

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 7th December, 2010

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Report of the Kenya Parliament delegation to the 12th Annual Conference of the Association of Public Accounts Committees of the Republic of South Africa held from 11th to 14th October, 2010 at the Inkosi Albert Luthuli International Conference Centre in Durban, South Africa.

Report of the Public Accounts Committee on the Government of Kenya Accounts for the year 2007/2008.

(By Dr. Khalwale)

The Quarterly Economic and Budgetary Review, Fourth Quarter, 2009/2010
The Quarterly Economic and Budgetary Review, First Quarter, 2010/2011

(By the Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu), on behalf of the Deputy Prime Minister and Minister for Finance)

The Millennium Development Goals Status Report for Kenya, 2009

(By the Minister for Planning, National Development and Vision 2030)

NOTICE OF MOTION

ADOPTION OF 2007/2008 PAC REPORT

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

THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya Accounts for the year 2007/2008 laid on the Table of the House today 7th December, 2010.

QUESTIONS BY PRIVATE NOTICE

ENGINEERING COURSES OFFERED

Mr. Mbadi: Mr. Speaker, Sir, I beg to ask the Minister for Higher Education, Science and Technology the following Question by Private Notice.

(a) Could the Minister list all the engineering courses currently offered by Egerton University whose graduates are not eligible for registration by the Engineers Registration Board of Kenya (ERB), provide a list of all the graduates of the respective courses and explain why the Joint Admissions Board (JAB) continues to admit students to those courses?

(b) What steps, including inter-ministerial consultations, is the Government taking to ensure that JAB admits students only to engineering courses whose graduates are eligible for registration by the ERB?

(c) What action is the Minister taking to ensure that ERB registers the graduates of the said courses, particularly the Bachelor of Industrial Engineering (BIT) to enable them qualify for engineering jobs, considering that registration with ERB is a requirement for employment?

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

(a) Egerton University offers the following courses whose graduates have not been registered by the ERB. However, these courses were approved by the Egerton University Senate in accordance with the University Act and Statutes between 1999 and 2001. The courses are as follows:-

1. Bachelor of Industrial Technology
2. Bachelor of Technology in Civil Engineering
3. Bachelor of Science in Instrumentation and Control Engineering
4. Bachelor of Science in Manufacturing Engineering and Technology
5. Bachelor of Science in Water and Environmental Engineering

I wish to table the list of graduands in the named courses who have not been registered by the ERB.

(Mr. Kamama laid the document on the Table)

I wish to inform the House that public universities declare all regular degree programmes which are offered by the respective universities to the Joint Admissions Board (JAB) for admission. These programmes would have been approved by the Senate of each university and thus JAB admits students based on the information which has been provided by public universities.

In 2009, the ERB held a consultative meeting with the Vice-Chancellors of all the public universities on the engineering courses they offered. In this meeting, the universities were urged to ensure that they consulted the relevant professional bodies before they started any professional programmes. I have also held two separate consultative meetings with the Vice-Chancellors and the Chairmen of the Councils of both public and private universities in September, 2010. During this consultative meeting, I emphasized the need to involve professional bodies before starting any professional academic programmes in the universities so as to avoid hitches on the registration of the universities' Engineering graduates.

In 2009, my Permanent Secretary received a copy of a letter to public universities from the ERB, raising concerns on approval and accreditation of Engineering Degree Programmes. The Permanent Secretary wrote to all public universities urging them to consult with the concerned professional body before

launching new degree programmes in the universities. In the same letter, he asked the Commission for Higher Education (CHE) to co-ordinate appropriate consultation about this matter for all stakeholders.

In addition to the above efforts, consultative meetings have been held between the ERB and Egerton University. During these meetings, both the Board and the university tried to solve the issues of the Engineering graduates from Egerton University. After these consultative meetings, the University was asked to revise the Engineering Academic curriculum so that it is in line with the requirements of the ERB. The university complied with this and submitted their revised curriculum to the Board in February, 2010. However, to date, the ERB has not responded despite several reminders from the university.

I believe that if the ERB acts on the request of the University, this matter will be resolved. My Ministry has also developed a Draft Universities Bill which is awaiting Cabinet consideration. In this Bill, one of the provisions is that the CHE will be mandated to oversee quality and relevance of the academic programmes in public universities, which was not the case before. I believe that when the Bill comes to this House, we will require the support of the House to pass it as the Act will resolve many issues affecting university education.

Mr. Mbadi: Mr. Speaker, Sir, when our children pass their Form IV examinations, the hope of the parents is that they have made a major milestone towards a better future. However, if our children are lured to do courses which are not relevant and not acceptable, then it is a cause for concern to the parents and the affected students. From the Assistant Minister's answer, it is very clear that the curriculum being offered, especially by Egerton University with regard to those courses is deficient in terms of the requirements of the ERB. For those students who graduated before the revision of the curriculum, what will the Assistant Minister do to make them relevant to the job market? Will he take them back for further retraining? What is the Ministry prepared to do since this is not a mistake of their own making?

Mr. Kamama: Mr. Speaker, Sir, what Mr. Mbadi has raised is quite valid. We know that quite a number of graduates left the university and yet in the job market, the ERB does not recognise them. We are consulting the university, together with the ERB, to ensure that those engineers are given the requisite training so that they can be relevant in the job market. The consultation is on-going.

Mr. Chanzu: Mr. Speaker, Sir, I am looking at this Question in a positive way. The ERB was established many years back. What happened in the world at that time is not what happens today. Considering the fact that we intend to industrialize by 2030, if you look at a course like Bachelor of Industrial Engineering, you will find that it is very relevant to what we want to achieve in future.

I would like to ask the Assistant Minister to approach the Engineers Registration Board (ERB) with a view of expanding it, so that it could accommodate some of the graduates from the colleges that are being opened today. We know initially the board was meant for electrical, mechanical and civil engineering graduates. However, we know that things are changing. I am looking at it from a perspective of changing roles and registration, so that it could accommodate more engineers who are graduating from our universities.

Mr. Speaker: Order! Member for Vihiga, please, ask your question and allow the Assistant Minister to answer it.

Mr. Kamama: Mr. Speaker, Sir, hon. Mr. Chanzu was clear enough and I heard him. We all know that in pursuit of our grand vision, Vision 2030, we need to develop in technology and engineering. What hon. Chanzu has raised is quite

acceptable. I want to inform this House that we are liaising with the Commission for High Education to ensure that the ERB is not only confined to the traditional programmes that they only supervise, but also expands their mandate to others.

Mr. Mbadi: Mr. Speaker, Sir, given that the university wrote to the ERB in February and up to date the Assistant Minister is not sure of the action they took, and given that universities continues to admit students for these courses, what is he doing to make sure that once they complete their training they will be employed and that they too will be registered?

Mr. Kamama: Mr. Speaker, Sir, once again, I would like to assure that House that we have done all that it takes to ensure that this curriculum is revised in accordance with the ERB. We will also make sure that the communication between the university and the ERB is improved. We will convene a meeting to ensure that the ERB expedites the work it is supposed to do. So far, it is the ERB which has not responded to the request by the Egerton University. We will make sure this is done expeditiously.

NUMBER OF TRAINEES ADMITTED INTO KMTC IN 2010

Mr. Ruto: Mr. Speaker, Sir, I beg to ask the Minister for Minister for Medical Services the following question by Private Notice.

