

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 28th November, 1996

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No. 795

DISPERSION OF A HARAMBEE MEETING

Mr. Shikuku asked the Minister of State, Office of the President why the Harambee for Eshirali C.P.K. Church, whose guest of honour was Councillor Mrs. Epiche, was dispersed by the Chief of Kisa Central in Khwisero Division on 23rd December.

The Minister of State, Office of the President (Mr. Kalweo): Mr. Deputy Speaker, Sir, I beg to reply. The officers of the Directorate of Security Intelligence were posted in Butere and Khwisero in March, 1995.

Mr. Shikuku: On a point of order Mr. Deputy Speaker, Sir. The hon. Minister, who is a friend of mine, appears to be confused. That was the reply to my question which I asked yesterday. Today is a different day from yesterday. Could he reply to Question No. 795?

The Minister of State, Office of the President (Mr. Kalweo): Mr. Deputy Speaker, Sir, I am sorry and consequently I apologise to the House. I have got some problems with my eyes. However, I beg to reply.

It is not true that the Chief dispersed the Harambee gathering. Following the Government directive to suspend harambees, the chief informed the convenor and no member of the public turned up.

Mr. Shikuku: Mr. Deputy Speaker, Sir, I am sure the hon. Member has given the wrong reply. I do not see how an hon. Member of my stature can bring a question here if nothing did happen. At least, you should respect that. He is a very senior Member of Parliament. The meeting was dispersed because this lady called Mrs. Epiche is a FORD(A) Councillor. When she convened this meeting which I was supposed to attend, it was cancelled. When the people went to this venue the chief dispersed them and yet the Government says that the Opposition does not want to bring about development. When we want to bring about development, we are not allowed to do so. When we apply for licences for our meetings we are not issued with them. What do they want us to do?

Mr. Kalweo: Mr. Deputy Speaker, Sir, I respect hon. Shikuku because he is always right. So, I do not dispute whatever he alleges since there must be some truth in it. Give me time to deal with the question.

Mr. Deputy Speaker: Are you happy, Mr. Shikuku?

Mr. Shikuku: I am happy in that the Minister says that he is going to deal with this matter.

Question No. 828

PAYMENT OF MR. G.K. SALIM'S PENSION

Mr. Ndzai asked the Minister of State, Office of the President:

(a) whether he is aware that the late Mr. Gabriel Keruga Salim, P/No.160115, formerly working in the Chief's Office in Garashi, was never paid his pension benefits;

(b) whether he is further aware that the Pension Department vide their letter APN/PC/66775 of 28th, 1996, demanded further information to facilitate the payment of the retirement benefit to the family of the deceased and;

(c) why the Ministry failed to respond to Treasury's letter APN/PC/66775 of 1st August, 1995.

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

(a) The pension benefits for the late Gabriel Keruga Salim are in the process of being computed by the Pensions Division of the Treasury.

(b) Yes, I am aware.

(c) The Ministry responded to the Treasury letter APN/PC/66775 of 1st August, 1995 and gave the requisite information needed for the processing of the benefits.

Mr. Ndzai: Mr. Deputy Speaker, Sir, the answer to part "a" is misleading because the pension dues cannot be processed unless the letter had been replied to. As concerns his answer to part "b" of the Question, could the Assistant Minister table the letter to show that the Pensions Department had been furnished with that information?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I do not have the letter now, but I will table the letter on Tuesday.

Mr. Deputy Speaker: Next Question.

Question No. 925

CAUSE OF MR. G.A. SUJAH'S DEATH

Mr. Deputy Speaker: Prof. Anyang'-Nyong'o is not here. Question is deferred for the moment. Next Question.

Question No. 1154

NUMBER OF KENYANS SENTENCED TO DEATH

Mr. Mbui asked the Minister for Home Affairs and National Heritage:

(a) how many Kenyans have been sentenced to death in each year since 1982 to date and,

(b) how many cases has the sentence actually been carried out.

Mr. Deputy Speaker: Is there anybody from the Ministry of Home Affairs and National Heritage? The Question is, therefore, deferred for the moment. Next Question.

Question No. 1023

ADMISSION OF STUDENTS TO COLLEGES

Mr. Munyasia on behalf of **Mr. Busolo** asked the Minister for Health:

(a) how many applicants from Bungoma District sought admission in all the Medical Training Colleges in 1995 and how many, per division, gained admission; and,

(b) how the Bungoma District figures compare with those of other districts in Kenya.

Mr. Deputy Speaker: There is nobody from the Ministry of Health. The Question is deferred for the moment. Next Question.

Question No. 515

PRIVATIZATION OF ROADS IN DAGORETTI

Mr. Kamuyu asked the Minister for Local Government what plans he has for the privatization of the roads in Dagoretti, which are in a deplorable state.

Mr. Deputy Speaker: There is nobody from the Ministry of Local Government. The Question is deferred for the moment. Next Question.

Question No. 280

TARMACKING OF KARAGOINI-NANYUKI ROAD

Mr. Gichuki asked the Minister for Public Works and Housing what plans he has to tarmack the road from Karagoini to Nanyuki.

Mr. Deputy Speaker: There is nobody from the Ministry of Public Works and Housing. The Question is deferred for the moment. Next Question.

Question No. 418

FATE OF EMPLOYEES OF MINAR RESTAURANTS

Mr. Anyona asked the Minister for Labour and Manpower Development:

(a) whether he is aware of the serious problems of the employees of the Minar Restaurants belonging to the Balla Group of Companies;

(b) how many Kenyans and foreigners hold managerial positions as managers and chefs in the Minar Restaurants; and,

(c) what urgent measures he will take to deal with the situation and protect Kenyans in the Minar Restaurants, and other foreign establishments against discrimination and exploitation.

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

(a) No, I am not aware.

(b) The Minar Restaurants have 4 local managers, 1 Assistant Manager and 11 cooks, besides 4 expatriate managers and 11 chefs in their four branches in Kenya.

(c) When cases of discrimination and exploitation are detected, either in the Minar Restaurants or in any other place of work, prompt action is taken in accordance with the laws of the land.

Mr. Anyona: Mr. Deputy Speaker, Sir, yesterday I talked about this Assistant Minister and wondered what we should do with such a type of Assistant Minister who is joining hands with foreigners to exploit Kenyans. In fact, I did confide in him outside the Chamber and he gave me the answer that he was not aware. Now, he comes back to the Chamber to say that he is still not aware. This means that there is a conspiracy between this Ministry and-- I want this Assistant Minister to deny or confirm the following facts:

(i) That this group of companies have 19 expatriates.

(ii) That this company has no African General Manager when there are four expatriate General Managers.

(iii) That this company has no African chef when there are 11 foreign chefs. You will even find African chefs in Hotel Intercontinental.

(iv) That this company has refused Kenyan workers to join the trade union of their choice which is the Kenya Union of Domestic Hotels Educational Institutions and Allied Workers (KUDHEIA).

That this company does not remit NSSF, NHIF and Sacco contributions from Members, and finally, that this Company does not show the price list on its menus and the intention is to evade the payment of VAT. Can he confirm or deny that? And I am going to lay the document here to prove those facts.

Mr. Ali: Mr. Deputy Speaker, Sir, I cannot confirm. However, as regards the statement that hon. Anyona has documents to table, it will be appreciated if he tables them. I will carry out a thorough investigation and if that is detected, my Ministry promises to take drastic action on the employer.

Mr. Anyona: Mr. Deputy Speaker, Sir, all those facts I have cited come from a large document of correspondence between this Company and the Government. There are letters from the Ministry of Co-operative Development demanding that these people pay their Sacco contributions. There are letters here between the Company and Immigration Department because workers have complained to the Government through this Ministry and the Immigration Department about that. So, the immigration officer goes there, his hands are "greased" and that is the end of the matter. There are documents here to show deductions and also menus without price lists, yet this Assistant Minister says that he is not aware. I will lay this document on the Table, but what is this Assistant Minister going to do to make sure that Kenyans are not exploited in this manner?

(Mr. Anyona laid the document on the Table)

Mr. Ali: Mr. Deputy Speaker, Sir, this is a very serious allegation and as I said earlier, if an employer is

not remitting the NSSF money of the employees in particular - which is the responsibility of my Ministry - is discovered, definitely we will take the employer to court. As for NHIF, it is the Ministry of Health and as for VAT it is the Ministry of Finance, VAT Department that should address this matter. However, having heard hon. Anyona say that the employer has also incited workers not to join the union, yet it is the right of every employee to join any union he or she wishes. In this case, however, we have discovered that the workers had taken the employer to court asking the employer not to remit their dues to the union. They have also written to the union withdrawing their membership, which is a very pathetic situation which I have promised to carry out further information on.

Mr. Kamuyu: Mr. Deputy Speaker, Sir, taking into account that there have been many complaints particularly from Asian organizations, who have been mistreating local people and also taking into account that this particular organization - and I am a customer at Minar - no doubt has got a lot of foreigners as managers and does not want to employ local people, can the Assistant Minister dispatch a senior labour inspector to this particular organization, so that he can give us a better report than the one he has at the moment? Unless, of course, he is protecting Asians because he is a Member of the Bohra community.

Mr. Ali: Mr. Deputy Speaker, Sir, before I answer the question, I would like to state that being a member of the Bohra community does not warrant me as an Assistant Minister for Labour and Manpower Development to protect any member of the Asian community. In this case, we have promised that we will take serious action to protect the workers of this nation because the Ministry takes a serious view on the workers plight.

Mr. Deputy Speaker: Now we go back to Question No.925, for the second time!

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I apologise for coming late.

Question No.925

CAUSE OF MR. G.A. SUJAH'S DEATH

Prof. Anyang'-Nyong'o asked the Minister of State, Office of the President whether he could explain the circumstances under which Mr. Gilbert Abong'o Sujah was killed by a Government vehicle No.T953 along the Kisumu-Kakamega Road on 21st November, 1995.

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

The deceased was knocked by the said vehicle when he abruptly stepped onto the road in a bid to cross. He was rushed to New Nyanza General Hospital where he died on 26th November, 1995 while undergoing treatment.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I would like to bring to the attention of the Assistant Minister the fact that this accident which was reported to the police, and in which there is evidence that the vehicle that knocked down Mr. Obendi Sujah, vehicle registration number GK T953, according to the records available, that indeed the Government should have accepted liability in taking away the life of a bread winner.

Mr. Deputy Speaker, Sir, according to the Kenya Police abstract on road accidents, No.A209108 of 8th January, 1996, details were given and, indeed there should have been a case in court under traffic charge registration No.IAR(F)(P258/95). Given all this evidence, I find the answer of the Assistant Minister extremely inadequate, especially given the fact that the life of every Kenyan is as important as the life of every other Kenyan. And since Mr. Sujah was the bread winner in the family, I would have expected the Government to take much more serious attention to ensure that the family is compensated and that the case is properly investigated and reported on.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, the Government has taken this matter seriously and, indeed, there is an inquest already pending before the court in Kisumu and for the benefit of the hon. Member, the inquest number is 22 of 1996 and the case is pending before the magistrate in Kisumu.

Mr. Deputy Speaker, Sir, it is only after the completion of the hearing of the inquest that the matter of compensation can be entered into, because as I have said, the person, Joseph Mose who was driving the vehicle said that the deceased was at fault and I think it is only the magistrate in Kisumu who can determine who was actually at fault.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I am grateful to the Assistant Minister that an inquest has been opened in Kisumu and I am also grateful to the Assistant Minister that he has given us the inquest number. But since the deceased cannot stand in court in defence for himself, and that it is the word of the driver against the deceased's, it would be important for the Assistant Minister to communicate this information to Mrs. Mary Abong'o, widow of the deceased, on box number 124, Kombewa, who as the deceased's wife has gathered

sufficient information regarding the witnesses that can help the State in this inquest.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I will take the address from both the hon. Member and the HANSARD, so that I can order the police in Kisumu to ensure that the widow of the deceased is properly informed about the date of the inquest. I do believe, because the accident took place at about 7.30 a.m., that, in fact, it may not be the word of the driver alone versus the widow of the deceased, but there maybe other witnesses who witnessed the accident. I do wish to say that they too should go to court and give evidence so that this matter can be dealt with appropriately.

Dr. Lwali-Oyondi: Mr. Deputy Speaker, Sir, we are aware that Government vehicles are not insured for third party injuries and under normal circumstances, we know that whether you are on wrong or right, but as long as you kill somebody, a third party, it has to be compensated. Therefore, would the Assistant Minister just prepare for compensation of the deceased whether he was the one on the wrong or not, because other motorists, their insurers compensate the victim whether he was on the wrong or not?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, that is not the position. The position is that the court will eventually be required to apportion the amount of negligence to each party and it is the amount of negligence that matters to know who would pay who and how much. After the inquest, I believe there would be some truth, because there will some civil proceedings that will go on to determine the damages.

Mr. Deputy Speaker: Next Question, Mr. Kinyua Mbui.

Question No.1154

NUMBER OF KENYANS SENTENCED TO DEATH

Mr. Mbui asked the Minister for Home Affairs and National Heritage:-

- (a) how many Kenyans have been sentenced to death since 1982 to date; and,
- (b) in how many cases the sentence has actually been carried out.

Mr. Deputy Speaker: Is there anybody from the Ministry of Home Affairs and National Heritage? The Question is deferred.

(Question deferred)

Mr. Deputy Speaker: Next Question, Mr. Busolo.

Question No.1023

ADMISSION OF STUDENTS INTO COLLEGES

Mr. Munyasia, on behalf of **Mr. Busolo**, asked the Minister for Health:-

- (a) how many applicants from Bungoma District sought admission in all Medical Training Colleges in 1995, and how many, per division, gained admission; and,
- (b) how the Bungoma District figures do compare with those of other districts in Kenya.

The Assistant Minister for Health (Mr. Criticos): Mr. Deputy Speaker, Sir, I apologise for coming late to answer this Question because of circumstances beyond my control.

Mr. Deputy Speaker, Sir, I beg to reply.

(a) The applicants from Bungoma District who sought admission in the country's Medical Training Colleges in 1995 were 766 for both diploma and certificate courses. Out of the above figure, 40 candidates gained admission into Kenya Medical Training Colleges as indicated below per division:-

<u>Division</u>	<u>Candidates</u>
1. Webuye	17
2. Sirisia	4
3. Central Nalondo	1
4. Tongaren	3
5. Kimilili	4
6. Central	1
7. Kanduyi	8
8. Bumula	2

(b) Bungoma District figures compare favourably with those of other districts in Kenya, the sample figures are as follows:-

Western Province

Kakamega63

Vihiga47

Busia 47

Bungoma 40

Eastern Province

Kitui39

Embu38

Meru60

Machakos80

Nyanza Province

Homa Bay37

Kisii62

Siaya56

Central Province

Kirinyaga38

Nyeri57

Kiambu53

Rift Valley Province

Kericho52

Trans-Nzoia44

Narok36

Baringo61

Coast Province

Kilifi37

Kwale23

Mombasa25

Taita-Taveta 0

Mr. Deputy Speaker, Sir, these are only a few examples out of the many.

