that will be setting a precedent that you can force an adjournment by filibustering. However, as I had promised the hon. Kibaki, the Speaker is bound to come back and there will be no finalization of the matter before he is back to revisit the ruling on which Mr. Kibaki has taken a quarrel. I was not on the Chair then. So, may we allow hon. Wamalwa to continue.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I now intend to continue seriously. I was addressing the question as to why the Standing Orders Committee took so long before they met to look at the Standing Orders with a view to reviewing them and why, probably, in the last session of this Parliament, the Standing Orders Committee in its wisdom should wish to bring amendments to the most important Standing Orders as far as accountability of Government is concerned. If one looks at the (travail pre patre ?) of that Committee's proceeding, it is clear that there were proposals from other Members of the House, but the Committee proceeded to give preference to the proposal from the Leader of Government Business concerning these two accounting Committees. In fact, at the second last meeting, the Committee resolved that it will continue with the proposal of the Leader of Government Business and other proposals would be looked at later. This then begs the question as to why the amendments to these accounting committees became so crucial. On the Order Paper, before we went to this Motion, was pending an Appropriation Bill. An Appropriation Bill is important because it seeks to give Government money.

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: It is disallowed unless you insist it is a matter of actual order on the Floor of the House and I do not see any. Continue.

Mr. Wamalwa: I am sure a lot of these points of order are becoming frivolous.

On the Order Paper before this Motion was given preference, the House was debating the Appropriation Bill where the Government was seeking money to finance development projects and to keep the wheels of the Government turning. Next on the Order Paper was the Central Bank Amendment Act, an extremely important Act. Next on the Order Paper was a debate on the Report of the Public Investments Committee. This is a Report that exposed a lot of wrong-doing in government parastatals and we have not concluded that. Next in line was the Motion on the Report of the Public Accounts Committee, yet this House, in its wisdom, through the Sessional Committee, decided to shelf Bills on financial and Appropriation matters in order to deal with amendments on Standing Orders concerning accountability of government. This begs a very big question as to why this has to take precedence. One is bound to ask: Why this hurry? Is the House being asked to hurry this amendment in order to protect an individual? Is the House being asked to hurry this amendment in order to protect a situation, for example, the Eldoret Airport, where money was spent from the Consolidated Fund in violation of the provisions of the Constitution? This was a violation of not just an Act of Parliament, but the Constitution of this country. Is this hurry all about attempts to cover up the irregularities involved in the purchase of the Presidential Jet with money from the Consolidated, contrary to the provisions of Section 101 of the Constitution of this country? Are we hurrying in order to cover up the gross misdeeds of the government, in violating the Constitution of this land which is the supreme law of this land? Is this the reason for the hurry?

An hon. Member: The answer is: "Yes!"

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I am quite sure that even hon. Members on the government side will agree that there is something untoward about this unusual hurry to bring about these amendments.

Mr. Deputy Speaker, Sir, the Government Chief Whip has just underscored the points I wish to make. Even in the proceedings of the Committee itself, one can detect the determination of the government to steam-roll these amendments through, purely by using their muscle; their superiority in numbers in that Committee. If you just look at the Minutes of the meeting on 1st August, there were many objections to the rushing of these amendments to come to the House. Members of the Committee, particularly those from the Opposition, insisted

on a comprehensive review of all the Standing Orders that needed reviewing. They wanted to bring a comprehensive package to this House to review all the Standing Orders that needed reviewing in one fell-swoop instead of a piece-meal approach. But they were out-voted by sheer superiority of numbers with very little argument. In fact, I would like to quote to the House the argument that hon. Biwott advanced and, it is laughable, to say the least. The argument advanced by Mr. Biwott was: "He felt that the proposal to effect changes to Standing Orders was not anything new". This is an expression he loves using in this House, too. He said that it was quite within the mandate of the Committee. That was his reason for these changes.

At the same meeting, hon. Dr. Ooki Ombaka said the following:

"He was of the view that the gist of the letter by the Leader of Government Business did not seek to amend Standing Orders 147 and 148. Rather, it only requested the Committee to examine the modalities prevailing in other Commonwealth Parliaments. Further, if it had been for consideration with the intent to effect amendments, the Leader of Government Business had given no reason to support any request so placed before the Committee. Therefore, the Committee should take time to do a thorough and coherent job. Consequently, he advised that the Committee should appoint a sub-committee of its Members to visit some Parliaments within the Commonwealth to study their modalities."

Mr. Speaker, the sentiments expressed by the learned hon. Dr. Ombaka were swept under the carpet by hon. Biwott simply saying there is nothing new in changing Standing Orders. That was the answer to such a cogent argument.