(a) Could the Minister indicate the number of trainees admitted into the Kenya Medical Training College in 2010?

(b) Could the Minister also provide a per-constituency list of students admitted into the college?

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, I beg to reply.

(a) A total of 4,480 students/trainees have been admitted into the Kenya Medical Training College for various courses commencing September, 2010. The administrative unit considered during admissions was the district of origin and not the constituency which is an electoral unit.

(b) Admissions for 2010 courses were finalized in June this year. In selecting the students, the college worked with 76 districts which were in existence as at the census which was conducted in 1999. The number of students admitted from each of the 76 districts, broken down into training disciplines is hereby provided. I beg to table the list.

(Mr. Kambi laid the document on the Table)

Mr. Ruto: Mr. Speaker, Sir, it is extremely strange to hear from the Assistant Minister that even as recently as June this year, they did not recognize the new districts that were created by the Office of the President. We, indeed, had more than 76 by the time they did this job. Is it possible that he has also disregarded the other districts? Is it plausible that a Government Ministry can disregard what another arm of the Government is doing? This Ministry is not even part of another arm, but in the same arm of the Government!

Mr. Speaker: Order! Member for Chepalungu, it is Question Time!

Mr. Ruto: Mr. Speaker, Sir, since this job was done in June, could we have the distribution done as per the districts that existed in June, so that we can interrogate this question properly?

Mr. Speaker: Very well! Allow the Assistant Minister to answer!

Mr. Kambi: Mr. Speaker, Sir, the distribution was done based on the 1999 population census. The new districts which the hon. Member is talking about came into existence later on after the 1999 Census. The 2009 Census results were released on 31st August, 2010. So, it was not possible for us to consider those other districts he is talking about.

Mr. Koech: Mr. Speaker, Sir, for purposes of ensuring equity in distribution, we are aware that we are now employing nurses who come from KMTC per constituency. Could the Assistant Minister consider admission of students into these colleges according to constituencies because they are now being posted per constituency?

(Applause)

Mr. Kambi: Mr. Speaker, Sir, that is very valid. However, according to the guidelines which were approved by the Ministry and the Board of Directors of the KMTC, we are supposed to consider the districts. In future, we will consider the constituency as a unit.

Mr. K. Kilonzo: Mr. Speaker, Sir, the Assistant Minister says in his part “b” of the Question, that the administrative unit given consideration during the admissions was the district of origin and not the constituency, which is an electoral unit. I come from Nzambani District. How many students were recruited from my district since the list you have given here does not show my district?

Mr. Kambi: Mr. Speaker, Sir, it is true Nzambani District is not on that list. As I have said clearly, we considered the original 76 districts. So, it is not possible to have Nzambani District which was created recently. However, if the hon. Member goes through the list, he will find either Machakos or Kitui district. I believe he must have come from one of these two districts.

Mr. Speaker: Member for Chepalungu, ask your last question.

Mr. Ruto: Mr. Speaker, Sir, we still have questions. However, we stand guided.

Mr. Speaker: Order, Member for Chepalungu! That is not how we gauge interest from this position.

Mr. Ruto: Mr. Speaker, Sir, I agree with you. I would like the Assistant Minister to tell us, based on his criteria, how come Nyeri District got 161 vacancies while Bomet District, where I come from, got only 52. What is the rationale?

Mr. Kambi: Mr. Speaker, Sir, we distribute the positions according to the population size, regional balance and the poverty index.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. The Assistant Minister has not given me the population for Nyeri and Bomet so that I can compare them, including the poverty index. I asked a simple question: Can the Assistant Minister tell us how we arrived at 52 slots for Bomet and 161 slots for Nyeri? I really need that answer.

Mr. Kambi: Mr. Speaker, Sir, I do not have the figures he is asking for. However, based on the population, all the original districts are listed there.

Mr. Speaker: Order, Assistant Minister! Please, resume your seat. The Member for Chepalungu is clear. He has given you two districts; Bomet and Nyeri, one district has 52 slots and the other 161 slots; how did you arrive at that difference?

Mr. Kambi: Mr. Speaker, Sir, it is based on the population. For Diploma in Clinical Medicine, Nyeri got nine and the total is 161 and Bomet---

It is according to those who applied---

Mr. Speaker: Order, Assistant Minister! You quite have not answered the question. How did you arrive at that difference? What informed your decision such that Nyeri has 161 and Bomet 52?

Mr. Kambi: Mr. Speaker, Sir, I have said it is the number of people who applied. We arrived at this figure based on the population and poverty index.

Mr. Speaker: Assistant Minister, I appreciate what you are trying to do. However, it is not persuasive. Just like you yourself do not appear to be convinced. What is the population for Nyeri and what is the population for Bomet? How many applicants came from Nyeri and how many applicants came from Bomet? If you do that, then it will be easy. These hon. Members would be comfortable.

Mr. Kambi: Mr. Speaker, Sir, I do not have the exact number of people who applied from Nyeri and from Bomet.

Mr. Speaker: In that case, you are not prepared to take that supplementary question. I will defer this Question to Thursday afternoon. Please, come with that answer!

(Question deferred)

Next Question by Member for Kinangop!

MISAPPROPRIATION OF FUNDS AT MWENDA
ANDU SECONDARY SCHOOL

Mr. Ngugi: Mr. Speaker, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that the Principal of Mwenda Andu Secondary School in Kinangop has, in collusion with some Board Members, misappropriated Kshs.500,000 belonging to the school?

(b) What action has the Government taken against the persons involved?

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, you will recall that this Question came up and I asked for time to address it. I beg to reply.

(a) Yes, I am aware that the Principal of Mwenda Andu Secondary School in Kinangop colluded with some Board of Governors members and misappropriated Kshs451, 057 and not Kshs500, 000.

(b) The Ministry has recovered the Kshs451, 057 which was refunded through a direct deposit by the Principal, Mr. George Gathongo Mwangi to the Kenya Commercial Bank (KCB), Naivasha Branch on November 6th 2010. Disciplinary action has been taken against the Principal in accordance---

(Loud consultations)

Mr. Speaker, Sir, may I be heard?

Mr. Speaker: Order, hon. Members! Let us hear the Assistant Minister.

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, disciplinary action has been taken against the Principal in accordance with the Teachers Service Commission (TSC) Code of Regulations for Teachers (Revised 2005) and Public Officers Ethics Act (2003). He has already been transferred and replaced, pending further investigations on the school's financial accounts and

management. The BoG has been disbanded and the appointment of a new BoG and chairman is in process.

The Parents Teachers Association (PTA) chairman will be replaced in the Annual General Meeting (AGM) in 2011 from which representatives to the new Board will also be co-opted.

To support my action, I table the letter from my director to the PDE Central Province.

(Mr. Mwatela laid the document on the Table)

Mr. Ngugi: Mr. Speaker, Sir, I want to commend the Assistant Minister for this very honest answer and the action he has taken. We cannot continue with a PTA Chairman on the Board who has been party to this theft until 2011 when an AGM is held. Could we hold an extra-ordinary AGM to appoint a new chairman of the PTA so that we can have a clean Board?

Mr. Mwatela: Mr. Speaker, Sir, under the rules, the school may hold a special AGM as requested.