Mr. Munyasia: Mr. Deputy Speaker, Sir, although the comparison has been selective, it is clear that Bungoma District has got the least number of recruits from among districts of its size population-wise. The Assistant Minister has carefully left out districts like Keiyo for comparison purposes. Can this Assistant Minister tell this House, what criteria the Ministry used to determine how many candidates from each division, or district got admission into KMTTC?

Mr. Criticos: Mr. Deputy Speaker, Sir, this was just given as an example and somebody mentioned about Baringo District which got 61 candidates. There was an anomaly when it comes to selection of candidates.

If you would recall, a few months ago, we had numerous questions concerning KMTTC, which I answered in this august House. However, from now onwards, we have formed a committee which will select various candidates so that we can have equal distribution among the provinces and districts.

Mr. Munyasia: Mr. Deputy Speaker, Sir, I asked the Assistant Minister to tell the House what criteria the Ministry used to determine how many candidates will be selected from Bungoma, Keiyo, Baringo and so on. Did he use the population, for instance, or the number of applicants from each district? He has not answered that question and he should not tell us about the future.

Mr. Criticos: Mr. Deputy Speaker, Sir, the hon. Member has got a selective memory! I actually admitted that there was a problem on selection in 1995 which will be rectified in 1997.

Mr. Deputy Speaker: Next Question, Mr. Chris Kamuyu.

Question No.515

PRIVATIZATION OF ROADS IN DAGORETTI

Mr. Kamuyu asked the Minister for Local Government what plans he has for the privatization of the roads in Dagoretti, which are in a deplorable state.

Mr. Deputy Speaker: Is there anybody from the Ministry of Local Government? The Question is deferred.

(Question deferred)

POINT OF ORDER

REQUEST FOR A REPRIMANDING COMMUNICATION

Mr. Kamuyu: Mr. Deputy Speaker, Sir, I am rising on a point of order to request the Chair to issue a reprimanding communication right now in this Parliament, regarding all the Ministers who have deliberately failed in their duty to come to this House this afternoon and went to attend the opening of Kakamega Agricultural Show, thereby affecting the arrangement of this National Assembly as we come closer to the end of this sitting. It is a very serious matter, and I think they should be told off appropriately. Please, do that!

(Applause)

Mr. Deputy Speaker: Order! Order! I can fully understand your frustration, hon. Kamuyu, and I can only appeal to the Front Bench Members to turn up to answers Questions and hon. Members to turn up in time to ask their Questions.

Next Question, Mr. Mwangi Gichuki.

Question No.280

TARMACKING OF KARAGOINI-NANYUKI ROAD

Mr. Gichuki asked the Minister for Public Works and Housing what plans he has to tarmac the road from Karagoini to Nanyuki.

Mr. Deputy Speaker: Is there anybody here from the Ministry of Public Works and Housing? The Question is deferred.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

BREAKAGE OF DANDORA SEWERAGE SYSTEM

Mr. Ruhii: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that the sewage disposal system in Dandora and Umoja Estates has completely broken down causing rivulets and rivers all over the roads?

(b) Is he further aware that as a result of these sewers over-flowing all over these estates, the outbreak of cholera, typhoid and other water borne diseases is imminent?

(c) If the answers to "a" and "b" above are in the affirmative, what urgent action is he taking to avert this tragedy?

Mr. Deputy Speaker: Is there anybody here from the Ministry of Local Government?

Mr. Ruhii: On a point of order, Mr. Speaker, Sir. By the time this Question is answered next week, there will be a very serious outbreak of cholera in Dandora and Umoja Estates, which will affect the tourism industry in this country. This Government is responsible for the crippling of the City Council of Nairobi. Can the Ministry of Health ensure that it takes charge of this situation because the City Council has failed to do something about the situation in these estates? The estates have turned into sewerage disposal works!

(Question deferred)

Mr. Deputy Speaker: Mr. Maore's Question.

SHODDY CONSTRUCTION OF
MAILI TATU-MUTUATI ROAD

Mr. Deputy Speaker: Mr. Maore is not here? His Question is dropped.

(Question dropped)

Mr. Leshore's Question.

SHORTAGE OF WATER IN WAMBA

Mr. Leshore: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Land Reclamation, Regional and Water Development the following Question by Private Notice.

(a) Is the Minister aware of an acute water shortage in Wamba Town?

(b) What urgent measures is the Minister taking to provide water in this town, having regard to a special report undertaken by a team of engineers from the Ministry's Headquarters in 1996?

(c) Could the Minister consider stationing an additional water tank at the town to alleviate the water problems in this area?

The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Mokku): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Wamba Town is experiencing a water shortage problem as a result of the drought, which has reduced water output capacity of the Town's water supply from 146.4 cubic metres to 16.8 cubic metres of water per day.

(b) With regard to the special report prepared by a team of engineers from my Ministry, we have been supplying water to Wamba Town, using a tanker, at a cost of Kshs208,000 per month. Further to that, my Ministry intends to drill and equip one of the three boreholes the engineers sited in the township at an estimated cost of Kshs5.5 million. (c) Since the persistent drought has brought about water shortage in many towns in the country it is not possible to station an additional water tank in Wamba Town at the moment. However, if the water shortage situation improves in other towns, following the onset of the short rains, Wamba Town will be considered for an additional water tank alongside other areas with a similar problem.

Mr. Leshore: Mr. Deputy Speaker, Sir, Wamba Town residents have been suffering since August, 1996 because of the severe drought which hit that area and other areas in northern Kenya. I would like to tell the Assistant Minister that equipping one of the boreholes will not be enough. Already we have four boreholes in Wamba Town, but the water level has gone down, causing unnecessarily suffering to Wamba Town people. Could the Assistant Minister now consider harvesting water from the three streams which form Wamba River using the amount of money he wants to use to equip one of the boreholes?

Mr. Mokku: Mr. Deputy Speaker, Sir, engineers who went there to survey ground and surface water reported that it is more economical and viable for us to drill and equip a borehole than to harvest the surface water.

Mr. Leshore: Mr. Deputy Speaker, Sir, when will the Assistant Minister make available that Kshs5.5 million?

Mr. Mokku: Mr. Deputy Speaker, Sir, my Ministry is actually sourcing for the funding of that project.

Mr. Kamuyu: Mr. Deputy Speaker, Sir, can the Assistant Minister tell us how many water drilling machines his entire Ministry has, and how many have been posted to this particular district? Or, is his Ministry going bankrupt? How many machines does it have for drilling water?

Mr. Mokku: Mr. Deputy Speaker, Sir, I do not have the exact number of drilling machines that the Ministry operates now. But if the hon. Member puts that Question I can answer it next Tuesday.

PROVISION OF LIFE SAVING JACKETS

Mr. Deputy Speaker: Hon. Members, Mrs. Asiy'o's Question by Private Notice will be deferred by mutual agreement between the hon. Questioner and the Minister. It will be answered at the earliest next week, preferably on Tuesday.

(Question deferred)

REFUSAL TO REGISTER PLOT OWNERS

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

(a) Is the Minister aware that in October, 1996, the District Land Registrar, Kilifi, frustrated four of the five shareholders of combined plots 410 and 412 Kilifi/Jimba, by refusing to allocate and register the four people's rightful share entitlements in the said plots, as determined and awarded by the Land Disputes Tribunal, Malindi, on 16.2.96 and subsequently confirmed by Court orders dated 23.5.96?

(b) Is he further aware that the said District Land Registrar issued a title on 4.10.96, and that the entries therein complied with the terms of the said award and court orders, and that later on the same day he made similar entries but with different share appropriations, and yet claimed to be in compliance with the same award and court orders?

(c) Could the Minister direct the said Registrar to strictly comply with the said court orders and awards as regards this issue?

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

(a) I am aware that the District Land Registrar, Kilifi, refused to register five shares of combined plots Nos. 410 and 412 Kilifi/Jimba in the names of Kassim Shariff Mohamed, Mohamed Shariff Mohamed, Salim Vae Mohamed Siaka Ali and the late Mbwamadi Hussein Bwakuu. I am not aware of any frustration on their part.

Mr. Badawy: Mr. Deputy Speaker, Sir, there is also part (b) of the answer. Even if the Minister does not intend to read out that part of the answer I think the Chair will allow me to ask questions on it. First you notice the contradiction between parts (a) and (b) of the answer, in that the Assistant Minister agrees the Land Registrar in the first place, refused to register share entitlements of the four people, and then goes on and states the Registrar registered them. The contradictions are very obvious from a copy of the title deed. It shows that the Land Registrar registered one share each for each of the plaintiffs and two shares for the defendant, as per the ruling of the Land Disputes Tribunal, which was also confirmed by the Senior Resident Magistrate. On the same day the same Land Registrar revoked the first entries and made fresh entries, giving only one share to four shareholders and two shares to one person. Why was there this contradiction? Can the Assistant Minister confirm whether the Registrar did not on the same day contradict the ruling of the Land Disputes Tribunal and the court order?

Mr. Kaino: Mr. Deputy Speaker, Sir, in part (c) of my reply I have said that the District Land Registrar complied with the court order and the award of the elders. I cannot, therefore, give him further directions in this matter. The Registrar followed the ruling of the court. Therefore, I have no other directive to give to him.

Mr. Badawy: Mr. Deputy Speaker, Sir, let me inform the Assistant Minister that the minutes of the Land Disputes Tribunal were tempered with by deleting the word "each", so that the four shareholders could be denied their rightful share. In fact, the court order gave one share each to the plaintiffs and two shares to the defendant. What other court order and minutes of the panel of elders is the Assistant Minister referring to? I have copies of the relevant documents which I can table. They show that the Tribunal awarded one share to each of the complainants and two shares to the defendant, and the court confirmed this award.

Mr. Kaino: Mr. Deputy Speaker, Sir, the court order awarded one share to each of the plaintiffs and the defendant two shares of the combined plots 410 and 412. Therefore, that is exactly what the District Land Registrar registered.

Mr. Badawy: Mr. Deputy Speaker, Sir, I would like to inform the Assistant Minister that whatever he is stressing is contrary to the entries in the land register, whose copy I have here. I would like to table this copy for his reference. This copy shows that the four complainants were given one share only, while the defendant was given two shares. This is contrary to his assertion that each of the complainants was given one share, which is what I am appealing for. The complainants should have been given one share each and not one share for the four of them. I have a certified copy of the Land Register, which the Assistant Minister can refer to. Can he, therefore, rectify this anomaly as is requested by my Question?

Mr. Kaino: Mr. Speaker, Sir, it appears that the hon. Member has some documents which I do not have. If his papers are contrary to the ones I have, then somebody somewhere might have tempered with the papers. I would like to see the hon. Member's papers.

Mr. Mumba: Mr. Deputy Speaker, Sir, it is obvious that there is something seriously wrong in the Lands Registry at Kilifi. We know that the Land Registrar there has been doing a good job but we also have information that she was receiving orders from somewhere else. Can the Assistant Minister promise that he is going to investigate this matter fully and make appropriate corrections to the errors which were entered into by the action that was taken through coercion by the Land Registrar Kilifi? Can the Assistant Minister promise this House that he is going to take action?

Mr. Kaino: I promise to investigate and correct where there is a mistake. But, unless I see the papers which the hon. Member is having I cannot say much. The papers which I have reads: "One share each will be given to the plaintiff and the defendant will get two shares of the said plot." If there is a mistake, we are going to correct it.

(Mr. Badawy laid the papers on the Table)

Mr. Shikuku: Mr. Deputy Speaker, Sir, I heard the Assistant Minister state that he does not have the papers which the hon. Member is talking about. I saw hon. Badawy give the papers to the Clerk. Could the Assistant Minister have a look at those papers that are with the Clerk and give an appropriate reply?

Mr. Kaino: I will look at the papers and if there is any mistake, we will correct it.

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

Mr. Deputy Speaker: Not on that Question. Next Order!

MINISTERIAL STATEMENT

REMOVAL OF ELECTRICITY POLES IN KIPIPIRI

The Minister for Energy (Mr. Ngala): Mr. Deputy Speaker, Sir, last Thursday, during Question Time, I undertook to give a Ministerial Statement on allegations by hon. Githiomi, the MP for Kipipiri, that Rural Electrification poles were removed from several places in Kipipiri Constituency following the by-election there in September last year. I have since sent a team of senior officers to go to the site and to verify the facts on the ground. The following are the facts as verified:

The Government, prior to the by-election in September, 1995 implemented the following rural electrification projects in Kipipiri:

1. Nyakiambi High School
2. Ruiru Boreholes, Secondary School, AIC Primary School and environs
3. Ndemi Market.
4. Pasenga Market, Pasenga School, Pasenga Water Pump and Environs.
5. Ol Kalou Youth Polytechnic and environs.

The total cost for these projects was Kshs35 million.

In September, 1995 when the by-election took place the following projects were on-going in the area:

- (a) Supply to Salient Secondary School and Water Pump
- (b) Supply to Sabugo and Mirangini Sub-location areas, Mugumo Boreholes and environs.

The implementation of the projects continued even after the by-election and their current status is as follows:

- (a) Supply of service lines to Salient Secondary and Water Pump, Captain Market, Kamande Primary School and Gwa-Kiongo Market - completed in February, 1996.
- (b) Supply to Sabugo Sub-location, completed in March, 1996.
- (c) Supply to Mugumo Boreholes and environs, completed in July, 1996.
- (d) Supply to Mirangini, phase one, completed in August, 1996.

These projects were implemented at an additional total cost of Kshs6.5 million. Works to supply Matindiri, Mirangini Sub-locations and Upper-Gilgil are on-going and are estimated to cost Kshs10.5 million when completed. Contrary to claims by hon. Mwangi Githiomi, Mirangini Scheme is not a Commercial Scheme and it is being undertaken as a Rural Electrification Project, with consumers being asked to make only a token contribution.

Mr. Deputy Speaker, Sir, materials for Kipipiri area were stocked at Ol Kalou camp site from where they were transported to various project sites. No poles or any other materials were taken from Ol Kalou site to any other destination outside Kipipiri area. Incidentally, there is no prohibition that poles should not be moved from

a camp site in one constituency to projects in another constituency if the Company's programme is to supply the various constituencies from one central site. It just happened that in this particular case, materials including poles stocked at Ol Kalou were meant for Kipipiri area and hence, the need to take them outside Kipipiri area did not arise. So far, 1,479 poles have been used for networking power supply in Kipipiri area since September, 1995 when the by-election took place. The KPLC has sent 312 poles to Kipipiri for the on-going projects. Movement of power construction materials within a project area must remain the responsibility of KPLC which knows best when and where to take materials according to its project, installation plans and safety of such materials.

In a way of illustration, right now, Kipipiri is very wet and some areas are impassable even with some type of Four-Wheel-Drive vehicles. No construction work would, therefore, be possible in some current project areas until the rains subside. The officers must be given a leeway in such situations to decide whether to remove any unused materials from unprotected project sites to the safety of the central storage camps.

In light of the explanations given above, I would have made no apologies to the hon. Member if, for the stated or similar reasons, poles had been removed as he alleges from Geita, Wanjohi, Mirahiti and Leleshwa areas. However, I have now checked from the ground and established that no poles had ever been stocked or even taken as mentioned to the centres, hence the question of removing them does not arise as it is impossible to remove whatever does not exist. The hon. Member's allegations are therefore, false and it appears that they were calculated to discredit the Government and KPLC on false premises.