Mr. Mak'Onyango: On a point of order, Mr. Deputy Speaker, Sir. We are proceeding with debate on this Paper on the basis of tradition. These very Standing Orders that we are now trying to amend represent a very effective democratization tradition in this country. I find a contradiction in this because, if we are going to carry on with the debate, simply on the basis of tradition when the very Standing Orders we are seeking to amend represent a tradition---

Mr. Deputy Speaker: Order! Order! Hon. Mak'Onyango, that, for sure, is a point of argument. I assure you that if you stand up and say you have something worthy to contribute, you will be recognised by the Chair. So, do not try to push in your contributions by stealing the time of hon. Wamalwa. I think he had very clear thoughts which he was expounding to the House. So, please, may we listen to him?

Mr. Wamalwa: Thank you, Mr. Deputy Speaker, Sir. Before I was interrupted, I had just made my sentiments felt on the question of how these amendments were rushed through the Committee and even, in the process, brought before the House in a controversial manner. Change is always welcome, but before we go for change, we must know what we are attempting to change. We must ask ourselves: Are we attempting to change whatever we intend to change for the better or for worse? The only instructive way we can draw any conclusions is to look at the operations of the Public Accounts Committee and the Public Investments Committee during the one party authoritarian rule, when there was no opposition, and how these Committees have performed since the advent of multi-partyism.

Mr. Deputy Speaker, Sir, under the one party rule, a lot of things went un-checked. I can say this with authority because I had the privilege of chairing the Public Accounts Committee under the one party rule, two years in a row. I have also had the privilege of chairing the Public Accounts Committee for three years under multi-partyism. Under the one party rule, when all Members of the Public Accounts Committee were Members of the same party, the Accounting Officers, in other words, Permanent Secretaries, never took that Committee seriously. They would appear before the Committee, ill-prepared. Sometimes, they would even appear without answers and when they were asked why, for example, they incurred an excess vote, they would say that they were authorized by orders from above. It is only during the multi-party Public Accounts Committee that it has been pointed out to Accounting Officers that "superior orders" is not a defence for misappropriation of public funds; that, in fact, when it comes to misappropriation of public funds, you cannot plead that you were ordered, or you got permission from State House. This is a plea that was made many times by Accounting Officers during the time of one party rule.

Mr. Deputy Speaker, Sir, I can assure you that a lot of problems that the accounting committees are dealing with now originate from that time when we all belonged to one-party rule because we had the tendency to cover-up when we felt that the Accounting Officer before us was closely connected to State House. We soft-peddled issues on that. If a Managing Director of a company that had defrauded the Government had strong State House connection at that time, you dared not even summon the person to appear before the Committee.

Mr. Munyasia: On a point of information, Mr. Deputy Speaker, Sir. In view of what hon. Wamalwa has said was happening at the time when he was chairing the PAC during the one-party rule, would he now accept correction from me that he did not have the privilege to chair that PAC under the one-party rule, but rather he had

the misfortune to chair such a Committee?

(Applause)

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I do thank the hon. Member for his witticism; a little light relief is always welcome.

Be that as it may, I am pleased and proud to inform the House that under multi-partism, the management of public funds is almost becoming ship-shape. Accounting Officers now come to these Committees thoroughly prepared and they even come with written briefs. We have been noticing certain trends in misappropriation of Government funds, over-expenditure, under-expenditure and so on. We can say without any fear of contradiction that over the past three years, there has been a remarkable improvement in the management of public funds by Accounting Officers. Therefore, one wonders what is wrong with the way the Committees are operating at the moment that this House seeks to change the *modus operandi* now. Are these changes being sought because the Committees are operating too efficiently for the liking of this Government? Are these changes being sought so that Accounting Officers can now misappropriate Government funds, in certain cases, steal them outright and go scot-free? Is this what the side opposite wants? Mr. Deputy Speaker, Sir, like I said, change is always welcome, but we must ask ourselves: Is it change for the better or worse? The final decision in this matter rests with every hon. Member of this House. In fact, this is not a partisan matter. This is a matter of conscience and every hon. Member of this House owes the Kenyan nation a decision on this matter. Are we going to change and disrupt the Committees that are operating efficiently at the moment because we want them to become as inefficient and as corrupt as they were before? Is this what the House is seeking to do? Mr. Deputy Speaker, Sir, I put it to this House that it is upon the political and individual conscience of every Member of this House, if you vote for these changes, you have to convince yourself that you are voting for these changes because they are going to be better, not just because the Government will have its way on everything. If at the moment, the accounting committees are doing a good job, then reject these changes because they are not based on good intentions.

Mr. Deputy Speaker, Sir, I would like to carry on by pointing out that the Leader of the Government Business, in seeking these changes, relied heavily on a notion called proportional representation. He contended that proportional representation is the order of the day in all Commonwealth countries. Be that as it may, one would have to look at some words of wisdom that President Moi has imparted to this country: That, we must not ape other cultures foolishly!