Mr. Jamleck Irungu Kamau: Mr. Speaker, Sir, the action of transferring a thief to another school means that he will still go and steal from there. What specific disciplinary action is the Minister taking on this teacher and the Board of Governors?

Mr. Mwatela: Mr. Speaker, Sir, I appreciate that concern by the hon. Member. Actually, the action we have taken is not merely to transfer the Principal from one school to another. He has been moved as an ordinary teacher, pending investigations. There has to be due process to establish his culpability. We cannot do this just overnight. That is why we have moved him as an ordinary teacher while investigations continue and if he is found guilty he will be taken to court.

Mr. Shakeel: Mr. Speaker, Sir, could the Assistant Minister be very clear? He said in the answer that they have recovered Kshs451, 057. This was clear theft! Is the Assistant Minister allowing thieves to continue being in his Ministry? Even transferring him as an ordinary teacher is not good enough. In this country, if somebody steals a cob of maize, he can be imprisoned or killed, yet teachers are getting away with Kshs451, 057.

Could the Assistant Minister tell us why this gentleman should not be imprisoned for theft?

Mr. Mwatela: Mr. Speaker, Sir, investigations are on-going. Further action will be taken when the investigations are concluded.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to keep on referring to investigations, yet the principal has even refunded the money? That is confession of guilt. What is this investigation that the Assistant Minister keeps on referring to when the principal has accepted and refunded the money?

Mr. Mwatela: Mr. Speaker, Sir, there is a very big possibility that there is more money lost than that. So, we are doing all investigation to make sure that we arrive at the actual figure. Give us time.

Mr. Ngugi: Mr. Speaker, Sir, I hope the action taken by the Minister will serve as a warning to all the other principals not only in schools in Kinangop but in the whole country. Could the Minister also investigate his education office in Nyandarua which had merely recommended that the teacher only be transferred?

Mr. Mwatela: Mr. Speaker, Sir, the investigations are not only being done by the Ministry of Education, but also by the arms of Government that are concerned with graft. So, all areas will be covered.

Mr. Koech: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead this House that the reason this headteacher has been transferred is because of investigation when the Teachers' Code of Regulations is very clear that when a teacher is on investigation he or she is interdicted? Could the Assistant Minister consider and ensure that innocent teachers are protected and those who actually mess up face the right consequences?

Mr. Speaker: Order, Member for Mosop! Are you pursuing the point of order or asking a question?

Mr. Koech: Mr. Speaker, Sir, it is a point of order because the procedures are very clear.

Mr. Speaker: Order, Member for Mosop! Mr. Assistant Minister, just deal with the point of order. Are you misleading the House when the regulations provide otherwise?

Mr. Mwatela: Mr. Speaker, Sir, I am not misleading the House because we have to investigate and find out exactly what happened. This matter just occurred. The returning of the money was on 6th, which is just a few weeks back.

NON-PAYMENT OF DUES TO RETIRED
TEACHERS BETWEEN 1997/2007

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

(a) Is the Minister aware that an appeal (Civil Appeal N0. 300 of 2009) filed by the Teachers' Service Commission (TSC) against a judgment of the High Court sitting in Nakuru in 1997 (H.C.C.C.No.65 of 2006), that teachers who retired between 1997 and 2007 be paid their unpaid pension and retirement benefits, was dismissed on 12th November, 2010?

(b) What urgent measures is the Minister now taking to settle the unpaid pension and retirement benefits due to the affected retired teachers?

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

(a) Yes, I am aware that an appeal filed by the Teachers' Service Commission (TSC) against a judgment of the High Court in Nakuru in 2006, that teachers who retired between 1997 and 2007 be paid their unpaid pension and retirement benefits, was dismissed on 12th November, 2010 by the Court of Appeal in Nakuru.

(b) An urgent meeting was held on 30th November, 2010 between the TSC and the Treasury's Department of Pensions. It was resolved that the 1997 schedule be implemented by adjusting the pension benefits based on the salaries of the retirees and be paid at respective dates of their retirement. The budgetary implications for the balance of lumpsum (gratuity) and the monthly pension arrears for 30,000 retired teachers are being worked out by the Director of Pensions and the report will then be submitted to the Deputy Prime Minister and Minister for Finance for consideration and payment approval.

Mr. Pesa: Mr. Speaker, Sir, I want to thank the Assistant Minister for, at least, indicating to the teachers outside there that he is now concerned about their plight. I am sure the amount involved here is quite big. Could the Assistant Minister indicate the amount of money involved? I also request him to consider talking to the Deputy

Prime Minister and Minister for Finance so that this money, if it cannot be paid now, is put in the next Supplementary Budget.

Prof. Olweny: Mr. Speaker, Sir, the amount involved is quite substantial. The retired teachers' salary arrears from 1997 to 2007 alone amounts to Kshs8,215,217,388. The pension payout will be the total lumpsum paid, that is, Kshs13,204,822,875. The monthly pension to those retired teachers will total Kshs20,689,850,540. It is quite a substantial amount of money. My Ministry will put a request to the Deputy Prime Minister and Minister for Finance to include this in the Supplementary Estimates next year, but if it is not possible, then we shall insist that in the next Financial Year, this must be settled and done away with.

Mr. Ruteere: Mr. Speaker, Sir, these teachers served the country and there was an agreement between them and the Government in 1997. The Government failed to honour its part and they retired without what was due to them. Today, they live in poverty because they are not paid an adequate pension and they do not have salaries that they deserve to go home with. Could the Assistant Minister tell us how soon this is going to happen because---

Mr. Speaker: Order! This is Question Time! Do not justify why you are asking the Question.

Mr. Ruteere: Mr. Speaker, Sir, could the Assistant Minister tell us how soon this is going to happen?

Prof. Olweny: Mr. Speaker, Sir, I have said that the Director of Pensions is working out the details which he will then forward to the Deputy Prime Minister and Minister for Finance, who will then effect the payment. From my Ministry, we can only put pressure for them to do it as fast as possible. I promise here that we are going to do our best to ensure that, that payment is done as soon as possible.

Mr. James Maina Kamau: Mr. Speaker, Sir, considering that the teachers have suffered for a long time and they continue to suffer, could the Assistant Minister tell this House whether that money is going to be paid with some interest, because obviously the money should have been paid 14 years ago and it has not been paid?

Prof. Olweny: Mr. Speaker, Sir, that is an interesting request. The courts did not give us that order of paying with interest.

Mr. Olago: On a point of order, Mr. Speaker, Sir. You have heard the Assistant Minister say that the court did not give the order that the sum be paid with interest. But he must be aware that in the judgment of the Court of Appeal, the court said that judgment is given in respect of the teachers with interest at court rates. Is it in order for the Assistant Minister to mislead the House?

Prof. Olweny: Mr. Speaker, Sir, if that is what the court said, then the Deputy Prime Minister and Minister for Finance will go by the court ruling.

Mr. Pesa: Mr. Speaker, Sir, with the assurance from the Assistant Minister that he will ask the Deputy Prime Minister and Minister for Finance to include this in the next budgetary estimates and if he does not then it will be put in next year's Budget, I am satisfied.