Mr. Deputy Speaker, Sir, it is not clear whether the hon. Member had made the inspection before he made the misleading allegations. He did not tell us how many poles were removed or where they were taken and by what vehicles. The local District Development Committee Chairman categorically denies having ever received any complaints from the hon. Member, any other local leaders or any local residents that any poles were ever removed from the said site.

The hon. Member should know that this Kipipiri area is lucky to have received so many projects. He should be thanking the Government instead of making spurious allegations against it. There are many constituencies---

(Loud consultations)

Mr. Deputy Speaker, Sir, can I be given time to answer?

Mr. Deputy Speaker: He is on a point of order.

The Minister of Energy (Mr. Ngala): Mr. Deputy Speaker, Sir, I repeat that he should be thanking the Government instead of making spurious allegations against it. There are many constituencies that have not received half of the funding expended at Kipipiri.

Mr. Githiomi: Mr. Deputy Speaker, Sir, I will start by thanking the Minister for the projects---

Mr. Deputy Speaker: I hope you understand that you have not been given the Floor to make a speech.

Mr. Githiomi: Yes, Mr. Deputy Speaker, Sir, I will not make a speech.

I will thank the Minister for the projects which he has said have been undertaken in Kipipiri. It is true that those projects have been under taken and, at no time did I tell this House that those projects were not undertaken. However, the Minister has continued to mislead this House for his own ends which I do not know. My question was, there were so many electrical poles which were at Wanjohi, Geta and Meharati--- I am an elected Member of that area and my facts are well checked. The Minister should not doubt them because I have the obligation of protecting my integrity in my constituency. I want the Minister to tell us here when he is going to supply electricity to the locations of Geita, Wanjohi, Meharati and Rekeshwo because those were the affected places. The poles were removed from those specific areas. If he does not have the facts, he should send back his officers to verify the facts on the ground when they are not in a hurry. I suggest that they should go with me so that I can go to the local DDC Chairman with them. The then local DDC Chairman was a District Commissioner who has since been posted to Busia, so they did not talk to the local DDC Chairman who was there by then.

The Minister for Energy (Mr. Ngala): Mr. Deputy Speaker, Sir, I have taken a lot of trouble to send senior officers to the area to bring the information that I have read to this august House. I do not want to mislead this House and, therefore, I will stand by what I have said. The question that was of concern to us was that the hon. Member continued to say that the poles had been removed even at that time. I am saying the movement of poles within a projected area from one area to another is the business of the Kenya Power and Lighting Company. But since they were not moved out of Kipipiri---This is what I was trying to tell the House, that there was nothing dubious about the Government in relation to the by-election in 1995. The idea was to create a situation that would make it look like the Government was using electricity during the by-election to win votes. I am trying to

say that, that is not the position. The things have continued to happen and I gave the programme of work before the by-election, after the by-election and at the present moment. So, I wanted to make that position very clear to this august House.

POINT OF ORDER

CRISIS AT PUBLIC UNIVERSITIES

Dr. Kituyi: Mr. Deputy Speaker, Sir, I rise on a point of order to demand for a Ministerial Statement from the Minister for Education, concerning the crisis at the Public Universities and, particularly the University of Nairobi where, for three days running, students have been on demonstration, burning the effigies of the Chairman of the Higher Education Loans Board, and basically, clashing with the police and stoning cars. It is not Nairobi University alone. We know that 19 university students have been suspended from Kenyatta University because of protesting against the crisis with the funding of higher education. Before the matter gets out of hand, it would have been helpful for this country, if the Minister for Education had shown concern and abandoned the route of just following the President to agricultural shows which are irrelevant to the crisis in education, and sat here to seek how to deal with this major and mushrooming matter of national concern.

MINISTERIAL STATEMENT

PROTECTION OF THE DOROBO OF THE OGIEK CLAN

The Minister of State, Office of the President (Mr. Kalweo): Mr. Deputy Speaker, Sir, allow me to make a Ministerial Statement in response to hon. Wamalwa's request.

On Wednesday, 21st November, 1996, hon. Wamalwa requested a statement in respect to the protection of the vulnerable Dorobo of the Ogiek clan. While making the request, hon. Wamalwa indicated that the Ogiek clan were a vulnerable group and that the Government should state its stand on protecting them against bigger tribes in terms of land, preservation of culture and education.

Let me take this opportunity to inform this august House that the Government has taken giant steps towards protecting the Ogiek community and ensuring that they are not marginalised. First, allow me to give a brief background of the Ogiek clan. The Dorobos of the Ogiek clan used to occupy the Government forest reserves, making their living through hunting and gathering honey without permanent settlement. As the Government pressure for the conserving of the environment and reducing encroachment into the forest increased, the Ogiek were left in a vulnerable position. This was coupled with depletion of their source of livelihood in terms of natural resources in the forests. It is with this background that the Government took the initiative to consider settling them permanently in their natural environment where they could carry out economic activities such as farming. The settlement programme started by initial registration of members of the Dorobos of the Ogiek clan residing in Mau Forest. The project was carried out jointly by the Provincial Administration and the Kenya Indigenous Forest Conservation Project (KIFCOP), which was sponsored by the Overseas Development Agency (ODA) between November, 1995 and January, 1996.

Mr. Deputy Speaker, Sir, the registration team was lead by Mr. John Bateson, the settlement advisor Kifcop and others assisted by a committee of Ogiek elders, elected by the same community.

The objective of the exercise was to register all the Ogiek dwellers in their forest reserves so that they could be considered for settlement and that is part of the comprehensive Government plan for conservation of Mau Forest.

All eligible members of each household were identified by the said Ogiek committee and a register was compiled of all the genuine Ogiek families that were residing in the forest reserve. On the completion of the registration exercise and after the necessary verification was done to the satisfaction of the Ogiek community and the Government, the actual settlement commenced on 20th November, 1995. A total of 6,635 Ogiek Dorobo families have so far been settled in different settlement areas, that is, Sururu, Likia, Teret, Nessuit, Ndoinet and Saino areas. However, to complete the settlement of the remaining members of the Ogiek community, survey work is at an advanced stage to allocate them Marioshoni and Tinnet Settlement Schemes. As for the culture of the Ogiek, Dorobo, let me further assure Members of the House that the resettlement of the Ogiek Dorobo was aimed at enhancing their lifestyle and cultural values by settling them in their natural environment. This would ensure that the economic activities, for example farming that was to be introduced to enrich their lives

will be done in their natural surrounding to ensure that they are not dislocated. So, the culture of the Ogiek is not in anyway under threat from the bigger tribes.

On education, the Government had opened a total of 21 primary schools in the settlement scheme mentioned with a total enrolment of 4,480 Ogiek Dorobo children. The Government, through the Ministry of Education, has also given preference in the recruitment of Ogiek Dorobo to teacher training colleges. Although there is only one secondary school in the Ogiek settlement scheme that is Cheptoroi Secondary School, students from the community have joined other secondary schools in the neighbouring locations.

From the foregoing, I would like to reiterate that the Government has always been sympathetic to members of the vulnerable communities like the Ogiek and has taken major steps in ensuring that they are at all times protected from marginalization and discrimination. Thank you.

Dr. Kituyi: Mr. Deputy Speaker, Sir, I wish to thank the hon. Minister for his statement about Government concern. Considering that statement that the Government has always been considerate to the plight of vulnerable groups; if you look at what is happening to minority groups in Baringo District, particularly the group around Lake Bogoria and, if this Government believes that the best way to nurture a people's culture is to keep them in a natural eco-system where they have lived before - the Ogiek have never destroyed water-catchment but they have created conditions for the reproduction of the water catchment - why has it found it necessary to relocate them to new settlement areas not to protect water catchment but to subdivide their traditional residential areas to immigrants from Kericho and Baringo District?

The Minister of State, Office of the President (Mr. Kalweo): The Government is very much sensitive to water-catchment areas. So, those communities which might be marginalized also know that there are changes and as long as these changes are there, they can be resettled in other areas.

Mr. Anyona: Mr. Deputy Speaker, Sir, on Wednesday last week I had a Question to which hon. Komora responded and in that answer he denied information that I had given him and to the House about that particular case of children who were expelled from Kiareni Primary School by the headteacher. I promised that I would lay some documents here to support the statement I had made about that expulsion. This afternoon, I wish to lay on the table a letter dated 4th April 1994 addressed to the Permanent Secretary, Ministry of Education and copied to the Minister for Education, the Provincial Education Officer, the District Education Officer and all the others by the parent, Mr. John Nyakundi Bosire. I will like the Minister to come back and respond as he promised.

(Hon. Anyona laid the document on the table)

BILL

Second Reading

THE NATIONAL INTELLIGENCE SERVICES BILL

(The Minister of State, Office of the President on 17.7.96)

(Resumption of Debate interrupted on 18.7.96)

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

Hon. Members: Mr. Orenge was on the Floor last time when we were debating this Bill.

Mr. Deputy Speaker: Order! I think you are right. The Attorney-General had actually consulted with me and given the circumstances and manner in which the discussions of the Bill before the House were stepped down after the hon. Muite raised serious issues on it. I think it is proper that the Attorney-General, on the reintroduction of the matter, does some explanations.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, thank you for your ruling. It is true that there were some consultations on whether I should speak at this juncture and I believe that I ought to speak at this juncture because of the nature of the debate on 18th July 1996.

You may recall that the debate on this Bill continued from 17th July to 18th July, 1996---

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I want to rise on a point of order on the business before the House just now and that is the National Intelligence Services Bill, Bill No.6. When this

matter was adjourned or removed from the Order Paper it was because this House felt that this matter required thorough and full consultations among Members and, if possible, the matter should be taken before the respective committee of Parliament so that when the Bill finally came to the Floor of the House, because this was a security matter and security matter is not political, we would not have any serious differences and divisions in the House in debating and passing this Bill. That was the understanding of the House and as far as I am concerned, ever since that time, there have been no consultations at all. That would be contrary to the spirit in which this matter was put into abeyance. Before the House continues and if we continue we will be contradicting that kind of spirit, I would like to be told by the Attorney-General what consultations he has had and with whom? I think it is very important.

Mr. Deputy Speaker: Order! Order! You are perfectly entitled to know from the Attorney-General or from the Leader of the Government Business what consultations may have taken place. But for the avoidance of doubt, I have to emphasise that, as far as the Chair is concerned, there was no decision of the House by way of resolution, that the matter be put in abeyance, pending consultations. I do know, after serious objections, serious queries were raised and the matter was stood-over. And I gave the Attorney-General the opportunity of explaining, in a sense of sort of responding, to objections in the point of order which hon. Muite raised and I believe he is on the Floor to do precisely that. So, I would not think it is proper for us to derail debate before the House, and I think you are raising your objections rather prematurely.

Mr. Shikuku: On a point of order, Mr. Deputy Speaker, Sir. I seek your guidance here. For the last over 30 years in this House, we normally have, if you are on the Floor of the House, you continue with the speech until you finish, then only can somebody else come in. I would like to seek your guidance here. When the House adjourned, hon. Orengo was on the Floor of the House. I am wondering how hon. Orengo will come in after the Attorney-General? I think hon. Orengo should be allowed to finish his speech first---

Mr. Deputy Speaker: Order! Order! Let me state here very clearly. It is perfectly regular and the decision as whether the procedure by which we are proceeding is correct or not, in the ultimate analysis, strictly it is for the Chair. I was not on the Chair, but as far as I can recall, the hon. Orengo was on the Floor of the House.

Hon. Muite intervened by way of a point of order, a point of order which raised serious issues regarding issues on which the Attorney-General is the only competent person in the Government to respond on the constitutionality of the issues before the House. The Attorney-General did not respond at that point. And at that point, it was decided that the matter be stood-over, or rather the House came in the end to re-stand-over the matter. I think, it is perfectly proper that the Attorney-General now, at this earliest opportunity should respond to the issues which hon. Muite, with the permission of hon. Orengo, had raised in the cause of hon. Orengo's speech. Otherwise, I think, we are getting back to hon. Orengo's speech as soon as the Attorney-General finishes with his response.

The Attorney-General (Mr. Wako): Thank you, Mr. Deputy Speaker, Sir.

Indeed, as I was explaining, I was responding to a point of order. If you look at the HANSARD Report on 18th July, 1996, it would be clear that there was a debate on this Bill on 17th July, 1996 which continued to 18th July, 1996. On 18th July, 1996, the person on the Floor was hon. Orengo who had began speaking on the Bill the previous day, and as soon as he stood up, hon. Muite then stood on a point of order to raise a few constitutional points as regards this Bill.

Mr. Deputy Speaker, Sir, at that time, I was not in the House. But I did come later, but by the time I came in, the issue had ceased to be the constitutionality of the Bill and it had become an issue of whether or not Parliament should adjourn for consultations.

At the very end, the Government, through the Leader of Government Business, then agreed that the matter should be adjourned for consultations. Therefore, I want, first of all, to state this and that was the assurance by the Leader of Government Business that the matter should be adjourned for consultations. I want to state that, indeed, consultations did take place. On 19th July, 1996, there was a meeting at the Office of the Leader of Government Business attended by many leaders of the Opposition led by the Leader of Opposition, hon. Wamalwa, at which these issues were discussed in an amicable and constructive manner.

Thereafter, the Deputy Leader of the Opposition, hon. Orengo, was mandated to liaise with me on further discussions. I must say that we have had a number of discussions, a number of consultations and the results of those discussions are now the proposed amendments which have been attached to the Bill.

Mr. Deputy Speaker, Sir, I do not want to go over what one may call "the water that has gone under the bridge." But had I been given the opportunity at that time to explain, then, at least, I would have explained Section 107 of the Constitution which vests, of course, the appointment in the Public Service Commission and the delegation of those powers. I would have also touched on Section 108 of the Constitution regarding the Commissioner of Police and the appointment of the Commissioner of Police by the President and what categories of officers are appointed by the Commissioner of Police himself. I would have then tied that together with other

provisions in the Constitution, Section 23, particularly, and Section 24 of the Constitution. I would have then come to the Public Service Commission Act and the regulations made there under.

But, Mr. Deputy Speaker, Sir, I do not want to go into all that detail now. As I have said, that is "water gone under the bridge", as far as I am concerned, in view of the very good discussions that we have held with the Opposition on this matter which have resulted in this.

Mr. Deputy Speaker, what I can emphasise is that the proposed amendments tie-in with the objective of this Bill. And really the objective of this Bill was to "divorce" Intelligence Services completely from the Police Department. In other words, we wanted to create an independent institution which will deal with Intelligence Services completely divorced from the Police Department under the Commissioner of Police. We believe that the divorcing of the two is appropriate, timely, in fact, long over-due and it will result in a more efficient and better ways of protecting the national security of this country in accordance with the Constitution, in accordance with respect for human rights and other matters.