(Applause)

Mr. Deputy Speaker, Sir, there is a lot of merit in that statement. We have been developing in our own way with our own values. And this Parliament has a duty to posterity, to develop its own values without necessarily aping wholesale the values of other Parliaments. We must know why, for example, in Australia, they have proportional representation; we must know why in Britain or other Commonwealth countries that we are depending on, they have proportional representation and so on. A lot of these countries have developed to that level after many years of experience, after making a lot of mistakes and eventually arriving at a level when it is a matter of national importance, such as the management of the economy, the Opposition and the Government quite often agree in the interests of those who elected them to Parliament.

Mr. Deputy Speaker, Sir, I am sorry to note that in the Kenyan Parliament, we are still a long way to go, we are galloping towards that level, but we have not arrived on that platform. We are still partisan even within the Committees partisan. Divisions are so manifest that one would be wearing blinkers to pretend that there is unanimity or consensus on a lot of these divisions. We would like to arrive at that level, but we have not yet arrived there and we would be fooling each other to say that it would be so.

If we wish to embrace the notion of proportional representation, then let us not be shy about it. Let us introduce that notion in every elective position in this country. Let election to Parliament be based upon proportional representation. Let the nomination of the 12 hon. Members of Parliament who are nominated be done on a proportional basis.

(Applause)

Kenya was a multi-party country before 1992. In 1963, Kenya was a multi-party country. The 12 Specially Elected Members in 1963 were elected this way, and I know that because I was a student of history and my father was a Member of this House. The KANU side which had one majority seat at the 1963 General

Election were allowed to sit, Members of KANU, Members of Parliament, sat as an Electoral College and elected eight Specially Elected Members. Members of the Opposition, KADU party, sat as an Electoral College and if I am lying hon. Shikuku is here, he was a Member of that House and he can correct me. They sat as an Electoral College and elected four Specially Elected Members.

Right now, KANU has arrogated to itself the power and authority to nominate all the 12 Members totally oblivious of the fact that we have gone back to multi-partism.

If we are serious about proportional representation, then let us go the whole hog. Let us not be selective about where we want proportional representation and soft-peddle on areas that we do not want proportional representation.

Mr. Deputy Speaker, Sir, if we were to go to proportional representation then the side behind me would be in Government today because at the 1992 General Election, they garnered two-thirds of the votes cast by wananchi.

I find it very hard not to accept information from hon. "Sir Henry Ruhiiu."

(Laughter)

Mr. Ruhiiu: On a point of information, Mr. Deputy Speaker, Sir. Thank you hon. Wamalwa. I want to inform this House that the question of aping Commonwealth countries is not the kind of tradition that we must follow as far as we are concerned. If we have to do that I suggest that New Zealand has got an extra Select Committee in charge Maori affairs. Why can we not have a Select Committee of this House in charge of Maasai affairs?

(Laughter)

Mr. Wamalwa: Thank you, hon. Ruhiiu for that point of information. I am informed here by hon. Ntimama that he agrees wholly with you.

To go back to the concept of proportional representation; in 1992, the Opposition got 66 per cent of the votes cast. On that formula, the Opposition should be having 140 seats and KANU should be having only 60 seats. But that was not to be the case. In the other committees, for example, the Sessional Committee, is there proportional representation in it, because KANU has an overwhelming majority? We have not raised the finger! What about in the other Parliamentary Committees, is there a proportional representation? Why does this not apply to all the Committees across the Board then? Why just in these two accounting Committees?

Hon. Members: They want to loot!

Mr. Wamalwa: There must be a reason. If we are going to borrow from other Parliamentary traditions and cultures, again we must be prepared to go the whole hog.

Mr. Deputy Speaker, Sir, in the United Kingdom, the leader of the opposition is entitled to a lot of privileges; he is entitled to the government car, government security and a government house. Is there anything even near that, in this country?

Hon. Members: Noooooo!

An hon. Member: But you have not asked for it!

Mr. Wamalwa: Ho! Somebody is saying that we have not asked for it. We have asked for it and if you do not know, the matter has been pending before the Speaker's Committee for the last three years.

Mr. Shikuku: That is a fact!

An hon. Member: It is being considered!

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I am being informed by the Minister for Health that the matter is still being considered. I have a feeling that it will be considered until the kingdom come. In other countries which we admire so much, the leader of the Opposition, for example, in the United Kingdom has a right to be consulted on important national matters. On security, yes---

An hon. Member: Does Prof. Saitoti consider you?

Mr. Wamalwa: Hon. George Saitoti has tried and I had to give him credit for that. The Leader of the Opposition has a right to meet visiting dignitaries. We have seen very many visiting dignitaries come to this country but we have never been invited even to have a cup of tea with them.

Mr. Deputy Speaker, Sir, if we wish to borrow from other cultures, we must not do so blindly. I am all for a home-grown democracy, for setting our own standards and for singing our own songs. Hon. Members of Parliament must reflect seriously upon these proposed changes. They must ask themselves. Are we changing

for the better or for the worse? Are we serving the tax-payers of this nation better, by leaving these matters the way they are after seeing that there has been remarkable success in this Committees for the last three years? Or, do we want to take this country back to the dark ages when we had scandals like Ken-Ren. With regard to Ken-Ren, some fast talking investors came to this country and bamboozled everybody with talk of millions and that they were going to set up a fertilizer manufacturing factory in Mombasa since, this is an agricultural country. Billions of money from the Government coffers were sunk in that project and those people went away scot-free and nobody even asked anything about it.