SUSPENSION OF KENYA SUGAR BOARD CEO

Dr. Khalwale: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Is the Minister aware that operations at the Kenya Sugar Board (KSB) have been paralyzed following the suspension of the Chief Executive Officer (CEO) and, if so, what urgent measures is the Ministry taking to normalize operations at the Board?

(b) What informed the decision to suspend the CEO?

The Minister for Agriculture (Dr. Kosgei): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that operations of the KSB are paralysed due to the suspension of the CEO as normal business of the Board continues uninterrupted under an Acting CEO.

(b) The CEO was asked to step aside to pave way for investigations by the Kenya Anti-Corruption Commission (KACC) on allegations of corruption and mismanagement in the Board.

Dr. Khalwale: Mr. Speaker, Sir, I want to bring it to the attention of hon. Members that the Minister for Agriculture seems to be acting or either responding outside the law. The law I am referring to is the Sugar Act which, in Section 10(4), states that the CEO shall, subject to the directions of the Board, be responsible for the day to day management of the affairs of the Board, and that CEO is not there. So, if she is not there, how are the affairs of the Board being run on a day to day basis?

Mr. Speaker: Order, Dr. Khalwale! You know it is Question Time and you are allowed to ask one question at a time which you have done. You cannot develop another story after the question! Madam Minister, will you please answer?

Dr. Kosgei: Mr. Speaker, Sir, I will answer the question although I have a bit to say. The CEO has been asked to step aside because there is suspicion of wrong doing. This is not unusual because, indeed, the one she replaced had been asked to step aside and she was acting for nearly two years before she was confirmed. So, what is going on is within the law.

Mr. Speaker: Dr. Khalwale, nobody else appears to be interested in this Question!

Dr. Khalwale: Mr. Speaker, Sir, when the CEO was suspended to pave way for the investigations, it was done in accordance with the provisions of the Act which has regulations. Those guidelines provide that the CEO should have been investigated and returned to office within two months. That is Rule No.4 of the Regulations. The CEO was suspended on 7th October, 2010. What reason does the Minister have to give as to why the CEO is being haunted by the Efficiency Monitoring Unit (EMU)? The EMU is a unit of the Government which has no business to nose into private affairs of companies like West Kenya and Butali Sugar Company where the fight is emanating from.

Dr. Kosgei: Mr. Speaker, Sir, the suspension is in keeping with the Economic Crimes Act. As far as I know, the KACC only started their investigations the other day. The audit of two weeks the hon. Member has talked about was internal. However, the audit from the EMU recommended that we send the matter to the KACC. I would like to table the recommendations of the EMU.

(Dr. Kosgei laid the document on the table)

I have constantly listened to these allegations in this House from the hon. Member. On 30th October, in a public rally, he promised to come here to teach me a lesson. Earlier on, Dr. Khalwale said in this House that I was denying his company a licence. Let me put it on record for the House that the matter of West Kenya and Butali Sugar companies goes back to 2004. Dr. Khalwale was in this House! When I reported in the Ministry of Agriculture in the later part---

Mr. Speaker: Order, Madam Minister! I am just wondering if you are relevant to the Question before the House. West Kenya Sugar Company is not on this Question!

Dr. Kosgei: Mr. Speaker, Sir, I looked at the HANSARD that came out last Thursday and Dr. Khalwale talked about Butali Sugar Company but if you consider it thoroughly irrelevant I will leave it and simply confirm that Mrs. Mkok is suspended because the KACC is investigating her. Unless I am being asked to change the law or to say that there are laws governing--- This is a Government parastatal, by the way, and there are other people, including Ministers, who have been suspended. What is so special about this one? Why was it not raised all those years from 2004 to now?

Hon. Members: Yes!

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. You have clearly heard the Minister say that in a public forum I threatened that I will deal with her on this issue. Is the Minister in order to say that I threatened her when all that I purported to achieve was that Butali Sugar Company be registered following a court order issued by Justice Koome in Nairobi which was served to the Minister and a subsequent one that was served to the Minister after Justice Karanja had ruled in Kisumu? Both orders directed that she licenses Butali Sugar Company. Is she in order to change this?

Mr. Speaker: Order, Dr. Khalwale! Please resume your seat just for a while. You rose on a point of order and I think as I heard you and where I thought you were going was to challenge the Minister's assertion that you stood in a political rally and said that you would come and teach her a lesson. I thought you would perhaps take issue with that as not being in order; either because it is false or whatever, but now you have gone off on a different angle all together.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. The Minister should not give the impression that this is a personal issue. Dealing with 15,000 farmers who have planted sugarcane knowing that the factory had been registered---

(Several hon. Members stood up in their places)

Mr. Speaker: Order, Members! Let us hear Dr. Khalwale! Let him finish his point of order.

Dr. Khalwale: Mr. Speaker, Sir, the Minister cannot trivialize this matter. If in the process of confronting her in this House, I end up teaching her a lesson, then it would be a lesson that would have achieved the licensing of Butali Sugar Company in the interest of the 15,000 farmers. I would like the Minister to explain why she deviates from the core issue of the two court orders and wants to hide behind a matter which she cannot prove; that we threatened her at a rally?

(Dr. Kosgei stood up in her place)

Mr. Speaker: Order! Madam Minister, I may hear you, but as it is, I do not find what the hon. Member for Ikolomani is raising being related to the answers that you have given. So, unless you want to protract this matter unnecessarily, as far as I am concerned, it must rest there. What the Member has raised will be out of order in so far as your answer is concerned.

FREQUENT WITHDRAWALS/TRANSFERS OF ELECTION PETITIONS JUDGES

Mr. Olago: Mr. Speaker, Sir, I beg to ask the Minister for Justice, National Cohesion and Constitutional Affairs the following Question by Private Notice.

(a) What are the circumstances surrounding the repeated withdrawals or transfers of Judges hearing election petitions, especially in relation to the elections for Kamukunji and Kitutu Masaba Constituencies?

(b) What measures is the Ministry taking to ensure that Judicial officers, particularly the Chief Justice and the concerned Judges, discharge their Constitutional mandates without fear or favour?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, I wish to seek the indulgence of the Chair in this matter. I do not have a sufficient answer to this Question at this point in time. I seek the indulgence of the Chair to answer this Question on Thursday. I have shared this with my colleague and he is agreeable, subject to the Chair's direction.

Mr. Speaker: Very well! Can we do this on Thursday? Will you be prepared on Thursday afternoon?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, Thursday will be okay.

Mr. Speaker: Very well. The Question is deferred to Thursday this week at 2.30 p.m.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.547

RESETTLEMENT OF KENYAN IDPS RESIDING IN UGANDA

Mr. Kiuna asked the Minister of State for Special Programmes:-

(a) whether she is aware that there are Kenyan Internally Displaced Persons (IDPs) who sought refuge in Uganda after the post election violence;

(b) what measures the Ministry has taken to ensure they return to their country; and,

(c) how the Ministry is planning to resettle them.

The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that there are Kenyan IDPs who sought refuge in Uganda during the 2007/2008 post-election violence.

(b) My Ministry, in liaison with the United Nations High Commission for Refugees, is urging all those who remained in Uganda to return home. You realize that from the 640 households that fled to Uganda, already 219 have been persuaded to come back and have been settled in Kenya. The remaining persons are being urged to return and follow suit. A further group of 79 households will return to the country on 8th December, 2010, which is tomorrow.