Mr. Deputy Speaker, Sir, if I may just go through the proposed amendments which we agreed on, you will see that in the proposed amendments, we have gone beyond the narrow legal points as had been suggested. We have looked at the entire Bill as a whole, and we have tried to see how we can improve the Bill. For example, if you compare what was there in the definition of national security and the one which is proposed, the definition of the one which is proposed is clearer and more definite than the one---

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I think the House is a little lost. This is because when I rose on my first point of order, it was to question the debate on this Bill going on, given the understanding that had been reached earlier on. You rightly said that the Attorney-General was responding to a point of order, based on the Constitutional status of this Bill. We were waiting for him to finish that, before we come to the debate.

In my understanding, he is now debating the Bill, because he is talking about the amendments. I would have thought that if we are dealing with the question of Constitutionality, and he has, for instance, referred to Section 107 of the Constitution, and there are various provisions in that Bill that contravened the Constitution, he would have picked out the constitutional issues that are in dispute, and then go through them one by one, to assure this House that the matter was in accordance with the provisions of the Constitution.

If he does not do that, then he has not responded to the issue raised here, and if we continue debating this Bill, we are still violating the Constitution.

An hon. Member: But the Deputy Speaker is not listening!

Mr. Anyona: I hope the Chair is listening, but the Attorney-General is listening; the country is also listening.

(Loud consultations)

Mr. Deputy Speaker: Order! Order! My record shows that the Bill was moved by hon. Kones and hon. Wako seconded and spoke. On that understanding, I said the Attorney-General should take the Floor, if he wanted to respond to the issues raised by hon. Muite, which issues occasioned the rather strange step we took of stepping down the matter on our list.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, that is, in fact, what I am doing. As I go through the proposed amendments, I will indicate---

Hon. Members: No! No!

Mr. Shikuku: On a point of order, Mr. Deputy Speaker, Sir. I did agree with your ruling because it was specifically for the Attorney-General to respond to Constitutional issues raised by hon. Muite, in the course of hon. Orengo's speech here. If he is allowed to go into the amendments, then he is already debating the Bill, and we have not reached that stage of the amendments.

Mr. Deputy Speaker: I fully agree with you on the issue of amendments, but I think with a measure of give and take, as the Attorney-General who is---

Hon. Members: No! No! No!

Mr. Deputy Speaker: Order! Order! The officer of the Government, who is charged with the primary responsibility of *inter-alia*, ensuring that Bills brought before the House are in proper form, has a very heavy burden. I think if he finds it necessary to say a word or two about how he intends to correct the worries, or rather, reassure hon. Muite on his worries by mentioning about the intended amendments, but without allowing him an opportunity to do a second contribution, he is in order. I do not think he will be simply saying one sentence and no more. I hope the Attorney-General understands the concern of the other side of this House.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I understand that one of the issues that was raised by hon. Muite was the issue of the functions of the Commissioner of Police and the Public Service Commission, under the Constitution. That is why I want, if I may now say so, to assure this House, that the Bill, as had been drafted, was to me, Constitutional.

The amendments arose out of the consultations which the Vice-President and Minister for Planning and National Development assured this House that we were adjourning this Bill to have consultations on the matter. In the process, they brought some very good points which brought out, in a more clear manner, the original intentions of this Bill.

The original intentions of this Bill were to divorce the National Intelligence Services from the Police Department. That is why you can see, that in order for that to come out clearly, we have put amendments to Clauses 12 and 13 of the Bill. Now, the Public Service Commission will do the appointing of the officers in the Intelligence Services, and draw up the scheme of service of these officers, in consultation with the Directorate of Personnel Management (DPM), and the Director-General of the various services. That is why you were right--

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I think we are in trouble. In accordance with the normal procedure, when amendments are proposed, they are dealt with in the Committee Stage of the House, and not in the normal debate. So,---

Mr. Deputy Speaker: Order, hon. Anyona! As far as the Chair is concerned, the Attorney-General is still not dealing with the amendments. As far as I am concerned, the amendments are not before the House. But if, as a matter of statement of policy, he wants to explain how they have taken care of the concern of hon. Muite, I think with all due respect, do give him the opportunity. When we come to the debate, you can then tell us what you think the amendments will do or not. For heavens sake, let us not filibuster. Let us get on with the business now.

Mr. Anyona: Mr. Deputy Speaker, Sir, you cut me short before I finished by point of order. I have a more serious issue to raise. That was a by the way.

Mr. Deputy Speaker: What is it? You should have started with the serious issue rather than the by the way!

Mr. Anyona: Mr. Deputy Speaker, Sir, it is easier to start with the lighter point. We are talking about the Constitutionality of this Bill. Therefore, we are talking about whether this Parliament adheres to the Constitution. We raised Constitutional issues that must be addressed before this House continues with the debate on this Bill. All we are getting from the Attorney-General is a verbal assurance, which is not related to the provisions of the Constitution. He should state what the Constitution says, and what the Bill says. There is no way he can give that kind of assurance.

If the Attorney-General is not able, to first of all, list all the legal issues, and not just to talk in general terms about the appointment of the Commissioner of Police, we shall give them to him. He will then address them one by one to the satisfaction of the House, so that we can continue without contravening the Constitution. I think this is a matter in which the Chair must take a very serious view, and give weight to the issues that are being raised by this side of the House. This is because maybe, the other side of the House does not care. But Kenyans do care and we are talking about the Constitution and security. We cannot just afford to walk through this mud of confusion.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, in fact, that is what I was explaining. I said that hon. Muite had raised the issue of Section---

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

Mr. Deputy Speaker: He is on a point of order, and he has not even responded to it. Are you raising a point of order on a point of order or what?

Mr. Otieno: If he is responding to a point of order---

The Attorney-General (Mr. Wako): Yes, I am responding. I said that hon. Muite had raised the issue of Section 108 of the Constitution, which vests the powers in the Commissioner of Police. I had said that the intention of this Bill is, in fact, to ensure that the Intelligence Services are no longer under the Commissioner of Police. Section 106 is the Section of the Constitution, under which the Commissioner of Police is appointed, as I had explained earlier, by the President, and where the officers above the Inspector but below the Commissioner are appointed by the Public Service Commission, and where those officers below the Inspector of Police are appointed by the Commissioner of Police himself.

Mr. Deputy Speaker, Sir, hon. Muite had raised a point on that section as having been contravened by this Bill. I think, it was a misconception, if I may say so, that the Intelligence Services would continue to be under the police. Therefore, if the Intelligence Services were going to continue to be under the police, he rightly

asked:- "Are we not breaching Section 108 of the Constitution"? I would say that Section 108 of the Constitution is not relevant to the Bill because the intention of the Bill can be made as clear as we can. The intention of the Bill is to make Intelligent Officers not to be under the Commissioner of Police or other police officers.

Mr. Deputy Speaker, Sir, hon. Muite had also raised the issue of Section 107 of the Constitution which touches on the power of the Public Service Commission. That section says that all other officers will be appointed by the Public Service Commission. Then there is also a proviso that, the Public Service Commission can also delegate its powers to whoever they want to. I think what he wanted to make clear was that, under Clauses 12 and 13, the Director-General should not appoint officers and that under the Constitution, it should be the duty of the Public Service Commission. The Director-General can appoint officers if this Parliament so decides under Section 23(2) of the Constitution. Under that Section Parliament can confer the functions to other authorities and so on. Although that section as originally drafted, was constitutional in that Parliament was deciding to confer the powers of appointing the various officers on the Director General. Parliament can do that under the section that I have just quoted. Nevertheless, in our consultations, we amended Sections 12 and 13 to confer that power not on the Director-General, but on the Public Service Commission hence the amendments to Clauses 12 and 13.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. If you look at Section 107 of the Constitution, it reads:-

"Subject to this Constitution, the power to appoint persons to hold or act in offices in the Public Service and in the service of the Local Authorities, including the powers to confirm appointments, the power to exercise disciplinary control over persons holding or acting in those offices and the power to remove those persons from the office shall rest in the Public Service Commission"

That is what the Constitution says. The Attorney-General is now telling us that he has cured that problem in the Bill, where the so-called proposed Director-General was to make the appointments under Section 107 of the Constitution. He is telling us that, he has done away with that by amending Clauses 12, and 13.

Mr. Deputy Speaker: Order, hon. Anyona! That would be a very nice argument before a court. It would also be a very nice argument on your part when you are contributing in this House. I am afraid we are not going to turn this House into a court as to whether, that section means this or that. Hon. Attorney-General, I hope you will sum up and conclude your speech.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, Section 107 is as it has been read out by the hon. Member. I think we disagree because of the fact that, there is also another section of the Constitution which says; "subject to other provisions in the Constitution". Let me read out Section 23(2) of the Constitution, to which that section can be said to be subject to. Section 23(2) is subject to Section 107 which had prevented this Parliament from conferring functions on persons or authorities other than the President, of making appointments and so on. I was trying to say this: Although the initial - I hope hon. Anyona is listening very carefully - draft was to me constitutional, nevertheless, under Section 23(4) it can be done. We have proposed amendments to make the Public Service Commission the appointing authority.

Mr. Deputy Speaker, Sir, I can also refer to the executive powers of the President under Sections 23 and 24 which state that:-

"There are no provisions in this Bill which infringe Sections 23 and 24"

Consequently, I can say that the Bill, as had been drafted, was constitutional. Nevertheless, we say that as far as this various appointments are concerned, let the Public Service Commission do so. That came about as a result of the consultations that we held. But the Bill itself was very constitutional. The other issue which touches on the Constitution---

Mr. Otieno: On a point of order, Mr. Deputy Speaker, Sir. I am puzzled by the Attorney-General's statement. I am not a lawyer, but in the layman's understanding, the fact that certain amendments have been proposed, is itself an admission that the original Bill as drafted was either ambiguous or in conflict in material, particularly with the Constitution, otherwise there would have been no need to amend 12 Clauses out of 28 which form 40 per cent of the Bill. So, should we proceed to debate the original Bill in the hope that, at the Committee Stage, after we have passed the Second Reading some amendments will be proposed that will make the Bill not to be in conflict with the Constitution? That would be tantamount to taking the House for a ride.

(Applause)

The Chair should rule whether it is in order for the House to proceed to debate a Bill that is, otherwise,

void in terms of its relationship to the Constitution and hope to rectify the anomaly after the Second Reading when we go to the Committee Stage to look at the Clauses.

I think the argument by the Attorney-General is not proper and it is misleading this House.

Mr. Deputy Speaker: As far as the Chair is concerned, a Bill which on the face of it, seems to be a proper Bill and which is being presented without doubt by the Attorney-General as in accordance with the Constitution is proper to be debated before the House and, consequently decided upon by the House. If, in fact, the House does pass a Bill which is unconstitutional, the framers of our Constitution knew very well this kind of problem could arise. So, provided any Bill, Law or Act which is inconsistent with this Constitution will be null and void to the extent of that inconsistency. I do not think we should engage in a debate here. Mr. Attorney-General, wind up your arguments. I want hon. Orenge to continue with his contribution.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. Would it be in order for this House to proceed when the House knows quite clearly that we are acting unconstitutionally?

Mr. Deputy Speaker: Order! Order Prof. Anyang'-Nyong'o. The House does not know quite clearly that it is proceeding unconstitutionally. It would be in a position to say that it knows quite clearly that it is proceeding unconstitutionally if it arrived at a resolution to that effect, which it has not done. Mr. Attorney-General, proceed.

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

Mr. Deputy Speaker: Order! Order! I will not entertain further arguments. For heavens sake, I will not entertain further arguments on this. Mr. Attorney-General, I hope you will wind up. It was a point of order.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Order! Your point of order is disallowed. Hon. Anyang'-Nyong'o, I am afraid it is disallowed and I will not entertain further points of order on this. It is not my business to engage in arguments on the appropriateness or otherwise of this Bill with Members. Mr. Attorney-General, will you please wind up your explanation on a point of order or I will cut you short.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, to wind up, the initial Bill, as I have explained, was constitutional and I have given you the various positions under which it was constitutional. It has been suggested why there are many amendments. The many amendments are not that it was unconstitutional but were as a result of the consultations to improve the Bill which was constitutional. In good faith ---

Mr. Mulusya: On a point of order, Mr. Deputy Speaker, Sir. With due respect to the Chair and to the hon. Attorney-General, now that the Attorney-General knows that the Bill before the House is unconstitutional and what he intends to do is to let this House debate the Bill and bring amendments later; would it not be prudent for the Attorney-General to withdraw this Bill and redraft the same Bill afresh with those proposed amendments and bring that Bill here in its intended, form instead of letting us to continue to debate a Bill whose amendments may later be rejected? Why does the Attorney-General not take courage by withdrawing this Bill which has already been moved and redraft it and bring it at the earliest convenient time so that this Parliament can discuss it?

(Applause)

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, the method followed is a normal method. We have not waited until the Committee Stage to give notice of the proposed amendments. We have tabled the amendments to this House so that when people are debating or contributing during the second reading, they have also in mind the proposed amendments that are surely coming during the Committee Stage.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. With due respect to the Chair, an Intelligence Bill is a very important Bill to this House and to the nation. The House has made two important points. First, that the amendments exceed 50 per cent of the original Bill. In which case, the Attorney-General has the duty to redraft the Bill properly and bring it before the House. Secondly, yesterday we were in the process of debating another Bill. Indeed, if the Government had an intention of bringing this Bill to the House, it could have appeared on the Order Paper as the fourth or fifth Bill so that the House is warned a foretime to prepare. This is a very important Bill. It looks surreptitious and, indeed, somehow, unfair to the House to clandestinely smuggle this Bill into the House today and force us to debate on the Attorney-General's point of order rather than the real Bill that we could have debated. I would appeal to you to request the Attorney-General to withdraw this matter today, go and redraft a new Bill and bring it to the House at a proper time for us to debate the real Bill. Thank you Mr. Deputy Speaker, Sir.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, the proposed amendments may look bulky but they do not touch on 50 per cent of the Bill. In fact, really the major amendments are not more than four or

five which are additional that are there to clarify one or two things in the important ways. Therefore, to stand up and say that the amendments proposed are more than 50 per cent of the Bill itself, I think is tantamount to misleading the House. Therefore, the Bill was constitutional. We have had some consultations on this. The proposed amendments are on the Order Paper and I propose that we proceed and debate the Bill.

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

Mr. Deputy Speaker: Order! Order! I take it that the Attorney-General has finished his explanation. Now, regarding the requests that hon. Mulusya directed the Attorney-General, of course, it should be directed to the Government. The request by hon. Anyang'-Nyong'o is more or less in the same terms. It is strictly up to the Attorney-General and the Attorney-General alone as the chief legal adviser of the Government; and, therefore, through that office, up to the Leader of the Government Business, to decide whether it is best in their interest to withdraw a Bill which Members have pointed out as terrible and bring it back or not. It is not up to me to order him but I think it is proper that the Attorney-General will listen to those arguments from the MPs. Beyond that, I have no option but to give the Floor to hon. Orengo to continue.

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

Mr. Deputy Speaker: I am afraid the Attorney-General has finished his explanation. He is not on the Floor. As far as I am concerned, Amos Wako has finished.