Mr. Deputy Speaker, Sir, we have to be very careful. Let there be change, but let us weigh the pros and cons in that change. I am appealing particularly to the conscience of the Back-benchers on the other side, that they must vote according to their conscience on this Motion. They should not agree to vote for corruption, for deterioration in the standards of Government financial vetting. They must not agree to give a blank cheque to people whom we know very well in the Government and who are used to plundering the national coffers with impunity.

Mr. Deputy Speaker, Sir, one wonders why there is tokenism. If the Government wants to control these Accounting Committees, lock stock and barrel, let them control them. Why say to us: We shall give the Opposition the Chairmanship of these Accounting Committees, or even that of acting Chairmanship, will come from the Opposition, yet the numerical majority comes from the Government? Are you trying then to say that certain unpopular decisions would be passed by these Committees through the Government superiority in numbers, then you say; "After all it was being chaired by the Opposition."

Some hon. Members: Forget! No! No!

Mr. Wamalwa: Mr. Deputy Speaker, Sir, we are not keen on chairing committees that are going to arrive at unequitable decisions that will harm this country. If the Government so wishes let it take all the accounting Committees by superiority of numbers and also take the Chairmanship with them and not throw the chairmanship to us. We do not want to be left carrying the can.

Hon. Members: Hear! Hear!

Mr. Shikuku: On a point of information, Mr. Deputy Speaker, Sir. I must thank the hon. Member for giving this opportunity to inform him. It was the other day when it was stated by the Head of this Republic that the plots in Nairobi were being dished out and this should not attributed to the Government, because the majority councillors here are from FORD(A). You will find that all these plots never go through the proper channels because people get letters from above and they get the plots. But now the blame is to be placed squarely on the majority of councillors who happen to be from FORD(A). I do concur with you, Sir, that if these old friends of ours want to make use of us, they should know that we are very intelligent, and woe unto those Back-benchers who ask for roads and bridges for their areas and are told that there is no money while the money is being looted. We shall inform wananchi that these hon. Members in Parliament were voting for looting and they will be rooted out of this Parliament.

Mr. Wamalwa: Thank you, hon. Shikuku. To conclude, I would like to pay tribute to the Government.

I am a fair man. During the three years that I have been talking about the Government has tried very hard to implement the recommendations of the Public Accounts Committee on certain matters. They have been able to come out with a Treasury Memorandum on time showing which parts have been implemented and which parts have not been implemented and for what reasons. I think this is good enough and it looks to me that the Government was comfortable with this working arrangement.

I am forced to come to a rather difficult conclusion that these changes are been sought not necessarily by the Government as such, but by one or two people who have certain fears. But whether the Government dominates these Committees, whether it arrives at certain suitable recommendations whether it sweeps a lot of things under the carpet justice is bound to come on day; the day of reckoning will come; and when it does, heads will roll from lamb posts and blood will flow through the gutters of Nairobi.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Kibaki: Mr. Deputy Speaker, Sir, I am pleased that you did make a statement that, at a relevant time, the Mover of this Motion will be allowed to amend it so as to go back to a procedure which will enable us to debate, clause by clause, this particular Sessional Committee Report. It is vital that since we are passing in the Standing Orders, we agree to the actual wording of those Standing Orders and that we do not pass it in the procedure of this Motion.

Mr. Deputy Speaker, Sir, a question has been asked and it can bear repetition. What is the urgency of this matter? Why have two Standing Orders been selected as being priority and that there is an urgent need for them to be amended now and not even next week? Why should they be amended very quickly today? This is because as you

can see there is a little bit of movement around by people who want to move closure of this debate. I am sure that their conscience will pester them throughout their lives for stopping debate on matters of very great importance. As I said yesterday, the Government has a majority in this Parliament but the Government should not abuse that particular power. An abuse of power is like in this case. It is an abuse of power. The need for these changes which are being proposed now is to frustrate genuine debate in those two committees; that is the Public Accounts Committee and the Public Investments Committee. That is the purpose. There is no other purpose. The purpose is to have a committee which will approve what the Government wants to be approved. This means that we shall have shifted the original intentions of these two committees which is to audit, scrutinise and analyse the expenditure of monies voted by Parliament; did it go to where it should go? Or was it spend by those who should spend it? Has there been expenditure which is illegal? Has there been expenditure which is unconstitutional? Has there been expenditure of Government money through irregular means? These were the purposes of these committees.