(c) My Ministry has provided Kshs37,000 for each household that returns and the same will be extended to the remaining persons, once they come back to the country.

Mr. Kiuna: Mr. Speaker, Sir, I congratulate the Assistant Minister for answering this Question and catering for the few IDPS he has catered for. It is very painful---

(Loud consultations)

The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali): On a point of order, Mr. Speaker, Sir. I am afraid the consultations are a little loud and I cannot hear the Member as he asks his question.

Mr. Speaker: Order, hon. Members! Please, lower the level of your consultations so that the Member for Molo can be heard! Member for Molo, will you, please, raise your voice?

Mr. Kiuna: Mr. Speaker, Sir, while I thank the Assistant Minister for catering for the few IDPs that he has mentioned, you will realize that these IDPs have been outside their country for over three years. It is very painful to know that these people sought refuge in Uganda to escape what was happening in Kenya. I believe that it is a cardinal obligation and duty for any Government to protect the lives and properties of its citizens.

I would like to request him to liaise with the relevant Commissions and make sure that the few IDPs who are still languishing in Uganda return to Kenya. When will these IDPs return to their motherland?

Mr. Speaker: Mr. Assistant Minister, although you do not have a question there, do the best that you can!

Mr. M.M. Ali: Mr. Speaker, Sir, I agree with you that I do not have any question there. He has just confirmed that we are making those efforts and we shall step up our efforts. I have said a minute ago that we are expecting a group of 79 members to come tomorrow from Uganda. We all appreciate the fact that once they are outside our soil, it is the mandate of the UNHCR. Ours is just to support them and that is exactly what we are doing.

Mr. Outa: Mr. Speaker, Sir, I want to thank the Assistant Minister for what the Government is doing.

Mr. Speaker: The Assistant Minister has already been thanked by the Member for Molo! Ask your question!

Mr. Outa: Mr. Speaker, Sir, what is he planning for this special group called the returnees, namely, the people who returned to their village and up to date, they have never been compensated or given anything?

Mr. M.M. Ali: Mr. Speaker, Sir, I have just said, unless the Member was not listening or attentive, that for those who return, we compensate them with a sum of Kshs37,000; the same way we treat those whose houses were burnt or destroyed during the post-election violence. You will realize that there is a difference because we used to give the others Kshs25,000. The difference will cater for things like transport and a little bit of start-up capital, so that they can do some little businesses here and there. That is the support that we give.

Mr. Lessonet: Mr. Speaker, Sir, could the Assistant Minister just give us an update of the resettlement programme that he has for those who were displaced by the Government in Mau?

Mr. M.M. Ali: Mr. Speaker, Sir, you will agree with me that this is a substantially different Question from the one I am answering. I know what we are doing about that matter and if the Member has regularly been in Parliament, this issue has been coming up time and again. I issued a very comprehensive Statement on this matter two weeks ago. This House constituted a Committee of about 18 Members to liaise with our Ministry. For the sake of the Member's question, we are handling the matter and we will make sure that all the IDPs will be resettled as required.

Mr. Ngugi: Mr. Speaker, Sir, we just passed a new Constitution which provides that any Kenyan can live or own property anywhere in the country. Where will the Assistant Minister settle these IDPs who return from Uganda, considering that hon. ole Ntimama has said that no IDPs should be settled in Maasai land?

Mr. M.M. Ali: Mr. Speaker, Sir, the new Constitution provides for Kenyans to settle anywhere in the country. Even the old Constitution provided the same. I will agree with the Member that there are some areas where some people are up in arms, especially where we have been trying to acquire land to resettle the IDPs. That particular matter is getting the due attention. There is a group which is negotiating with the said community in liaison with hon. ole Ntimama. The Government is giving the issue the due attention and I am very sure it will be resolved as a matter of urgency. Otherwise, there is no serious cause for alarm, other than that particular incident which is being considered very seriously.

Ms. S. Abdalla: Mr. Speaker, Sir, before these people became IDPs, they were living somewhere. Can the Assistant Minister tell us why they are not able to resettle them back where they were before?

Mr. M.M. Ali: Mr. Speaker, Sir, I agree with the hon. Member that those people came from somewhere. For those who have their own places to be resettled, that is exactly what we do. However, there is a group of IDPs who used to either rent houses or reside in some particular areas, which now happen to be uninhabitable partly because either those premises have been destroyed or they feel unsafe in those particular areas. Therefore, it is only prudent for the Government to look for alternative areas of resettlement for them.

Mr. Kiuna: Mr. Speaker, Sir, while trying to appreciate the Government's efforts in resettling the IDPs, I request the Assistant Minister to generally talk about all the IDPs and not necessarily those who are in Uganda currently. When does the Government intend to make sure that they have been resettled or they have been returned to where they came from?

Mr. M.M. Ali: Mr. Speaker, Sir, earlier on, the Government issued a statement to the effect that we would be able to complete resettling all the IDPs by the end of December. I said last week, and I will say it again. Unfortunately, it may not be feasible to meet that deadline in view of the problem that has been raised by hon. Kiuna which I concur with. However, we shall endeavour to resettle all the IDPs not later than the said deadline. We shall endeavour to resettle all the IDPs at the earliest time possible.

Mr. Speaker: Next Question, Member for Gichugu!

Ms. Karua: Mr. Speaker, Sir, let me, first, clarify that this is the second time the Question is being asked. It is for clarifications that the Assistant Minister could not make at that time.

Question No.559

TRANSFER OF MALINDI MARINE
PARK TO A PRIVATE COMPANY

Ms. Karua asked the Minister for Forestry and Wildlife:-

- (a) whether he is aware that the Marine Park at Malindi has been transferred to a private company; and,
- (b) what he is doing to ensure that the same is reverted to the Public.

Mr. Speaker: Yes, I recollect! Assistant Minister, will you just deal with the parts that were left lingering?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, indeed, it is true that I did respond to the original parts of this Question on Tuesday last week. Only a few clarifications were required of me, which I now intend to provide.

I was asked to table a copy of the certificate of title indicating the purchase of this piece of land, Plot No.1204, from Coast Projects Limited, and transferred to the trustees of the National Parks of Kenya on 3.7.1969. I have a document showing that the particular piece of land is public land which is now under the Kenya Wildlife Service (KWS), which I would like to table.

Secondly, I would like to table the lease agreement between the KWS and Kenyaku Limited, which is dated April, 2010.

(Mr. Nanok laid the documents on the Table)

Lastly, I was asked to indicate how much revenue KWS has been collecting from the different lease agreements. We have to first of all note that the mandate of KWS is protection of our wildlife resources. To do this, KWS depends on internally generated revenue which includes park entry fees, rental of accommodation facilities and leases that are given out to different companies. Other sources are money that the KWS gets from the Treasury and different donors.

Mr. Speaker, Sir, in the financial year 2009/2010, the internally generated revenues amounted to Kshs3.1 billion of which 88 per cent which is Kshs2.7 billion was attributed to park entry fees. Accommodation facilities contributed Kshs98.7 million, whereas leases among other sources, contributed 8 per cent of the total revenue collected, which is about Kshs301.3 million.