Mr. Murungi: Mr. Deputy Speaker, Sir, I actually sympathise with the Attorney-General because, only yesterday, he was on the Floor, apologising for the mistake made in the drafting of the Auctioneer's Bill by his office. There are also several other mistakes of a constitutional nature in this Bill, apart from the mistake that was pointed out by the hon. Paul Muite. If you look at Clause 20 (9) of the Bill which reads:

"No proceedings, reports or findings of the Tribunal shall be challenged, reviewed, quashed or called in question in any court--"

An hon. Member: Are you reading the Bill?

Mr. Murungi: I am reading the National Intelligence Services Bill, Clause 29. Since the court cannot quash or review and nobody can challenge the findings of the Tribunal in any court, as drafted, the Clause is so good and big that it offends Section 61 (1) of the Constitution which reads that:

"There shall be a High Court which shall be a superior court of record and which shall have unlimited, original jurisdiction in civil and criminal matters."

As drafted, this Clause seeks to limit the unlimited, original jurisdiction of the High Court and it is repugnant and inconsistent with Section 60 of the Constitution and--

The Deputy Speaker: Hon. Murungi, do you not think you have all the valid reasons for taking the Floor to contribute to the debate, than actually debating it under the guise of a point of order?

Mr. Murungi: Mr. Deputy Speaker, Sir, hon. Muite would have said what he said in the course of the debate and I am raising a point of order the way hon. Muite raised and was allowed. Why am I also not being given my right as a Member of Parliament?

Mr. Deputy Speaker: Order! Order, hon. Murungi! It is the privilege of the Chair to distinguish between the circumstances in which hon. Muite rose on a point of order, and the circumstances of today under which you are insisting that you have an equivalent right. I distinguish them and I do not think you are entitled to the same by virtue of the fact that, hon. Muite took the Floor on that ground to contribute to the debate under the guise of a point of order. Hon. Orengo, I give you the Floor to continue with your contribution.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. For the purposes of the records of this House and this is very important particularly for you as the Chair. For purposes of the correct records of this House, you gave the Attorney-General the opportunity to respond to a point of order on a constitutional matter and he admitted that they have tried to cure those constitutional problems in the Bill by proposing amendments. That was an admission. Towards the end, just before he sat down, he said there was no constitutional problem, the Bill was perfectly constitutional. Is that correct? Then why would you have given him the opportunity to clear those constitutional issues? We must get the records of the House correct.

Mr. Deputy Speaker: Order! Order! Mr. Anyona, what record do you think is not correct? I am sure the tapes are getting each and every word that every Member is uttering here. Proceed, Mr. Orengo!

Mr. Anyona: Mr. Deputy Speaker, Sir, I thought you wanted me to say which records?

Mr. Deputy Speaker: Order! Order! I have heard your argument and I see no merit in it.

Mr. Falana: On a point of order, Mr. Deputy Speaker, Sir. You do not have to be a learned friend in this House to see the problems we have with this Bill. I liked the way the Chair had put it, although not authoritatively to the Attorney-General, that the Chair is also concerned that we have spotted some constitutional amendment problems in this Bill.

Mr. Deputy Speaker, Sir, this Bill once came to this House, but it was not debated because of these hitches here and there. The Attorney-General cannot claim that this Bill is constitutionally fit because it is not. The same clauses that had problems and were not constitutional are being phased out or amended because it was not proper. Now, since you had put it to the Attorney-General, I am also doing the same, because you have put that question to him and the Leader of Government Business who is not here. This Bill touches on my life, your life and every Kenyan's life. We do not want to take chances on this Bill, neither do we want it to flop for the second time. I would like to ask the Attorney-General this question: How much it would cost the Government to make this Bill clean, clear and perfect without any errors and then bring it to the Floor of this House?

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

Mr. Deputy Speaker: Order! Order! I am afraid unless you are rising on a point of order on a matter of actual order on the Floor of the House, I will not entertain further points of order, by way of arguments. Hon. Mak'Onyango, you had better understand that very clearly, please. And I wish you could desist from the point of order. Proceed, hon. Orengo!

Mr. Mak'Onyango: On a point of order, Mr. Deputy Speaker, Sir. I want to join my colleagues on this point.

Mr. Deputy Speaker: Order! Order! If you want to join your colleagues on those points they have already laboured, I am afraid it is repetitive and we do not tolerate unnecessary repetition here, we have already had a lot of repetitions today.

Would you continue, hon. Orengo!

Mr. Orengo: Mr. Deputy Speaker, Sir, I want to be brief particularly on the basis of emotions and feelings which have been expressed by Members of this House on a Bill which is very important, not only in regard to what the objectives---

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

Mr. Deputy Speaker: Disallowed!

Mr. Orengo: Mr. Deputy Speaker, Sir, the first point that I want to make and in fact, when I started contributing to this Bill, I said that I do not support this Bill. That was my first statement when I contributed to this Bill on 18th July this year.

Mr. Deputy Speaker, Sir, I want to pin-point Standing Order No.40 (3), page 18 which relates to motions and it reads as follows:-

"If Mr. Speaker, is of the opinion that any proposed motion:

(a) is one which infringes or the debate, on which is likely to infringe any of the provisions of these Standing Orders or;

(b) is contrary to the Constitution without expressly proposing appropriate amendments of the Constitution."

And then the last part of it reads:-

"He may direct either that the motion is inadmissible or that notice of it cannot be given without such alteration as he may approve."

Mr. Deputy Speaker, Sir, I am reading this because I think those provisions in my opinion, apply to Bills also. You have quoted Section 3 of the Constitution which you were correct and it provides that any law that is inconsistent with the Constitution will be null and void to the extent of that inconsistency. But, we speak here as an honourable House and once it is clear on the face of a Bill that the provisions are not in keeping with the Constitution, I think following the honour and the dignity of the House, we should be courageous to say so. And the Government, on that basis, should accept and do what is most honourable to do in the circumstances and either withdraw the Bill or redraft the Bill and bring it at another stage for debate.

Mr. Deputy Speaker, Sir, I say so because the Attorney-General says that there had been some consultations. Those consultations were not in relation to the constitutional issues which were brought on the Floor of this House by hon. Muite and if you look at the proposed amendments, they do not in any way touch on the major arguments on the Constitution that were brought about by hon. Muite.

Mr. Deputy Speaker, Sir, there are several parts of this Bill which need to be looked into. You will find that in this Bill, it brings a lot of contradiction with other Bills which relate to other security forces. That is not just in conflict with the Constitution, but it is also in conflict with other statutes which this Parliament has enacted.

MOTION FOR THE ADJOURNMENT

ADJOURNMENT OF DEBATE ON BILL

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I am a little lost. I do not know where the rest are. I do not know now whether the hon. James Orengo is contributing to the Bill or whether he is raising a procedural matter. But be that as it may, it is quite clear from both sides of the House, as has been eloquently expressed, and even as far as the Chair is concerned, that there is something that is not quite right with this Bill. Mr. Deputy Speaker, Sir, in view of that and even because both sides of the House are not satisfied with the way this Bill is drafted, would I be in order to move under Standing Order No.21(1), that the debate be adjourned. Standing Order No.21 states as follows:-

"A Member who wishes to postpone to some future occasion the further discussion of a question which has been proposed from the Chair may claim to move,"That the debate be now adjourned".

Mr. Deputy Speaker, Sir, it is quite clear that we shall be acting against our own conscience on both sides of the House and we shall be wading through mud of confusion. As I said, the country is listening and watching us, and even our young children are watching from the Galleries. You have appealed to the Government through the Attorney-General in very persuasive terms that this matter be put into abeyance without a formal Motion. We have been very patient, because we wanted to express goodwill towards the Government, that this Government can take serious issues of the Constitution seriously. We are not talking about the Constitution that they do not want, the one that has not come, the one that Kenyans are asking for, but we are talking about the Constitution in place and this Government must obey. They have no option. They must obey the Constitution that is in place now and the Attorney-General must lead the Government in obeying the Constitution.

Mr. Deputy Speaker, Sir, I do not want to talk much, but as I said, we cannot, possibly continue with this debate. If the Government is not prepared to show goodwill, to show tolerance, to show magnanimity, we are now on this side of the House, being compelled to ask for a formal adjournment of the debate. I am, therefore, standing formally taking into account the views of both sides of the House, that we adjourn the debate before the House. I do not have to give many reasons, because we have already argued that this Bill is still unconstitutional.

We are not against the Bill. We need security and we have said that security is not political, but now politics is being brought in. Like the hon. Prof. Anyang'-Nyong'o said, the House is being "ambushed" hardly one week after another ambush the other day over the Sessional Paper No.2. What is going on? Is this Government acting collectively, as a Government, under Section 17 of the Constitution? Are Members of the Cabinet satisfied that they are portraying an image to this country of a united Government, of a purposeful Government, of a Government that knows where they are coming from and where they are going to?

The other day, I did not quite believe what hon. Orengo was saying about the "kitchen cabinet", but I do now believe that there is a "kitchen cabinet". We do want to know---

(Applause)

Mr. Deputy Speaker: Order! Order! I take it that you have moved a Motion that the debate be now adjourned. The limitations in the Standing Orders are that debates on such matters shall be confined on the matter of the Motion, still applies even to the Mover. So, would you confine yourself to that Motion?

Mr. Anyona: Mr. Deputy Speaker, Sir, it is quite clear that the House does not want to go on with this business.

I beg to move.

Mr. Orengo: Mr. Deputy Speaker, Sir, I take this Floor to associate myself with the views of hon. Anyona. I was in a very difficult position to move that this House do adjourn because, originally, I was on the Floor on the basis that I was on my feet when this debate was interrupted last. But what I was going to say is quite in line with what hon. Anyona has said. I said the last time that there was some kind of conspiracy to rush this Bill on account of those who wanted the National Intelligence Services Bill to be passed.

Mr. Deputy Speaker, Sir, there are several sections of this Bill---

Mr. Deputy Speaker, Sir, on that basis, I beg to second.

(Applause)

(Question proposed)

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, it is not because of the grounds put forward by my friend, hon. Anyona, that I support the move to adjourn debate on this Bill. It is just to complete the discussions that were going on, and because hon. Members from both sides of the House have made have a request and in good faith, that request is reasonable and it should be accepted.

(Applause)

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, after due consultations, as hon. Sunkuli has said, we have agreed to adjourn debate on this Bill. Because the National Intelligence Services Bill is a very important Bill, it is only proper that further consultations be made, so that we do not have to disagree over this particular Bill. But I can assure this House that the Bill itself was constitutional.

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. Most of the problems that we are getting in this House emanate from the lack of humility on the part of the Attorney-General. Anybody can make a mistake. When, definitely, the interpretation of the law is wrong, he should admit and retrieve the Bill and bring up another one. Is it in order that even now, he continues to persist that the Bill, as it is, is constitutional? A little humility would assist both sides of the House.

Mr. Deputy Speaker: Order! Order! I think, it is perfectly in order for the Attorney-General to insist on his line of argument.

(Question put and agreed to)

(Applause)

Mr. Deputy Speaker: Next Order.

MOTION

ADOPTION OF PIC REPORT

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

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

(Resumption of debate interrupted on 27.11.1996)

Mr. Deputy Speaker: Mr. Mulusya was on the Floor.

Mr. Mulusya: Mr. Deputy Speaker, Sir, before we adjourned the House yesterday, I was talking about the power sector and the problems which have been caused by either indecisiveness or deliberate moves by a former Minister for Energy and the Ministry of Finance.

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, I want to demonstrate to this House that the problems afflicting the power sector have been deliberately caused. It is very unfortunate that the citizens of this country have been forced to pay very high power bills for reasons which are not of economic value to them. Recently the World Bank undertook a study of the power sector. An audit report was produced on the Kiambere Hydroelectric Project, the Kerio Valley Development Authority (KVDA), Masinga Dam and other projects which are financed by donors. This was done because the authorities which are involved in production of electricity have not been remitting to their financiers their regular half-yearly loan repayments. The object of the study by the World Bank was to establish the cause of the delays and non-remittance of external loan repayments. I am going to table here a report, which is entitled: "The performance Audit Report on Kiambere Hydroelectric Project". It is dated 30.6.95. I would rather that the Minister for Energy listens to me.

You will recall that for the last five years, the Kenya Power and Lighting Company (KPLC) has been increasing electricity tariffs to the consumers virtually every 16 months. The KPLC gets its power either from the Kenya Power Company (KPC), the Tana and Athi Rivers Development Authority (TARDA) or the KVDA. However, the KPLC has refused to honour its lease agreements, some of which were inherited from the former East African Power and Lighting Company. These agreements stipulate what is supposed to be paid to the

companies which generate electricity, and sell it in bulk to the KPLC. For a long time the KPLC has refused to re-negotiate new power rates with the generating corporations. The KPLC buys power from these authorities but it does not show to the sellers how many units it has bought and at what rates it should pay for them. The company has refused to increase the tariffs and pay for power direct to the generating authorities. So, the KPLC refuses to re-negotiate new rates for the generating authorities and at the same time, goes ahead and increases its rates to the consumers.

The KPLC argues on and off that there are increases in the cost of petroleum and also depreciation in the value of the Kenya Shilling *vis-a-vis* the international currencies. It seems that it is only the KPLC which has been experiencing problems emanating from the depreciation of the Kenya Shilling in the foreign exchange market. The company has assumed that other Government institutions which borrowed money to generate power, which it buys, are not affected by the fluctuations in the value of the Shilling and increases in the price of petroleum products. The KPLC unilaterally seeks consent from the Minister to increase its tariffs to the consumer but it never wants to increase the rates at which it buys the power from the generating authorities. From 1988 to date, the KPLC has increased its tariffs to the consumer to such a high level that it should, at least, have also raised the rates at which it buys power.

My argument is that the KPLC is not wholly-owned by the Kenya Government. Why are we allowing its shareholders to benefit from the Kenyan tax payers when the company does not want the tax payers or Kenya Government to also benefit? I want to submit here that this is a direct and deliberate move by the KPLC and the powers behind it. Most of the power generating authorities like the TARDA, the KVDA and the KPC entered into agreements to provide local people of the areas from where they tap electricity with, at least, a certain percentage of their revenue. These authorities are not able to plough that type of revenue back to those areas because they are not getting any. The audited accounts of TARDA, KVDA and the KPC show losses throughout. On the contrary, the KPLC has been recording very high profits. You can ask why only one company out of several in the same business is making profit. The authorities which are generating electricity in bulk are not making any profit!

The Minister for Energy (Mr. Ngala): On a point of order, Mr. Temporary Deputy Speaker, Sir. I would not like to interfere with the hon. Member's contribution, but I think he is misleading the House. The KVDA and TARDA get money from the power that the KPLC uses. This is meant to compensate them for the expenses they incur in generating electricity. Therefore, I think it is not proper for the hon. Member to give the impression that the KVDA and TARDA are left without any compensation. I think the TARDA is paid compensation to the tune of Kshs45 million per year while the KVDA is paid a compensation of Kshs50 million. So, I think the hon. Member should not mislead the House!