Mr. Deputy Speaker, Sir, now the idea is that the Government will have a majority in them so that the Committees will now be directed as to how and what to do. They will now be directed and the intention of the Government is clear and it is precise. The only mistake they are making is to imagine that in going to commit that sin of defrauding Kenyans, they will carry the Opposition with it. It is not possible! We were elected by members of the Kenyan Republic and we are intelligent enough to see through the smokescreen which is hardly very thick. The smokescreen being applied here is meaningless. It is truly meaningless. Indeed, anybody who has any conscience would not be party to this gimmick. This gimmick is to try and say that we have changed the Committees to a proportional representation which is something fictitious, so that they can work better. It is not true because that Committee, once it has that kind of numbers from KANU, will be directed by the party. And issues which should be debated in detail and reports that should come to this Parliament being truthful, will not have a chance of coming here. The final reports of these Committees will be what the Government wants them to be and that is why there is a hurry. That is precisely why there is a hurry. This is because the issues coming up before the present Public Accounts Committee and the Public Investment Committee are such serious issues that---

Mr. Mulusya: On a point of information, Mr. Deputy Speaker, Sir. I would like to inform my Chairman, hon. Kibaki, that the Members of the KANU Government have even had a quarrel among themselves; Members of KANU in this House have even quarrelled on the numbers of nominated Members of Parliament who are in these Committees. They claim, because the nominated Members form over 50 per cent of the Committees, they are there because they have no control of themselves, they cannot run to anybody other than the person who has nominated them. Therefore, they can be controlled and told which side to vote for and which side not to.

Mr. Kibaki: Mr. Deputy Speaker, Sir, I was making the point that, that procedure of utilizing Members of the Committee to push the view of the Government in those Committees has now been taken to its logical conclusion. You now get a majority to ensure that the Government's view is passed.

Mr. Deputy Speaker, Sir, the Government is defeating the very purpose of having a Public Accounts Committee. The Government is the one that is entrusted to spend the money from the taxpayer; to spend the money on votes passed by this Parliament. The Government now, having spent the money, wants to be in charge of investigating itself; whether it has spent well or whether it has spent in a foul manner. How can they be the in charge of spending and also be in charge of checking whether the spending was correct? Even the very first principle of any civilised person who wants checking of any system would know that the person who goes to do an action is not the same person who is asked to report on himself; whether he has done what he should have done. There must be a second hand; a second party, there must be a second person who checks what you are doing. So, what the Government is trying to do, even all Kenyans will see that the Government has reached a point of desperation, so advanced that they are willing to do anything to cover the looting happening now in the economy of this nation.

Mr. Deputy Speaker, Sir, I am saying in all honesty that this is the evil way of doing it, it is a terrible manner of doing it. It is not going to be allowed. Certainly, it is not going to be allowed by those of us who were elected. Above all, if the Government wants to go that way, they will have to go it alone. They must not misjudge this Opposition. We want to co-operate, we want to run a system which is workable. We want, above all, to have an open system. We are talking about transparency and accountability. How can we have accountability when those who are Ministers and who have spent the money together with the Permanent Secretaries are going to have people in the Committees checking? We will have a situation where the Committee is ordered; it is told, do not check this further, it is told, we took public coffers money from the fund and used it to build, for instance, an airport, no Parliament had approved it, but do not say it that way.

Mr. Deputy Speaker, Sir, after all, we had a serious example very recently, when there was a debate in the Public Accounts Committee. The Committee was being directed not to mention that the President did anything.

You must not mention the name, find something else where you will say, a Government. Now Government is everything from Assistant Chiefs to Chiefs, DOs, DC, PC, PS, Minister and Assistant Minister, and yet a report is to be written that authority came from Government; the whole Government, and yet we know that inside the system of Government today, the bad expenditure which we see, anybody who is questioned says, there was an instruction from above.

Therefore, Mr. Deputy Speaker, Sir, the Public Accounts Committee (PAC) sits to unravel those instructions, so as to know who is above and how he looks like. It asks: "Is he angelic?" It also says: "Let us name him". They also ask: "Can he be called to this Committee?". When the PAC persisted in one case they were just threatened. But because they are independent and have a different kind of majority they did not succumb to the threat. Instead, they reported the way they wanted. If we are going to have a Committee which will be subject to direction, which is what is intended here, we shall be in a different world. But I want to mention that, that is a world in which the Government will have to inhabit alone. If those in the Government are trying to take away the right of the citizens, or tax payers of this nation to know how the money which they pay in taxes is spent, then the Opposition shall not be a party to that. We shall not be a party to assisting the Government to do that. Therefore, those in the Government side had better not be in a hurry. They should take matters slowly.

I have listened to the proposal, which is not true, about the procedures in other Parliaments in the world. Other Parliaments in the world have their own procedures, but one thing which is distinctive is that the committees which check government expenditure are not subject to a Government majority. They are not subject to being directed by the Government which has spent the money. If it were so, that would be a contradiction in terms of parliamentary responsibility. Parliament has a responsibility to check expenditure of tax payers' money. It will be a contradiction for Parliament to surrender that power to anybody--

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Deputy Speaker, Sir. Hon. Kibaki is making a specific allegation, namely that in none of the Commonwealth Parliaments there is a majority in the expenditure committee from a ruling party. Could he substantiate that because it is not true?