I would also like to table a document indicating the amounts collected for different lease agreements. Most of the lease agreements that the KWS has entered into are particularly for improving tourism in the different parks, game reserves and in some of the plots they hold on behalf of the public. The KWS has entered into 78 lease agreements with different companies. The lease periods for those agreements vary from six years to 50 years. They have specific time lines when they should be lapsing. All of them are on lodges in the parks.

(Mr. Nanok laid the document on the Table)

Mr. Speaker, Sir, lastly, I would like to indicate that of the revenue that the KWS collects, the current expenditure for the period 2009/2010 amounted to Kshs4.6 billion, resulting in an operating deficit of Kshs1.5 billion which is partly funded by remittances from the Treasury and donor funding.

Thank you.

Mr. Speaker: Hon. Members, I will just allow one clarification from the Questioner.

Ms. Karua: Mr. Speaker, Sir, I just want to plead for a little latitude because we had not exhausted the questions on this important issue when he asked for time.

The Assistant Minister has done very well and indicated that the Marine Park is earning revenue in excess of Kshs300 million per year. That is so. What he should clarify to this House regarding this plot is that more than 100 glass boats operate.

There are many shops selling African cloaks, *et cetera*. A lot of people go there for recreation and weddings. Muslims go there to sight the moon.

Could he, therefore, tell us whether by leasing this plot, those activities are going to be affected and whether the local people are going to be barred from this park? Could he also assure us that this lease will not interfere with the livelihood of the more than 100 glass boat operators and that it will not interfere with the revenue of more than Kshs300 million per year to the KWS?

Mr. Speaker: Assistant Minister, you may proceed to answer one question. Indicate which one you are answering.

Mr. Nanok: Mr. Speaker, Sir, I would like to answer both questions. I want to restate what I said last week that the land under Malindi Marine National Park, which is Plot No.204/39, is intact. It has not been leased out to anyone. The particular plot that hon. Karua is pointing out is a plot which was purchased a year later by the trustees of National Parks of Kenya – Plot No.1204. It is on this plot that Malindi Marine Park Headquarters are situated. It is part of this plot that is being leased out to this private developer, who is developing it at his cost. The revenue that is generated out of it comes back to the KWS and is used for the various operations that KWS undertakes.

Thank you.

Mr. Shakeel: Mr. Speaker, Sir, thank you for your latitude. This is tantamount to what you call conservation. Could the Assistant Minister inform us why the Ministry of Forestry and Wildlife is objecting to the Mara Conservancy, which is apparently doing a fair job and yet, issuing licences to other conservancies? Could he confirm that there is a framework and rules? Will those rules be adhered to without fear or favour? It seems to me---

Mr. Speaker: Order, Member for Kisumu Town East! You have already put your question. Allow the Assistant Minister to answer it!

Mr. Nanok: Mr. Speaker, Sir, I do not know whether I am the one who is confused. I did not really understand what the question was.

Mr. Speaker: A question was put to you why you are not supporting the Mara Conservancy, and instead you are issuing licences for other conservancies.

Mr. Nanok: Mr. Speaker, Sir, that is a different Question and you have to realize that Mara Conservancy is under the Office of the Deputy Prime Minister and Ministry of Local Government.

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

Mr. Speaker: Order, Order, Member for Kisumu Town East, the Assistant Minister is entitled to make that claim.

Ms. S. Abdalla: Mr. Speaker, Sir, could the Assistant Minister tell us whether, before they issue licences to those companies, do they advertise those conservancies in the newspapers for the indigenous people to know that anyone is free to apply for them?

Mr. Nanok: Mr. Speaker, Sir, I have been informed that, indeed, this does happen.

Mr. Speaker: Last question, Member for Gichugu.

Ms. Karua: Mr. Speaker, Sir, I am satisfied with those answers.

Mr. Speaker: Very well; it does not happen often.

Question No.316

FUNDS ALLOCATED FOR CONSTRUCTION

OF KITUI BUS STATION

Mr. K. Kilonzo asked the Deputy Prime Minister and Minister for Local Government:-

- (a) how much money has been allocated towards the construction of Kitui Bus Station and who are the contractors;
- (b) whether he is aware that the project has taken more than four years now and, if so, what is the cause of the delay; and
- (c) When the construction will be completed.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I beg to reply.

(a) The Kitui Bus Station Project was awarded to Messrs Kewal Contractors for a sum of Kshs46,129,576.50.

(b) The Construction commenced on 15th February, 2007. I am aware that the completion delayed for more than three years. The reason was that the cost of construction had gone up. It became clear that the contractor was unable to keep pace with the programme of works and ended up being behind schedule. After several warnings on the slow progress of the construction works, the Ministry terminated the contract on 3rd September, 2009.

(c) The Ministry has now completed documentation and preparation of contract documents, advertised the job afresh and evaluation of the bids is ongoing. It is expected that upon adjudication and award, the project will be completed in the next financial year. The delay, as I said, was also as a result of inadequate funding within the Ministry.

Mr. K. Kilonzo: Mr. Speaker, Sir, I wish to thank the Minister for his attempts to answer this Question. He seems to contradict himself because in part “b” of Question, he says that he is aware that the completion was delayed by slightly more than three years. However, in the cause of the construction, it became clear that the contractor was unable to keep pace with the programme of works. Indeed, that is the same answer you gave to the Member for Kitui West, when he asked a similar Question about the Bus Stop.

In his answer to part “c” of the Question, he talks of inadequate funding, whereas it is very clear that when he stopped this contractor it was because he realized he could not keep pace with works. At the time he terminated the contract, the contractor had only done 31 per cent of the work, in which effect, it means out of the Kshs46 million, he had a balance of more than Kshs31 million. Since the termination was because of the contractor’s inability to keep pace with the works, could the Minister now confirm that he has over Kshs31 million with him? How much more money has he allocated to finish this project?

Mr. Mudavadi: Mr. Speaker, Sir, I would like to confirm that we have made provision within the coming financial year, so that it is fully catered for.

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. The Minister was asked to tell us what happened to the balance of the amount allocated to this project. He says by the time they were terminating the construction of this bus park, the contractor had done only 31 per cent of the works. Where is the balance? That is the question. Could he confirm whether the balance is available; and if yes, how is it?

Mr. Speaker: Order, Member for Kisumu Town East. You are certainly out of order because I followed the Member for Mutito. What the Minister is responding to was actually raised in the Question by the Member for Mutito.

Proceed, Minister.

Mr. Mudavadi: Mr. Speaker, Sir, I was saying that, indeed, the amount allocated at that time was Kshs46 million. Out of this, about Kshs14 million had been paid. Therefore, there was a balance which was spent. It was not spent because the contractor was unable to keep pace and, therefore, the Ministry was not just going to release money on the basis of works not done. That was the reason behind it.

Secondly, I also wanted to indicate that during that period, because of the strict financial situation in the country, the Treasury put a ceiling which forced us not to be able to spend more money. However, that notwithstanding, the fact of the matter is that this contractor was not able to perform. Upon realization, rather than dragging him on for too long, the Ministry terminated the contract on 3rd September, 2009. I would like to assure the hon. Member that we have advertised. I can table before the House details of the advertisement to show that we are seeking a fresh award to enable this Bus Park to be completed.

Mr. Chanzu: Mr. Speaker, Sir, the idea of the bus parks has been with the Ministry for quite some time. Some of these projects are in a deteriorating state. What is the Minister doing to ensure that the money that is put into these projects is utilized properly?