Mr. Temporary Deputy Speaker, Sir, that shows that the Minister has yet to grasp what is going on in his Ministry. He has not read the Report we are debating on and he has not also read the audited accounts of the two authorities which he has mentioned. The TARDA is getting budgetary allocations which come through the Ministry to this House for approval. There is no question of compensation. These are supposed to be profit making institutions. They have gone into business. The proposals which were submitted for the funding of those projects were made on profit making basis and not on compensatory basis. I am tabling a paper which is from the World Bank which says that TARDA should be getting payments from Kenya Power and Lighting Company Limited. It also says that TARDA is insolvent. It could not have been insolvent if it had been established on profit making basis. It says that the Treasury which was the guarantor to TARDA and those other authorities for the external loans which they got, should not have paid those loans for them, until those loaning authorities have taken their obligation to declare TARDA insolvent.

(Mr. Mulusya laid the paper on the Table)

QUORUM

Mr. Mbeo: Mr. Temporary Deputy Speaker, Sir, I do not think we have a quorum in the House.

The Temporary Deputy Speaker (Mr. Ndoto): That is true. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Ndoto): Order! I think we now have a quorum. Hon. Mulusya proceed!

Mr. Muluya: Mr. Temporary Deputy Speaker, Sir, before that interruption, I was telling the Minister to look at this audit report by the World Bank and read carefully what it says and what it recommends, because the power sector cannot be improved. I was also about to tell him that the money which Kerio Valley Development Authority has received from the Government for it to do a few projects surrounding it, has been given because of a delegation which was sent by the local people to see His Excellency the President and he issued a directive for that money to be given out. We would also want, on the same breath, those people who live around Kiambere, Masinga and other areas to get such money without having to go and see the President. We would like to see TARDA being given additional funding so that it can carry out some intended projects within and around those dams. Those people who were removed during the construction of those dams were supposed to be compensated and resettled elsewhere. They were given insufficient money. Each got Kshs27,000 which the World Bank says, in this report, - was insufficient. It is incumbent upon the Government to see how those people living around the dams have benefited from electricity. Money should be ploughed back through TARDA and KVDA in the form of Rural Electrification and road network in those areas - not necessarily those which are serving those projects.

Now that the Minister is here, I would like him to tell this House why the Managing Director of Kenya Pipeline Company Corporation, Mr. Ruto, is not living in the Company's House. This company has three houses; one for the Managing Director another one for, Deputy Managing Director and another one for the Chief Accountant which are in the same place. During mid-this year, the Managing Director of Kenya Pipeline Corporation refused to stay in the Company's house and he is now staying in a rented house for which the company is paying Kshs250,000 per month and the PS of the parent Ministry has refused to sanction that rent. The Ministry has refused to sanction that transaction because, by the time the Managing Director sought approval to lease that house, he had already signed a lease agreement and he had moved into the house. He is now seeking authority in retrospect. We would like the Minister to find out the truth about, what is happening and possibly report to this House why this is happening.

Mr. Temporary Deputy Speaker, Sir, I would now like to touch on the Kenya Airports Authority. We witnessed in the PIC a system where, when this country is negotiating for new projects, first, it seeks a foreign company to carry out the feasibility study. Project appraisal is done by a foreign company. After that project paper has been approved, the Government allows that company to go and source for loans to implement that project. Once it has acquired the foreign loans, it allows bids from those companies and from outside. The tendency is that our local professionals are never involved in the appraisal of the projects at all; they just give information of what we want. Those people, in form of experts, come and do the project and give the paper. Our people are never involved in any costing of the project; they never even go to find out whether there are alternative sources of implementation of that project. They give it to a Japanese company. If it is a Japanese company, they give it to that company to do the feasibility study and eventually, through collusion, a Japanese company is given the contract to source for those funds and implement the project. Here, we never have any hand to play in the eventual cost of those projects, and that is why we are inheriting projects which are too expensive.

Mr. Temporary Deputy Speaker, Sir, now I would like to say something about the Moi International Airport in Mombasa which we inspected. You look at the Presidential Pavilion and you are told that it cost Kshs250 million. If you are an expert, you wonder where the Kshs250 million has gone to. The total project cost is Kshs5.7 billion. For that Kshs7 billion, you come to learn that they are re-carpeting the runway, doing some drainage, putting some new communication equipment and also putting up new systems for re-filling the aircrafts. When you do a thorough study, you find that the sub-contractors also come from that same country and the Kenya Government is not involved at all. Only a few local private practitioners are involved. You look at the type of labour these people are bringing; a Chinese or Japanese foreman who is just specialised in doing terrazzo work, is being paid Kshs700,000 per month plus a car, a house and a chauffeur. The equivalent of that foreman here can be paid not more than Kshs14,000 per month with no house allowance or any other allowances. There is a huge difference between Kshs750,000 and Kshs14,000. At times, you find that there may be about six of such foremen working on that one project. When you talk about the site engineer, again you are talking about Kshs1.4 million per month, plus a house, a chauffeur, an entertainment allowance and a free ticket for his wife and children when they want to come for holidays in Mombasa. Their stay in Mombasa is also free. Who will pay for that money? We have found out that it is the Kenyan tax payer. We also came across three or four small pieces of communication equipment in a room of 4.5 by 6 metres which we were informed cost Kshs810 million. No Kenyan has gone to Japan to find out if there is another company which supplies similar competing equipment, at a different price. We just accept those projects wholesale and, because the person signing the contract is not the one who is going to pay at the end of the day, he just signs them and that is how we are being committed. We will be auctioned by these international companies. Those who designed the projects deliberately refused to think about the necessity of take-off and landing lights. They also deliberately refused to

see the necessity of a stand-by generator. Why? Because they want that item to be included in a different project for price variation. This is the problem we are having. We are having people who are not committed to this country; people who are only committed to the money they are going to get out of those projects and giving work to foreigners. When those projects have been given to those foreigners, the beneficiary is the work force in those countries, not Kenyans. So, we are in a big problem. Jomo Kenyatta International Airport is not spared either. A look at this airport reveals that some bits and pieces had been deliberately left out to necessitate contract variation. This is what is being done. We have professionals who have no interest in their mother country and that is why you find that most of this money is spent on medical bills. For every Kshs1 million they make, the following day they have to visit a doctor because a system within them is failing and yet they are making millions of shillings out of Kenyans.

Mr. Temporary Deputy Speaker, Sir, we have also noticed that so many projects are started but they are never completed. For example, in almost every urban centre in this country, there is a new project which Kenya Posts and Telecommunications Corporation embarked on since 1988. These are projects like building plans, structural engineering plans, civil and architectural plans. They are so many and yet very few have taken off the ground. These projects are overpriced such that you will be told to draw a structure of a ten-storey building in a very small market centre where there is no market of that nature. Because you are forcing the overall cost to be Kshs40 million, you are going to be paid the fees according to the scales. That is what they have been doing. We are finding it unreasonable for state corporations to embark on small non-starting projects simply because they want to give some professionals work so that they can "milk" money from them.

The other issue is that we have looked at the way some of these professionals work. The Committee heard that a certain architect had been given a job to partition an office block for the National Council of Science and Technology; Emperor Plaza. That project started as a very small project. The work was just to partition two walls of Emperor Plaza and the cost of that work was supposed to be Kshs3 million. The partitioning was being done on two office floors which had been on lease for five years. That was to be done with the ordinary blockboard and after the five years, those blocks were supposed to be removed. Now, that project's cost rose from Kshs5 million to Kshs36 million. We have recommended in the report that an inter-ministerial committee be formed to look into the conduct of the architect who gave that project to Ongata Works Limited. Unfortunately, Ongata Works Limited is the same body which is renovating Parliament Buildings as we are talking. I hear that the work is supposed to cost Kshs 152 million. Some of the work these people are doing includes uprooting the old grass which had been planted by the colonialists and planting new one, putting a coating on the top of the building and so on.

An hon. Member: Bringing soil.

Mr. Mulusya: No new soil. They are bringing in manure which we have in plenty. I can even give you enough manure from my house in Karen free of charge to do that work.

That contract does not include redoing the public address system yet what we have here is a very old system which does not exist anywhere in any Commonwealth parliament. Out of Kshs152 million, nothing has been done on this equipment which is failing every other minute. I am afraid soon we are not going to be hearing one another. You look at the toilets. They have not been repaired. These toilets are faulty. In fact, when you flush water, that water splashes back to where you are standing and sometimes one is forced to fold his trousers before he gets into the toilet. That is what is happening. Ongata Works should not have been given that contract because it is a subject of enquiry by an inter-ministerial committee which has to report to this House. It was yesterday when I said that, if civil servants see that such reports are not taken seriously, worse things should be expected. We are heading for doom. We should be able to show a good example; that in whatever we do we are transparent, beginning with us here in Parliament. I cannot imagine a person applying up one coat of paint and demanding so much money. It is only a few offices here where they have replaced the old carpets. All those items have been imported duty-free. These people have been exempted from paying tax because they are importing materials for renovating Parliament and here we are talking about Kshs152 million. We must rethink some of these things. If we continue in that spirit, we will not be doing any justice to the little children we care about.

There is another issue which we found is almost a common disease in parastatals. The statutory deductions from the salaries of workers, for example, NSSF, NHIF, PAYE and the rest are not remitted. In most of the parastatals we have examined, most of them have been in arrears for five or six years. They have failed to remit this money for this number of years. Some of them use the Provident Fund to meet other costs which are not related to the interests of the workers. When workers retire, they are not given their retirement benefits because of such cases. There are so many cases of that nature. What we heard from most of the Chief Executives is that this has been happening because of under-funding when it comes to certain areas. This practice is illegal. It is important that those deductions are remitted promptly.

We have also noticed that parastatals have been putting their excess funds in financial institutions which are of dubious background. Virtually every parastatal in this country has lost some money in the collapsed banks and financial institutions. There has to be a stop to this. Even in most of those cases, the Chief Executives have the audacity to invest those surplus funds in such institutions without first seeking approval from their respective boards. This is where the issue of arrogance comes in. The Chief Executive has this notion that he was appointed by His Excellency the President and the Member of the Board too feels the same. There is that tug-of-war. If it is possible, it is very important to stop it.

Mr. Deputy Speaker, Sir, now that hon. Sunkuli is here---

The Temporary Deputy Speaker (Mr. Ndotto): Order, hon. Mulusya! You are doing very well, do not engage yourself in that kind of exchange, hon. Sunkuli was just making a comment, proceed with your contribution.

Mr. Mulusya: Thank you, Mr. Temporary Deputy Speaker, Sir. Unfortunately, I happen to be a Kamba by tribe and subscribe to Kamba language, norms and culture of Kamba people. But may I say that it is unfortunate, that we have been taken for a ride by the Government.

Mr. Temporary Deputy Speaker, Sir, most of the parastatals which have been run well in this country in the past are headed by Kamba people, some few Luhyas, Luos and Kikuyus. But the ones which are doing very badly are run by people from the community of the President.

Unfortunately, when Cheleshaw stole from the Kenya National Assurance Company which was wound up or put into liquidation, he was appointed to KTDC so that he could run it down as well. But when Kambas who have been doing very well in the Government, like Prof. Philip Mbithi, retires nobody wants them again. For example, Prof. Philip Mbithi has retired in his 4,000 acres farm, and he is "rotting" there, Mr. Philip Kilonzo, the former Police Commissioner, after his retirement was appointed to head Cotton Lint and Seed Marketing Board of Kenya. Which cotton are we growing in this country? Nothing! Mr. Kivuvani, the person who has been giving this country all the secrets of the Opposition is at home and he has been promised that he is going to "fight" with hon. Kavisi to come to this Parliament, but the people of Mwala may decide not to deal with a soldier. Look at Mr. Ndambuki, a very good police officer who rose to the rank of Deputy Commissioner of Police is currently "rotting" at home. He should be given a parastatal to run.

Recently, we had a very good lady who was streamlining things at the Registration of Motor Vehicles, Emily Gatuguta. She did such a wonderful job, but she is nowhere now. She should be doing something because she is very intelligent with good experience. Why should you let certain people "rot?" There is also a Mr. Mbindyo who was misled into committing a lot of mistakes in the Central Bank of Kenya which were not of his own making, but because of pressure from the "powers from above." Where is he now? He is only nursing his ulcers at home! We had also a very good lady who was being misused, Mrs. Wandera. By the way, she is a Kamba married to a Luhya. She used to run City Hall very well until she was involved in grabbing. Now, she is nowhere in this Government. She is lucky because she is an advocate, she can practise. She should be given a parastatal to run.

Mr. Temporary Deputy Speaker, Sir, recently, while watching television on Sunday, there was Rev. Kaleli preaching at Moi High School, Kabarak. If it was not Rev. Kaleli, it was Rev. David Nthiwa, at Sacho High School. Rev. Kaleli is at home now praying to nobody other than his God!

(Laughter)

The problem is that when they want to get rid of a Kamba man, they say he was involved in some dubious activities with some school girls or some employees and that is why they are now targeting hon. Makau. I wonder whether they want to get rid of us all. Rev. Kaleli and Rev. Nthiwa were accused of involving themselves with school girls and hon. Makau is being accused of involving himself with women employees.

Mr. Temporary Deputy Speaker, Sir, this is not true. Kambas are not bad people, in fact, we resist the "inducement" by women even our own wives. We are very disciplined men. How do we come now to be associated with these types of things?

Mr. Moiben: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to say that somebody somewhere is after the neck of hon. Makau when we all know here that it was an hon. Member from the Opposition who made such claims and not the Government side?

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, I am not cleansing the Opposition neither am I putting mud on the Government face. What I am saying is that Kambas have been loyal since the Kenyatta era and we even served the colonialists well. Kenyatta took over and we continued to serve him loyally and we never stole anything from his Government. President Moi has been in power for all these years and he knows how

much we have helped this Government through our loyalty. We are too loyal because on that side of the House there are people who are blindly loyal to the Government, yet they are not benefiting from it. But when they go to State House and they want to seek audience with the President, they are shut out. This is the only reward we are getting for our loyalty.

The Assistant Minister for Finance (Mr. Koech): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it not in order for hon. Mulusya to declare his loyalty?

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, I am 100 per cent loyal to the Constitution of this country!

The Temporary Deputy Speaker (Mr. Ndotto): Order, hon. Koech! I think that is not a genuine point of order. Hon. Mulusya, continue, but I want you, at the same time, to turn your attention to the Report.

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, yesterday, I said it is only those highly qualified people who have been appointed to run these parastatals on merit, those who have made those parastatals under them run effectively, made profits and so on. We have commended them in this Report, and some of them are run by Kambas. There are very few which have been run by Kambas which are in problems---

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. While I am enjoying the hon. Member's speech, I would like to remind him that a Mkamba is heading the Kenya Railways which is doing very badly and he is even grabbing rails slippers and houses, land and so on. He is actually a menace to this Corporation.

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, if my colleague, Dr. Lwali-Oyondi, was a manager by profession not a veterinary doctor, he would know how difficult it is to run a Corporation like that one. Read the sub-reports of the sitting Committee, they have commended that Corporation. It is one of the Corporations whose accounts are up-to-date. I do not want to get into that because I may look protective and I do not want to.