Mr. Kibaki: Mr. Deputy Speaker, Sir, I am making a different point. Please, let him listen because I am serious about this point. Let me go over it again in four sentences. The appropriation of public finance, which comes from the tax payers, is done by Parliament. In that Parliament, the Government has a majority and it supervises the departments which spend tax payers' money. Therefore, in every democratic constitutional structure you could not have that same government supervising itself in checking its expenditure. The principle of democracy requires that the committees which investigate expenditure should be weighted in favour of the Opposition, not for any other reason, but only because of recognising that the Opposition was also elected by the same tax payers to be checking to see whether money was spent on the voted items, or on some other fictitious items.

That is actually how a democratic structure is, whether you go to the United States of America or elsewhere. Do not just talk about one country that you happen to have read about. Open up and read about the world because it is very wide! In fact, that is how the American Congress works. In fact, it may help the hon. Member to learn about the American Congress, the Canadian Parliament and so on. In these countries the Public Accounts Committees are public. This means that when a Permanent Secretary, or Accounting Officer, is called to testify before the Committee he is questioned in detail in public. He is asked why he authorised money to be spent on something which was illegal, and all this is public, so that all the citizens know that, that particular guy committed an offence. In fact, the questioning is also televised around the world. If we do it in this way we will get to the root of who authorised the goldenberg expenditure and who gave instructions to the Central Bank of Kenya to pay the money in the goldenberg affair.

Mr. Deputy Speaker, Sir, there is only one account for the Central Government. This is the Consolidated Fund Account and nobody can take money out of it except through the direction of the Treasury. Therefore, those are the people who should be talking in a public Committee in a system where the proceedings are public, and they would have been forced to answer the questions. Now they even refuse to answer questions. If the proceedings were public, it would have been much better.

Since we are moving towards greater transparency and more accountability, we should make these Committees public where we would also take evidence from ordinary Kenyans who have been affected by the way public investment was treated. By so doing, we would know how some investment in a company was done. If it was sold, how and why was it sold for one-quarter of what it was worth and who ate the balance. It would come out because it is done in public. That is the direction which we should move in, because we are moving towards greater prosperity.

Mr. Nyagah: On a point of information, Mr. Deputy Speaker, Sir. I had the privilege of reading a book from Germany that was brought by hon. Orenge. That book states that: "Kenya is 200 years behind any European country." And that is a sign of primitivity in our economy. It continues to say: "We are 2,000 years behind in our democratisation process."

Mr. Deputy Speaker, Sir, the KANU Members of Parliament can say whatever they want to say. I have the Floor to speak and they should listen. They are paid to come and vote. If you are not going to listen to the views of the Members from this side of the House, you are doomed for life.

Mr. Kibaki: Mr. Deputy Speaker, Sir, I was explaining the direction which we should be moving towards. Instead of going backwards, we should be moving towards a direction where our Committees become public so that what goes on there is clear. That is the direction which we should be moving towards. I really hope that we shall move in that direction.

Mr. Deputy Speaker, Sir, I do not want to repeat the points made by hon. Wamalwa about all Committees because if the principle of proportional representation is to be adopted, let us adopt it in all our institutions. As it is now, this principle is being brought in a very strange manner. It is applied to two Committees only; selected specially. There is no reason as to why the other 15 Committees are not affected. If it is true, let us start with the Sessional Committee. Let us make it proportional in terms of numbers. Let us also make proportional, the system of voting in this nation. It is a dispute going on around the world and since they are copying what is going in the Commonwealth countries, it is one of the most central issues going on in the Commonwealth countries as to whether we should go on with the English system which we have now; where we have some hon. Members sitting on the opposite side who only got a quarter of votes and they got elected because there were six or seven candidates and somebody got 20 per cent of the votes and he got elected to Parliament. In a proportional representation system, there will always be that Clause. Any fellow who does not get 51 per cent of the votes does not represent that Constituency and cannot represent that nation.

(Applause)