Mr. Mudavadi: Mr. Speaker, Sir, on the overall budgetary allocation for the completion of the various bus parks or markets, we at the Office of the Deputy Prime Minister and Ministry of Local Government have been facing a fairly difficult time because the resource allocation from the Treasury has been limited. Indeed, several local authorities that had started these projects or had intentions of starting them have been unable to proceed effectively due to lack of resources. On our part, we have rationalized to try and make sure that we undertake very few projects and have them adequately funded rather than have several projects that are poorly funded. This is something that we have seriously taken up with the Treasury in order to use the resources more efficiently.

Mr. K. Kilonzo: Mr. Speaker, Sir, the Deputy Prime Minister and Minister for Local Government is aware that Kitui has become a county and this is the major bus stop of that county. Given the fact that there have been demonstrations in the town because of delay in completing this project, could he consider, maybe within a week or two, to visit the bus stop with us, the Kitui Members of Parliament to assure the locals that, indeed, he has taken measures, he has re-advertised and very soon we will have a new contractor to complete it?

Mr. Mudavadi: Mr. Speaker, Sir, I will be very glad to go and give that assurance so that the people of Kitui can know that the project will be completed. At the same time, I would like to make it very clear that even though we will be moving to the county mode of administration it does not mean that on-going projects of the Government in any given local authority will be abandoned. They will have to be completed because they still remain public projects.

Question No.579

STATUS OF CONSTRUCTION EQUIPMENT
RECEIVED FROM CHINA

Mr. Ochieng asked the Minister for Youth Affairs and Sports:-

(a) whether he could clarify if the assorted construction equipment recently received by the Government from China was a loan or not, and if so, what are the terms of the loan; and,

(b) whether he could also state if the construction equipment has been put into use, and if so, when and how the distribution of the equipment was done.

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, I beg to reply.

(b) The construction equipment from the Government of the People's Republic of China to the Government of Kenya through the National Youth Service (NYS) was a concessional loan and the terms of the loan are as follows. The project amount is Kshs4.24 billion as per the time of signing the agreement, the interest rate is 2 per cent per annum, the rate applicable to management fee is at 1 per cent, rate applicable to commitment fee is at 0.75 per cent, maturity period for the facility is 240 months, grace period is 84 months and the repayment period is 156 months. Proceedings from the facility will be used exclusively for the project and a minimum of 50 per cent of the goods, technologies and services will be purchased using the proceedings from the facility.

(b) The construction equipment was put to use soon after the official commissioning in January, 2010 by His Excellency, the President. Most of the construction equipment is engaged on the ongoing Hola-Garsen Road project and the Economic Stimulus Programmes (ESP) sponsored maize production projects in Bura and Hola. The remaining equipment is engaged in NYS projects while a few are on hire by private organizations and individuals.

Mr. Ochieng: Mr. Speaker, Sir, when I asked this Question, I had in mind that the NYS had several construction machines which according to me are lying idle at their headquarters and yet private contractors in our constituency are really suffering because they do not have a place to hire some of these equipment in order to do some infrastructural development in our constituencies. Could the Minister tell us when he will dispatch some of the equipment down to the districts so that other constituencies can also benefit?

Dr. Otuoma: Mr. Speaker, Sir, there is no equipment that is lying idle. Most of the equipment I have just talked about has been deployed through the NYS projects. Some of the equipment is highly specialized; it is for use in disaster management and response. That is some of the equipment that is still at the NYS Headquarters because training for our technical people is still going on. On water rigs, we already have a memorandum of understanding with the Ministry of Water and Irrigation. We have already given out the rigs if you want to hire them for use. As I have said, we are still training personnel because this is modern equipment. Some of the machines are still available for hire. If you visit the NYS Headquarters, they will tell you the nearest station of the NYS that you can hire the equipment from. I think some hon. Members have already taken advantage of this and are using the equipment.

Mr. Chachu: Mr. Speaker, Sir, it is encouraging to hear that the Government has invested in such equipment. Could the Minister consider using it to open up northern Kenyan where infrastructure is lacking? Could he consider, the way he is using them in Bura and Tana River, to use them in northern Kenya?

Dr. Otuoma: Mr. Speaker, Sir, we are not considering. We already have a properly laid down programme, in consultation with the Ministry of State for Development of Northern Kenya and Other Arid Lands. We are already recruiting NYS personnel specifically in those areas to help open up infrastructure and beef up security in those areas. We have already done a joint memo with my colleague on how we will exactly execute that plan and it will go to the Cabinet.

Mr. Ethuro: Mr. Speaker, Sir, I would like to commend the Minister for these loans on favourable terms. I would like him to take it further in terms of the Question by Mr. Chachu Ganya. As a Committee of the Constituencies Development Fund (CDF) we have already engaged the NYS and we would like the same commitments he has done with Ministries to prevail so that we give priority to projects that are being undertaken by the CDF Board all over the country because the costs are fair and reasonable.

Dr. Otuoma: Mr. Speaker, Sir, we will take note of that. As I said, some hon. Members have already taken personal initiative and they are using their CDF and the roads development money in collaboration with the NYS to do these projects. However, we will have a more comprehensive and properly structured approach. I agree with him that we will also involve the CDF board on how we can go about that.

Mr. C. Kilonzo: Mr. Speaker, Sir, this was an idea which was long overdue. However, the equipment he received is not enough. The mobilization aspect of trying to get equipment from Nairobi to Nyakach is too high. Could the Government consider buying more equipment and opening some stations in some parts of northern Kenya, Nyanza and every province so that the equipment can readily be available either to private contractors, roads committees or the CDF?

Dr. Otuoma: Mr. Speaker, Sir, I said that everything has a beginning. As you are aware, this equipment was quite expensive and we have just started but the concept will be rolled out. There are some legal issues that we need to sort out with the Office of the Deputy Prime Minister and Ministry of Finance as to whether we should create a revolving fund which will facilitate this service. We are still open to ideas on how best we can help the whole country by reducing the cost of carrying out this kind of activities.

Mr. Speaker: Very well! Hon. Member for Nyakach, last question.

Mr. Ochieng: Mr. Speaker, Sir, taking into account that the equipment is in Nairobi, could the Minister, therefore, consider waiving mobilization fee for those who will come from far away to come and hire the equipment from Nairobi to be taken down to their constituencies?

Dr. Otuoma: Mr. Speaker, Sir, if the hon. Member heard me well, I said that a lot of these equipment is already out in the field. What is remaining here or what you see out there is only the equipment that still requires highly specialized and trained people. Most of the machines that you are seeing there are basically for disaster response. This is whereby in the event of disasters, the National Youth Service (NYS) are now being trained to respond to that kind of issue. That is the kind of equipment you are seeing. As for the other construction equipment; the water rigs and all that, we are just waiting for the training and that will go out as well. I think once we are through with implementing this program, in future, we can look at how best to expand it.

Mr. Speaker: Very well! Hon. Members, as a result of having too many Questions by Private Notice – you notice that they were six of them – we have run out of time for Ordinary Questions. So, Questions beginning from No. 512 to No. 644 are deferred until tomorrow morning and they will take priority or they will have precedence over those Questions that are supposed to otherwise appear tomorrow.