All I was saying is that we have a long list of Kambas who can be appointed to manage these parastatals. But this issue of having one Mkamba sacked, he goes home forever and ever, amen--- When a Kalenjin is supposed to be removed--- The other day we talked of a Permanent Secretary in the Ministry of Health, who was involved in a deal of Kshs7.2 billion to import anti-malaria drugs. He was transferred from there to the Industrial and Commercial Development Corporation (ICDC). If it was not for the intervention of the World Bank and IMF, he would still be in ICDC. But we do not know what other jobs he is going to be given.

Dr. Towet: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Mulusya in order to talk along tribal lines instead of talking about matters affecting this nation?

The Temporary Deputy Speaker (Mr. Ndotto): Order! Hon. Mulusya, I do not think you are noticing, but I think hon. Members can see that you are getting on the wrong side of your debate. It is okay to mention such matters as you pass, but when you dwell on it, it loses meaning because it has no relevance to the Report, of which you are a Member. We would like to know what you discussed there.

Mr. Mulusya: Thank you, Mr. Temporary Deputy Speaker, Sir. I also want to commend the researcher of rodents for raising that point of order, and making us aware that he is in the House.

With those few remarks, I beg to support.

Mr. Orengo: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this chance---

QUORUM

Dr. Towet: Mr. Temporary Deputy Speaker, Sir, there is no quorum.

Mr. Orengo: Are you satisfied there is no quorum, Mr. Temporary Deputy Speaker, Sir?

The Temporary Deputy Speaker (Mr. Ndotto): Yes, I am afraid Dr. Towet is right. There is no quorum. Ring the Division Bell.

An hon. Member: When he comes here, he always talks about the quorum!

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Order, hon. Members! We have a quorum now. Proceed, hon. Orengo.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I will not be long. But I really want to commend the Public Investments Committee (PIC) under the Chairmanship of Prof. Anyang'-Nyong'o for this Report we are debating today, and particularly because in his preface of the proceedings, observations and the summary, he has done something quite historic in trying to summarise in a few pages, the main thrust of this Report, and the

recommendations that they have made. For that, I wish to thank him because those who do not have time, as it often happens, can spend a little bit of time to read through the observations to know the thrust and the recommendations of this Report.

In looking at this Report, I will still want to address the side opposite, that there are many occasions when many of us think that the authority of this Parliament only extends to legislation, and that Parliament is merely there to make legislation or debate on Motions. But under Section 17 of the Constitution, the President and the Cabinet are accountable to this House. Therefore, the Executive, in discharging its duties, in everything that they do, are accountable to Parliament. We are not just there to make laws. We are there to speak for the people of this country on any subject. We have powers to remove or repeal some of the powers which are given to the Executive. Section 17 is a very important Section of the Constitution because even the conduct of the President and of his Ministers is subject to the scrutiny of this House.

In saying so, I want to address myself only to two issues which relate to procurement and tendering systems. In the observations of the Report, they are found on page (xi), and on the affairs of NSSF, which are found on page (xxiv).

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

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

Mr. Temporary Deputy Speaker, Sir, unless we make the institutions of this country work, Parliament, Cabinet; and I am not going to talk about the "Kitchen Cabinet", but the real Cabinet--- Unless these institutions can work in a responsible fashion, the problems that continue to be reported in the PIC and PAC will continue to bedevil this Parliament and the nation.

The starting point is for the Government in place to try and make sure that they perform their duties in accordance with the Constitution, and on the principle of accountability and transparency.

The Committee did make some observations. If I may read page (xi), it reads as follows:

The Committee observed with concern, and deplored the manner in which certain state corporations awarded tenders for goods and services to dubious companies whose business profiles are known, and without inviting open tenders, in total disregard to laid down tendering and procurement procedures.

Mr. Temporary Deputy Speaker, Sir, there is something, which I think only hon. Shikuku talked about it in this House. There is one time that hon. Shikuku said that in the Central Bank, there is no Indian who has ever been appointed the Governor. There is no Asian, to my knowledge, who has been appointed a PS. I do not know whether there was one in the past. But there was never. The only basis under which some dubious Asians continue to rip the economy of this nation, is because of their connections with people in authority. In saying this, I do not want to say that this involves the entire Asian Community. Most of the Asians are people who work very hard.

Indeed, the infrastructure of this nation, including the Railway Line, was built by Asians who were brought in from India, and worked in this country as Coolies. But in this nation today, there exists an Asian mafia. If you look through this Report, you will find that a lot of looting that is going in parastatals and even in the Government Ministries is done by a few Asians, who make up a gang. This gang is able to operate because of their political connections.

I am saying this because if you look at the affairs of the Kenya Ports Authority (KPA), they have a system of pre-qualification or selective tendering. Many times, you will find that an Asian group forms five companies with different names. Under the system of pre-qualification, or selective tendering, the companies that are given those tenders are always the same Asian companies. They have different names but the owners are one and the same.

Mr. Temporary Deputy Speaker, Sir, to demonstrate that point, I have a list of some companies here which were tendering with Kenya Ports Authority under different names, but they belong to the same group of Asians. I am asking this Government to ensure that there is transparency and accountability, if you want to make sure that the wealth of this nation is not looted. Most of those same Asians who are given these tenders are not Kenya citizens. They make a lot of money here and run away. For example, Ketan Somaia, who is doing a lot of business with this Government and parastatals owns companies all over the world in such countries like India, Dubai, United Kingdom and Namibia. He owes this Government Kshs200 million because the man is worth

billions of shillings. He owns companies here.

This Government has failed to exercise its rights to ensure that the Kshs200 million that was paid to Ketan Somaia on the basis of undelivered goods to the Office of the President is repaid. He is only able to do this because of his political connections with people in this Government. That is why he can come in and out of the country and not pay a cent, when he owes the Government so money.

Mr. Gatabaki: On a point of information, Mr. Temporary Deputy Speaker, Sir. Ketan Somaia is using the billions he has made in Kenya with the aid of senior KANU officials to expand his empire in Africa. As a matter of fact, he is now investing in Namibia using the stolen money, for and on behalf of a very senior Kenyan official. The money stolen from Kenya by Ketan Somaia is being transferred to other African countries. This House should tell other African countries about these Asian thieves who have looted Kenya and are now investing in other African countries.

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am raising on a point of order in connection with hon. Gatabaki's statement. Yesterday, the Speaker actually said that hon. Gatabaki is incoherent. He is continuing to be incoherent and I do not see why an incoherent hon. Member, can raise an incoherent point! What point is he making?

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, hon. Gatabaki is one of the most eloquent hon. Members of this House. If hon. Sunkuli wants hon. Gatabaki to talk in Kimaasai, I am afraid, that is not an official language in this House.

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Sunkuli to misrepresent what the Chair said yesterday? I never heard him say that the hon. Member was incoherent and it can be checked in the HANSARD. Could he withdraw that remark because the Speaker never said it? Some of us sit in this House even after contributing and he never said that the hon. Member was "incoherent".

Mr. Boy: But, the hon. Member has not disputed that!

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, we have the HANSARD. If some hon. Member is incoherent, he can never be reported in the HANSARD. But if you read the speeches of hon. Gatabaki, you will find that not a word of what he says is missed. But, I have missed so many words spoken by hon. Sunkuli, not on account of not knowing English, but when he is sitting next hon. ole Ntimama, sometimes he forgets about talking in English. So, I would plead with him to allow me to make a point, and I want to be understood very well.

Mr. Temporary Deputy Speaker, Sir, I have been talking about the tendering systems, unless this Government ensures that the tendering system is done in accordance with the rules, we will continue to lose a lot of money in Government and parastatals. In Kenya Ports Authority (KPA), the Government has continued to flout the Kenya Ports Authority Act. Under that Act, there is no provision for an Executive Chairman of Kenya Ports Authority. That post was created just before the elections, to allow hon. Sajjad to become the Executive Chairman of the Kenya Ports Authority, a post that is not provided for. It was not provided for in the KPA Act and, he has assumed those powers, he exercises them on behalf of KANU for very good reasons and so on.

Mr. Temporary Deputy Speaker, Sir, if you look at page (xxiv) which I shall proceed to read---

The Assistant Minister for Finance (Mr. Keah): On a point order, Mr. Temporary Deputy Speaker, Sir. Is hon. Orengo in order to mislead this House by saying that, hon. Sajjad was appointed Executive Chairman of KPA when we know very well that he was only appointed "Chairman" and not "Executive Chairman"? I am categoric on that one and I know from all the records that exist, that he was not the "Executive Chairman"; he was only "Chairman".

The Temporary Deputy Speaker (Mr. Mcharo): I think you are right, Mr. Keah.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I am a Member of Public Investments Committee. The Chief Executive of KPA continues to be the Executive Chairman and only two days ago a gentleman - a Swedish - has been recently appointed as the Executive Chairman of KPA. But if hon. Keah doubts what I am saying, let him look at the conduct of that "Chairman" during the period he was in the office and see whether the management of KPA between 1992 upto the time he left, was the conduct of a Chairman who presides over a Board of Directors meeting or an "Executive Chairman" who was making decisions that were over and above---

The Assistant Minister for Finance (Mr. Keah): On a point of order, Mr. Temporary "Chairman" Sir. My point of order relates only to, specifically the allegation that, hon. Sajjad was appointed "Executive Chairman". That is only what I am referring to. That is not correct and in that respect, he is misleading the House. I am not talking about any other issue; I am merely talking and taking him on, on that specific allegation which is incorrect and in that respect, he is misleading the House.

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Keah, who is an old hon. Member here, to call you, "Mr. Chairman"? You are "Mr. Speaker", not "Chairman".

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, that is a slip of the tongue.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, the other one could be a slip of the tongue too. Hon. Shikuku and myself know how many times your tongue slips because we ran to the library one day to prove to you, about an issue over a debate that took place--- I am responding to a point of order.

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Orengo to take advantage of the apology made by hon. Keah when he actually had a slip of the tongue and also said "Mr. Chairman?" Should he also not apologise?

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, it is on very few times that I have a slip of the tongue. When I was talking about the chairman, I was talking in relation to Kenya Ports Authority. But, when I am talking to the House, I am talking to Mr. Temporary Deputy Speaker. Mr. temporary Deputy Speaker, Sir, I am very happy that you are on that Chair. When we were defending your Motion yesterday, hon. Sunkuli was one of the guys who were fighting against that Motion. You just wanted a little money for the Coast Province and he was opposing it and he now dares call you Mr. Temporary Deputy Speaker.

Mr. Temporary Deputy Speaker, Sir, I did not want to take this long. If the Members would be kind to me so that I finish, I wanted to talk about the paragraph that deals with the NSSF.

The Assistant Minister for Finance (Mr. Keah): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want the hon. Member to get away with words here when he misled the House. All I wanted him to do is to withdraw those remarks and accept that he actually misled this House. That is really what I am saying. I am being humble enough to request hon. Orengo to admit and withdraw his remarks and; to admit that he was misleading this House. Hon. Sajjad was not the Executive Chairman. He insists that he was and I am saying that he was not. That is where he misled the House. If he accepts that, I will be happy but if we leave it that way, it will remain in the records of the House. He should, therefore, withdraw.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I cannot withdraw that point because the letter of appointment for Mr. Sajjad is not in hon. Keah's possession. He is one of the Assistant Ministers who is very far from the centres of power. In fact, I want to tell him that the only reason why he is particular about Sajjad is because he was his Godfather during the last elections and that is what you are.

(Laughter)

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, as far as I am concerned, that is imputing improper motives and I call upon him to withdraw and apologise. I have no godfather and I shall not have any godfather. I am Mathias Keah and my God is in heaven. I have no godfather. That is imputing improper motives. He must withdraw his remarks and apologise.

An hon. Member: Do you have a godmother?

(Laughter)

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I am requesting hon. Keah to leave me alone because I am talking on the basis of this report. Now, if he wants--- So, on that basis, I want to leave that matter where it lies. The day---

The Assistant Minister for Finance (Mr. Keah): On a point of order, Mr. Temporary Deputy Speaker, Sir.

Mr. Orengo: But I am responding to a point of order.

The Temporary Deputy Speaker (Mr. Mcharo): What Mr. Orengo is saying is, in fact, what he is supposed to be saying.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, the moment hon. Keah can prove to this House that hon. Sajjad was never an Executive Chairman, I am willing to withdraw. But, unfortunately, it is my word against his word. I remember in this House, hon. Slade made a decision when there was an allegation that some money had been paid to a Member of Parliament in this House. Two Members of Parliament were trading accusations at each other. The then Speaker, Mr. Slade, said: When it is one Member's word against another's, and there is no other proof, then the House should be left to make its own decision.

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Keah, demanded substantiation or withdrawal from the hon. Orengo. And in response, hon. Orengo imputed improper motives on hon. Keah, by alleging that he is being prompted by some

godfather relationship between him and Sajjad, which I know in fact, does not exist. Could hon. Orengo, whom I have had on occasions to describe as cheeky, withdraw that term?

The Temporary Deputy Speaker (Mr. Mcharo): First of all, hon. Orengo, was Mr. Sajjad the Chairman of KPA or an Executive Chairman of KPA?

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I am saying, to my knowledge, he was an Executive Chairman and from my experience and by his conduct, he was the Executive Chairman of the Kenya Ports Authority. Now, if hon. Keah wants to correct me, then let him produce the evidence and I will abide by it. But I am not going to withdraw just because he says Mr. Sajjad was not a Chairman, it is one allegation against another allegation. But I know I am right in what I am saying. I have said many things in this House and I dare hon. Keah that if he has proof, I am an hon. Member of this House, I will be the first to admit to whatever statements that he will bring to this House showing that what he is saying is correct. But otherwise, my reference to the fact that he has a godfather, to me the word "godfather" is not imputing improper motive. If somebody is your good friend and he is older than you, you can call him your godfather. Unless you are older than Sajjad, then I will use another term, but the late Oginga Odinga was my godfather and I am proud of having had him as my godfather. But if you are ashamed of Sajjad, then I am also ashamed of him.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, there are two issues which are serious here and my good friend, hon. Orengo is making a mockery of this House. The first issue was a categorical statement which he made, I did not make it. He cannot now turn to me to prove to him what he actually stated. That is not in accordance with the rules of the House. The first issue is that, he categorically stated that hon. Sajjad was appointed Executive Chairman of KPA. Those are his exact words and it is in the records. As we speak here, the records must be put right. I am calling upon him to substantiate that point because the public records in Kenya state that the appointment of hon. Sajjad was that of Chairman and not Executive Chairman. Secondly, he has alluded that hon. Sajjad is my godfather. I want him to substantiate that, otherwise, he is imputing improper motives on me because I have no godfather and for that reason, he must really substantiate or withdraw. That is really what I am calling upon the Chair to give guidance.

The Temporary Deputy Speaker (Mr. Mcharo): Order! I think hon. Keah is making a valid point. Mr. Orengo will be required to produce evidence that Mr. Sajjad was appointed Executive Chairman, a point which hon. Keah is disputing. Secondly, you have to produce evidence that hon. Keah has a godfather called Sajjad. Now, these are two issues on which hon. Orengo has to produce evidence.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I am entitled to the statements and I am ready and willing to demonstrate what I am saying.