They must get 51 per cent of the votes. That is the basic principle of proportional representation. Now we have people pretending to be very holy and they have found it as a medicine for dealing with these two special Committees. If it is such wonderful medicine, why should it not be applied to the whole nation? If it is a wonderful medicine which will cure all our ills, why do we not agree that we have proportional representation and we, above all, will start with proportional representation for the next General Elections so that we now do an amendment to the Constitution and have that principle adopted? Then we will do proportional representation and every Kenyan's vote, will have equal weight because that is the principle of democracy. If every vote has to have equal weight, and that is the principle of democracy, why apply it secretly to only two Committees? Why not to the whole nation? I am saying, that the motive behind this move is very clever by "a half". It has gone over itself because the idea--- It has been said, but I will mention it in other words. The idea is very simple. You will have the Chairmanship and the Vice-Chairman if you want, but the majority shall remain with the ruling party. But the Chairman and the Vice-Chairman will be on the other side. A little intelligence will help. Can you imagine if you were in the Opposition? My friends, can you imagine if you were in the Opposition and you became the Chairman of the kind of Committee that you are trying to establish? You have opposed everything in the Committee Stage, you have even opposed the final draft of the Report, but when it comes here, you have to introduce it. I notice you are not changing the other Standing Orders as to who is to introduce the Report. So, the Chairman will come and introduce a Report here which he fought in the Committee and it was passed by the numbers against his wish. In the final draft, he also objected to the wording, and it was passed by the numbers, but still, under our other Standing Orders, because the other Standing Orders have not been amended, the Chairman of the Committee ndiye atakuja kutoa hii Repoti katika Bunge hili.

(Laughter)

Mr. Deputy Speaker, Sir, there are very intelligent people in the Government, but they have now been too intelligent "by a half". You will not trap us; we are not capable of being caught by these little snares of this nature. It is not possible. Who is going to fall into this thing? Who would intelligently, with his eyes open, fall into this kind of trap? Katika Kamati utakuwa unapinga vikali, but when it comes to voting, it is passed. Unapinga na inapitishwa. Then you come here, because you are the Chairman, it is your business to move the Committee Report, which is a KANU Report and you are in the Opposition.

An hon. Member: Never!

Mr. Kibaki: Then the Leader of Government Business and every Minister will be able to stand up and say: "You know, this matter was passed with the approval of all sides." This game will not work. I am just pleading that, for us to be honest to our electors, we must preserve the principle which has been with us since Independence namely: That the Public Accounts Committee shall have Opposition Members as the majority and will also provide the chairman so that even the Government will benefit. Mr. Wamalwa has already said this. After these two or three years of scrutiny, already the Government is beginning to improve in the manner of keeping accounts.

Now the Government has abolished the system of internal audit. So, any Accounting Officer will decide to give anybody any loan because there is no internal audit where an internal auditor would remind this Accounting Officer not to give any loan to anyone. Now, if the matter goes to the Committee, you will be told that the Government wants to approve what has been done by that Accounting Officer. I am saying that we can see very clearly where we are being taken and we are not going to agree. We will not agree whatever happens.

*(Dr. Ombaka is applauded as
he is led into the Chamber)*

Welcome Dr. Ombaka to the House. You did very well in that particular committee. He proposed a beautiful principle which has not been followed. I have been reading in the minutes his proposals. He proposed that if we want to streamline the Standing Orders, we should streamline all of them. He further suggested that we have a sub-committee which would tour all the commonwealth countries to learn from them and then we would do amendments to the whole body of all the 78 Standing Orders, but not select only two for some special reasons. The Committee took this suggestion because they appointed a sub-committee and it is going to tour around the world.

Now, before that sub-committee has toured the world two Standing Orders, the most critical ones, are to be amended. So, are we being honest? Are we doing two inconsistent jobs? On one hand you have a committee going round the world---

Dr. Lwali-Oyondi: On a point of information Mr. Deputy Speaker, Sir. I would like to inform the hon. Member that they could not think of the Implementation Committee which was abrogated. They went straight to that committee concerning money and funny enough, it was done by people who have been quite famous in various monetary scandals in this country: Mr. Biwott and Prof. Saitoti.

Mr. Kibaki: The point I was making is that the Committee itself saw need for the proposal which was put forward about having a sub-committee which would tour the countries in the world and see how Standing Orders are applied; fine. I thought it was logical for them to say that during recess, which we are going to in December, the sub-committee would tour those other countries and come up with proposals including proposals as to how their Parliaments treat this issue of expenditure. Then at that stage, they would look at what amendments we need on all the Standing Orders including these two. But to extract these two for special reasons, which have not been given, it shows an intention to subvert the sovereignty of this Parliament. That is what is being attacked because this Parliament's sovereignty is expressed in control of expenditure of Government. If Parliament cannot control the expenditure not approved by Parliament, then the sovereignty of this Parliament will have been challenged. It is too much to challenge the sovereignty of Parliament, when we represent the taxpayers. What I am saying is that this matter requires more discussion, debate and careful analysis of how to go about it. There is a lot of panic about issues concerning the Eldoret Airport, the Presidential jet, the ammunition factory and all the other things which are before the Committee. The money has been spent. So, it will still be debated. There is no way of trying to save the situation now, by having a Committee which will enable you to cover up. Let the matter come out, because it is already in the open, and you will even get a better chance of saying why there was a hurry for you to build an airport somewhere, where you do not even have a title deed.