Mr. Temporary Deputy Speaker, Sir, since you said that you require evidence, I request to be given time to provide that evidence. I hope that when I will produce that evidence, Mr. Keah, would also be willing to apologise. Shall I continue to my next point?

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

The Temporary Deputy Speaker (Mr. Mcharo): Order, Mr. Sunkuli! The Chair would like to know when Mr. Orengo would produce evidence to the effect that Mr. Sajjad was appointed Executive Chairman, and secondly, that Mr. Sajjad is godfather to Mr. Matthias Kea?

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I did say here that hon. Sajjad was the Executive Chairman of the Kenya Ports Authority (KPA), and I am ready and willing to give that evidence to the House in a week's time. Even on the issue as to whether or not hon. Sajjad is Mr. Keah's godfather, I am also willing to produce evidence to that effect, by Thursday next week.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I want guidance from the Chair, because under the Standing Orders, an hon. Member should not discuss the conduct of another hon. Member except by a Substantive Motion. I do not think that the hon. Member for Ugenya can use a derogatory word and impute improper motive, because I know he knows English, but so do I, and I know that "godfather" does not mean "friend". It is a negative term which is meant to reduce the status of hon. Keah and he cannot produce evidence except if he wants to bring a Substantive Motion to discuss the conduct of hon. Keah. The only way open to hon. Orengo is to withdraw that terminology "godfather".

The Temporary Deputy Speaker (Mr. Mcharo): I think what hon. Sunkuli and hon. Matthias Keah have said, is a matter that needs to be cleared now. Mr. Orengo, have you cleared that matter?

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. This matter has been cleared. If hon. Sunkuli is just finding an opportunity to stand here and he has the temerity to call hon. Orengo, who is much senior to him both professionally and as a Member of Parliament, that he has had occasion to call him "cheeky".

It is just "juvenile excitement" and being irresponsible! Can he just keep out of this and let hon. Orengo to continue with his contribution?

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

The Temporary Deputy Speaker (Mr. Mcharo): Order! Order! I would like us to deal with the question of Mr. Sajjad being godfather to Mr. Matthias Keah. I want this one to be cleared before we can proceed. Mr. Orengo, you stated very clearly that Mr. Sajjad is godfather to Mr. Matthias Keah. If you have no concrete evidence, I suggest that you withdraw that statement because you are imputing improper motive on hon. Keah, or both.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I am afraid that I am being drawn into this argument by the opposite side. I was contributing on the basis of the Report, and because of the interjections, including me being called "cheeky", I have not even reacted to that, because I know that it is better to leave it to the man. If he thinks that makes him any higher than me, so be it, **[Mr. Orengo]** but this House knows where he belongs. I cannot make any comment on him calling me "cheeky".

Mr. Temporary Deputy Speaker, Sir, as far as I am concerned, I have undertaken to produce evidence or substantiate next week. But if you want me to verbally, right now, demonstrate why I used the word "godfather", then I am willing to do so. Those would be my words the way I understand words. The word "godfather" is not unparliamentary, and I am saying that on the basis--- I am on a point of order. You have not been given a chance!

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

The Temporary Deputy Speaker (Mr. Mcharo): Order, Dr. Toweett! I think we must deal with the question of godfather. We must not continue imputing improper motive on other hon. Members here. Mr. Orengo, I think this is a very simple matter. To me, the word "godfather" is not--- It is imputing improper motive on Hon. Keah. In fact, I thought if you withdrew it, you would continue with your debate.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I did not impute any improper motive. I was trying to say that hon. Keah and hon. Sajjad are very good friends, but hon. Sajjad happens to have a little more money than hon. Keah, and is also a little bit older than him.

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

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

(Hon. Dr. Toweett stood up in his place)

The Temporary Deputy Speaker (Mr. Ndotto): Order, Dr. Toweett! I understand that the matter is simple. Hon. Orengo has said that hon. Sajjad is hon. Keah's godfather. That remark is not acceptable in the House, because he is diminishing the status of hon. Keah: It means he cannot take care of himself and he has to be taken care of by hon. Sajjad. Mr. Orengo, I think you have been requested by the Chair to withdraw that remark and proceed. I would like you to do that, because it is a simple matter, and then we proceed.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I withdraw and apologise. I did not know that hon. Sajjad's empire is so big!

(loud laughter)

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Proceed, hon. Orengo.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I just wanted to talk on the affairs of the NSSF. On page xxiv---

The Temporary Deputy Speaker (Mr. Ndotto): Mr. Orengo, before you proceed, I am also told that you made a statement on which you have promised to produce evidence. You said that hon. Sajjad was an executive Chairman of the Kenya Ports Authority. You will produce evidence next week to that effect.

Mr. Orengo: I agree to do that, Mr. Chairman.

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear the hon. Member address you as "Mr. Chairman"? Are you a chairman or "Mr. Temporary Deputy Speaker"?

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I may have done that because there have been so many changes on the Chair. But I will continue to address you as: "Mr. Temporary Deputy Speaker". I withdraw and apologise, if I called you: "Mr. Chairman". You are an "hon. Temporary Deputy Speaker".

Dr. Toweett: On a point of order, Mr. Temporary Deputy Speaker, Sir, I think sometimes you should be lenient with newer hon. Members in the House!

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, hon. Toweett is quite right. He is an old Member of this House but, unfortunately, he is not here very often when new hon. Members speak. I have shared many public functions with him and I respect his position. I know that he does not speak much in this House, because his conscience does not allow him to be part of the things that are going on in the opposite side. He is much brighter man---

Dr. Toweett: On a point of order, Mr. Deputy Speaker, Sir. Hon. Orengo is included among the hon. Members we should be lenient with, when they make mistakes!

Mr. Orengo: Yes, and I respect you further because you were at the Lancaster House---

The Temporary Deputy Speaker (Mr. Ndotto): Order, hon. Orengo! Do you realise that you are more or less, not doing what you are supposed to be doing now? I want you to stick to your contribution, and I am not going to allow these points of order, because they do not make you do the right thing!

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, it was because of those interjections from the other side of the House. I now turn to page (xxvi) which reads as follows:

"The Committee noted with great concern that the problems facing the NSSF need a thorough review and analysis, so as to come up with sound recommendations which will make the Fund effectively to fulfil its mandate. The Committee was particularly concerned with the manner in which the Fund had haphazardly been investing in lands and unstable financial institutions, risking losing substantial public funds."

The NSSF has lost a lot of money in very, very shady deals. Right now, the NSSF has been exempted from the State Corporations Act because of the loot that is going on there. This looting is making it impossible for this Parliament to audit the affairs of the NSSF. I want to ask the Government that, that exemption should be removed so that the affairs of the NSSF can be looked into in accordance with the recommendations of the Public Investments Committee. But be that as it may, over the last five years, there have been individuals who have acquired land at very minimal prices, for example, acquiring a piece of land for Kshs100 million and selling it for Kshs1 billion or even more. This is a waste of the savings of workers. The workers' money which they have saved so that they can have a more comfortable time during their retirement, if used properly, like in building houses and maintaining infrastructure, that fund can make very fundamental changes to this economy. But right now, if one uses Kshs50 million to buy a piece of land and sells it for Kshs1 billion, that money has not produced wealth to this nation. It does not produce jobs for the people of this nation.

Mr. Temporary Deputy Speaker, Sir, although I am given to understand that there is a study going on under the World Bank supervision, to try and restructure the NSSF, but until that is done, there is necessity to ensure that, exemption under the State Corporations Act is removed, so that we can fully understand the affairs of the NSSF. When I began my speech, I said that there was an Asian-Mafia which I qualified by saying that most of the Asians in this country are law abiding and they have worked very hard to make sure that this nation is developed and the people of this country get a better standard of living. There are people like the Goan community who used to work in very responsible positions in the Public Service but nobody hears about them in the Public Service now, because when it comes to giving jobs on the basis of talents or because of qualification, this Government does not give jobs on that basis. Fifteen years ago, there were many Goans whom I know, who were doing a very good job in the Public Service and the courts. But, this Government would prefer to deal with this Asian-Mafia who are looting the wealth of this nation everyday. Most of them are not even citizens of this country. They come here to make money and as soon as they feel comfortable, they go to other countries to settle and live in the comfort of Europe, India, the Caribbeans or Canada. This has only been possible because this Asian mafia is extremely well connected and they make billions on an every day basis. If you look at every single deal that they make, they make it because of the political connections they have with people in this Government. Last week when I was talking on another matter, I mentioned why institutions are important. Institutions are the things that make a country civilised; they also make good laws. Institutions are the things that make countries respect democracy and justice. But when the rulers of any country have no place for justice, transparency and accountability, even in the business world, things will never work straight. They are even shameless. Many times, I sympathise with people in this Government who are working very hard. Even some of the Ministers in this Government work very hard. But I promise you that once they lose elections or when they retire, they will be

in a lot of problems because they will just get the bones while the meat goes to this Asian mafia, who every day, contribute to harambees. They contribute a lot of donations on the basis of what they are doing with highly placed people in this Government. I just want to demonstrate this, because there is something which pains me. For example, if you look at the transactions that have brought the National Social Security Fund (NSSF) to ruin, there is an Asian called Mukesh Gohil, who is not a citizen, but on a daily, weekly and even monthly basis, he does a deal worth more than Kshs2 billion and he is paid that money through politically connected lawyers and the workers themselves cannot get the benefits of their savings. This man is able to make this money, and yet he is not a citizen of this country. He is not even giving a single cent. The money that he pays for his purchase and sale, all come from the NSSF. Look at the cranes in Mombasa. They are not working and I understand that some of them were imported from Romania and bought for billions of shillings. Now, there is a congestion at the Mombasa Docks because some of these cranes do not work; the workers are on strike, but the Asians whose companies won the tenders and did the business have made their billions and gone out of this country. So, when I said last week that it is important that this Government begins to believe in the Constitution of this country that makes it accountable--- I want to praise hon. Prof. Saitoti because the heat he has taken in this House is so much that if there is any problems now facing the Treasury or the government as a whole, he will be very careful because he is accountable to this Parliament. I am encouraging the President also occasionally to come to this House because he is a Member of this House, so that he begins to feel the feelings of these Members of Parliament. That, accountability is necessary.

Mr. Temporary Deputy Speaker, Sir, I believe that when we respect these institutions, from Parliament, the Executive and the Public Investments Committee, this country can make a lot of progress in the things that we are doing. Therefore, the NSSF should change its ways. Let the money invested by the workers in terms of savings be used properly and for the benefit of the workers and not for the benefit of the few people who engage in shady business deals. I do not need to mention them one by one because if you read that report of Public Investments Committee, it is quite clear. It is calling for the Government's action. If the Ministers in this House are listening to us and to the Members of the Public Investments Committee, we are saying that those people who have looted that money be prosecuted and that, they should not be allowed to occupy these jobs because of the misdeeds that they have done to this country. I know that whatever you desire to do cannot be very easy, because we do not respect institutions and work through institutions.

Mr. Temporary Deputy Speaker, Sir, Mr. Lokorio, Hoseah Kiplagat, Franklin Bett, Joshua Kulei, Gideon Moi and Nicholas Biwott form the "kitchen cabinet" that I was talking about. If you look at the reports of the Public Investments Committee and the Public Accounts Committee---

Mr. Temporary Deputy Speaker (Mr. Ndotto): Mr. James Orenge, you are an old Member of this House. Are those names you have mentioned in the report of the Public Investments Committee?

Mr. Orenge: Mr. Temporary Deputy Speaker, Sir, some of the names are mentioned in the report, but I want you to understand that I am advancing an argument that---

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

Mr. Temporary Deputy Speaker (Mr. Ndotto): Order, hon. Biwott! Hon. Orenge, I have asked you a specific question. Are those names you have mentioned in the report of the Public Investments Committee?

Mr. Orenge: Mr. Temporary Deputy Speaker, Sir, what I am saying is that if the institutions of this country were working the way they should, we cannot have this problem of looting parastatals---

Mr. Temporary Deputy Speaker (Mr. Ndotto): Hon. Orenge, I do not want you to go round this issue. I have asked you whether those names are contained in the Public Investments Committee or not?

Mr. Orenge: If you look at the report variously over the years, you will find these names in the report. Even some of them are busy trying to defend themselves in courts now.

Mr. Temporary Deputy Speaker (Mr. Ndotto): Order! Are those names mentioned in the specific report that we are dealing with? I want to see that page.

Mr. Orenge: Mr. Temporary Deputy Speaker, Sir, if you want us to go through the report one by one---

Mr. Temporary Deputy Speaker (Mr. Ndotto): I asked you whether the names you mentioned are contained in the Public Investments Report and you said that they are there. I want you to show the page where they are because---

Mr. Orenge: What I am telling you is that some of the companies owned by the people I have mentioned appear in the report and it will take us a long time to go through the names of the companies that appear in the various reports that have been placed before this House. What I am trying to say is that without the action and conduct---

Mr. Temporary Deputy Speaker (Mr. Ndotto): Order! I would wish to request you to refrain from

mentioning the names of people who are not mentioned in the report and in particular, if you mention the name of hon. Biwott who is a Member of this House. I think it is only fair you withdraw it and proceed and refrain from mentioning these names.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, how can you expect me to withdraw when the chairman of the "Kitchen Cabinet" is here in the House and he knows--

The Temporary Deputy Speaker (Mr. Ndotto): Order! I am afraid, hon. Orengo, you are not going to argue with the Chair. And I have noticed of late this has become a habit and I am asking you to withdraw and proceed. Otherwise, I may be forced to discontinue your contribution. I am afraid, I am going to do that!

Mr. Orengo: Sir, I do not know what you are defending---

The Temporary Deputy Speaker (Mr. Ndotto): Order! Can you withdraw the name of hon. Biwott?

Mr. Orengo: Sir, I cannot withdraw!

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Hon. Orengo, I am asking you for the last time to withdraw and I am not going to repeat it. Can you withdraw?

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, why are you not giving me an alternative to substantiate? I want to substantiate so that the people of this country can know what I am saying is the truth. Why are you not allowing me to speak the truth? I am speaking the truth on the basis of the Report on page 223---

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Hon. Orengo, I am not going to allow you to continue with your contribution and if you are not going to withdraw, I am afraid, I have to ask you to leave the House.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I cannot withdraw. You remember when the Select Committee on clashes was before this House, it was not on a Substantive Motion on the conduct of hon. Biwott, but it mentioned him that he was behind the clashes and you were in this House.

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

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Hon. Biwott! Hon. Orengo, you have said categorically that you cannot withdraw and, therefore, I order you to leave the House. There is no more business before you leave the House. Hon. Orengo, can you leave the Chamber? Hon. Orengo, I have ordered you out of the Chamber, and unfortunately, you are sitting down when I have ordered you to leave the Chamber.

Mr. Biwott: He must not imagine that other people are---

The Temporary Deputy Speaker (Mr. Ndotto): Order! Hon. Biwott, nobody has allowed you to contribute. Hon. Orengo, can you leave the Chamber?

(Mr. Orengo withdrew from the Chamber)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until next week, Tuesday 3rd, December, 1996, at 2.30 p.m.

The House rose at 6.30 p.m.