Mr. Deputy Speaker, Sir, do you realise we do not have a title deed? The Government does not have a title deed for that land where they are building the airport. The land has not been transferred. They have spent US\$86 million building the airport. But they have no title on that land! This is because the various processes through which these things were being taken, involved so many people, each of whom required a "cut". So, the transfers have not been implemented. It has still not happened up to date. They will not be able to cover up these things. They are well known. In any case, the Government has been questioned by the World Bank and the International Monetary Fund (IMF). They have given them all the details on this matter. But why does the Government want to cover the details, and keep them away from Parliament? How can you be responsible and accountable to foreign institutions, although they are international and lend us money, and not want to be accountable and transparent before the Parliament, which is elected by the people of Kenya? Is that not a

contradiction, Mr. Deputy Speaker, Sir? It is a contradiction!

I am saying this for this reason: When the Public Accounts Committee (PAC) asked to be given details regarding about Kshs6 billion, which the Treasury directed the Central Bank to pass on to the Kenya Commercial Bank (KCB), and KCB to pass it on to other five banks, who then deposited it into the accounts of A,B,C,D, they were not given. When the Committee wanted to know who A,B,C,D, were, they were not allowed to know. Those who should give the information have been ordered not to give it!

An hon. Member: Including some of them here!

Mr. Kibaki: Mr. Deputy Speaker, Sir, this Government, because they cannot hide it, will give such information to IMF and the World Bank. Do we have a Government which is responsible to Kenyans through Parliament, or to IMF, World Bank and other donors? If we say this kind of Government has lost its way, we are right. We are right to say so because no Government would feel they can be open to some foreign institutions, but cannot be open to its own citizens, which are not supposed to know too much. It is for the same reason, that even the crooked businesses that are conducted now, are being done more with the help of the foreigners.

For example, the questions about sugar which were being asked today and everything else are all involving foreigners. The locals are not in it.

But what I am saying is a matter of principle. As Parliament, we should not agree to what is being proposed. I am appealing to the Leader of Government Business, Deputy Leader of Government Business, Ministers and all of us who are here, to go and think again on this subject. Let us not push the matter beyond where we shall all get into trouble. Let us put this matter back to the Committees, where it shall be debated in greater detail. This is because the Report of this particular issue is going to come.

Mr. Deputy Speaker, Sir, I have another point. When the Report is brought here again, I hope the wording of the Standing Orders will be explicit. I also hope that we shall be allowed to raise it and to go into it, item by item.

The PAC and Public Investments Committee (PIC) debate reports produced by the Controller and Auditor-General and the Auditor-General (Corporations). They base their debate on those reports.

Mr. Deputy Speaker, Sir, it should be precise in the Standing Orders and unless you want to say in a particular Standing Order, those Committees will base their debates on those reports. I am saying this because I have known what has gone on in about five different African countries over the last so many years where the Controller and Auditor-General reports have been omitted from discussion of the Committees. So that you have Committees which do not have detailed basis to start their discussion. And because the wording now is "vague", it should be made very precise, that those reports shall be submitted. It is on that basis that when they have been considered, the reports taken back to House will come to us. That will link up together with the provisions in the Exchequer and Audit Act which provides that those reports must be laid before Parliament. We do not want provisions which begin and eventually we shall hear that the reports of the Controller and Auditor-General are not tabled in Parliament and yet we have Committees.

So we could very well be put on a very slippery road, slipping right down where you will find the reports do not come and you are debating some generalised statements. After all, we have had many public inquiries. There was an inquiry about devil worship, and the report has been produced and we have been told that the report is "too sensitive" even for hon. Members of Parliament. You must remain innocent. "You guys must remain very innocent, you cannot be trusted to read this report because it will pollute and spoil you. You must remain very innocent children." For instance, we want that report.

I am saying that the Controller and Auditor-General's reports must never be treated like that report of public inquiry on devil worship.

The Minister for Health (Mr. Angatia): We have read the proposal!

Mr. Kibaki: Mr. Deputy Speaker, Sir, the hon. Member has not read what is proposed. He has not read the minutes and I do not want to read them to him because I will waste other people's time. If he does read the report, he will understand what I am talking about, but he did not know even what was in the original draft in the Standing Orders now, where we are---

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. Could I seek the indulgence of the Chair to restrain the hon. Angatia from behaving like a heckler!

Mr. Kibaki: I do not think Mr. Deputy Speaker should be asked to do the difficult things. Some people cannot be changed, it is not possible! So, on my part, I plead that Mr. Deputy Speaker is not given impossible jobs! We just learn to forgive because we must live with these types!

(Laughter)

I am saying the wording of the actual Standing Orders No.147 and 148 will include in a precise manner, that those reports of the Controller and Auditor-General and the reports of the Auditor-General (Corporations) will be the basis. Let them remain because it was always understood, it was the convention on which the Parliament operates. If we are amending, let us amend, but personally, I oppose these amendments because they have not been well thought out and because the motivation is not honest. If it was honest, we would have investigated all the Standing Orders not just these two. Therefore---

ADJOURNMENT

Mr. Deputy Speaker: Order! Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 19th November, 1996, at 2.30 p.m.

The House rose at 6.30 p.m.