Question No.512

LIST OF HEALTH FACILITIES IN TURKANA COUNTY

(Question deferred)

Question No.597

DELAYED FILLING OF PROVINCIAL ADMINISTRATION
VACANCIES IN MARSABIT NORTH/
NORTH-HORR DISTRICTS

(Question deferred)

Question No.637

REHABILITATION OF NAKURU-NYAHURURU ROAD

(Question deferred)

Question No.640

AMOUNT OF DEVELOPMENT FUNDS ALLOCATED
TO NORTHERN KENYA

(Question deferred)

Question No.644

OPERATIONALIZATION OF NDII/RUKANGA
ANIMAL HOLDING RINGS

(Question deferred)

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. A similar situation happened on Thursday where so many Questions were deferred in a similar manner and the Chair then ruled that they would be given priority, but they did not appear today. So, I am not sure what is going to happen to the Questions that are queuing now from Questions that have been deferred.

Mr. Speaker: Any direction given such as I have given this afternoon has normally been complied with and I expect that it will be complied with. If there are any issues, you can raise them tomorrow. I know the Order Paper with Questions has not yet been prepared for tomorrow morning.

(Ms. Karua stood up in her place)

What is it, hon. Member for Gichugu?

Ms. Karua: Mr. Speaker, Sir, I was expecting a ruling on whether the Minister of State for Internal Security and Provincial Administration should be compelled to produce the various reports, including the Artur Brothers Report, which I had asked as Question No. 435?

Mr. Speaker: Yes, indeed, I am aware of that matter. I have processed the ruling and I will deliver it tomorrow at 2.30 p.m.

(Applause)

The Minister for Public Health and Sanitation (Mrs. Mugo): On a point of order, Mr. Speaker, Sir. I am begging for your indulgence. I have something which is difficult to put off tomorrow morning. Therefore, I request that the question directed to my Ministry be deferred to Thursday afternoon. We appreciate that I was here from the beginning. It is not that I am avoiding this Question. I was here since 2.30 p.m.

Mr. Speaker: Yes, indeed, I am aware that you were here even earlier than 2.30 p.m. The Question you are supposed to respond to is Question No. 512. Yes, the hon. Member for Turkana Central, of course, has been away. We have not missed you that much but---

(Laughter)

I think you need time to acclimatize. Can we do this on Thursday afternoon?

Mr. Ethuro: In fact, Mr. Speaker, Sir, I was rising in order to facilitate your ruling by saying that Thursday afternoon is good for the hon. Member for Turkana Central.

Mr. Speaker: Very well! This Question is deferred to 2.30 p.m. on Thursday. But the rest of the Questions are deferred to tomorrow morning and they will take precedence over the ones that would otherwise have appeared.

COMMUNICATION FROM THE CHAIR

SUBMISSION OF MEMORANDA, WRITTEN SUBMISSIONS AND OTHER PRESENTATIONS TO THE JUSTICE AND LEGAL AFFAIRS COMMITTEE

Order, hon. Members! Before we move on to the next Order, I have this communication to make.

Hon. Members, following the successful consultative meeting on the Status of Implementation of the Constitution held at the Kenya Institute of Administration yesterday, the 6th of December, 2010, that was organized by the Constitutional Implementation Oversight Committee in conjunction with the Departmental Committee on Justice and Legal Affairs, the Departmental Committee has continued to deliberate on the matter relating to the Report of the Interim Independent Boundaries Review Commission (IIBRC).

Consequently, on behalf of the Committee and in the spirit of the consultative meeting yesterday, hon. Members are requested to submit memoranda, make written submissions and other presentations to the Departmental Committee on Justice and Legal Affairs beginning tomorrow, Wednesday, 8th of December, 2010. Those hon. Members wishing to make oral presentations should arrange to appear before the Departmental Committee on Justice and Legal Affairs on Thursday, the 9th of December, 2010, beginning 9.00 a.m. in the Main Conference Room at County Hall.

Thank you.

We will take the next Order.

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

Mr. Speaker: Order, Mr. Chachu! That communication is very clear and succinct!

POINTS OF ORDER

DISMAL PERFORMANCE BY HARAMBEE STARS
IN THE CECAFA CUP TOURNAMENT

Mr. Ochieng: Mr. Speaker, Sir, I rise to request for a Ministerial Statement from the Minister for Youth Affairs and Sports. I wish to request the Minister to explain the circumstances that led to *Harambee Stars*' dismal performance in the recently concluded CECAFA Cup Tournament held in Dar es Salaam.

In his Statement, I would like the Minister to address the following issues: First, what was the level of preparation by the team by way of participation in the tournament and has the Minister satisfied himself that the Kenya Football Federation (KFF) and the technical staff are adequately applying themselves to the development of soccer in the country, both at the national and club levels?

Secondly, how much did the Government spend in preparing the team and sending them to Dar es Salaam, including the cost of air tickets, accommodation and allowances for the duration of the tournament?

Thirdly, what was the cause of the poor performance by the team at the tournament?

Fourth, what does the Minister intend to do in order to make sure that *Harambee Stars* performs better in future in international matches?

Thank you.

Mr. Speaker: Minister!

The Minister for Youth Affairs and Sports (Dr. Otuoma): Thank you, Mr. Speaker, Sir. I can be ready on Thursday, next week, if Mr. Speaker so rules.

Mr. Speaker: Yes, I so rule, because this is a very urgent national matter. We suffered national humiliation in Tanzania. So, Minister, you must come and tell us what you are doing about it. So, it is directed that, that Statement be issued on Thursday at 2.30 p.m.

Mr. Kapondi!

ETHNIC PROFILING AND INDISCRIMINATE
SWOOPS ON MEMBERS OF THE SOMALI
COMMUNITY IN EASTLEIGH AND SOUTH C

Mr. Kapondi: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security.

On the nights of 5th and 6th of December, 2010, the police carried out indiscriminate swoops targeting members of the Somali Community in Eastleigh and South C, Nairobi. In the Statement, I want the Minister to clarify the following:-

(a) Whether the Government has embarked on profiling of persons of the Somali ethnic group in Eastleigh, following incidents of insecurity in the recent past.

(b) The progress so far made in investigations following the incidents in Eastleigh which have precipitated the profiling security measures.

(c) To clarify whether or not such profiling is not an infringement on the rights of Kenyans and blatant violation of the Constitution.

(d) Whether the profiling amounts to a blanket condemnation of the entire Somali community and convicting them as guilty of the crime of exploding the device that killed the administration policeman in Eastleigh.

(d) The Minister should clarify which provisions of the Constitution the police are applying to hold the 350 ethnic Somalis in cells in Nairobi after the Saturday swoop.

Thank you.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I will be ready with the Statement on Wednesday morning next week.

Mr. Speaker: Very well!

Mr. Ethuro: Mr. Speaker, Sir, when the Assistant Minister stands up to reply, he should tell this House and the country why they did not round up Parliament when Kshs80 million was stolen from the Co-operative Bank of Kenya because we are in the neighbourhood?

Mr. Speaker: Mr. Assistant Minister, you have heard that. If you are able to cover it in that Statement, please do. If you are unable, then you will explain why you are unable to do so. Is it clear, Mr. Assistant Minister? Do you understand that? The Member for Turkana Central had supplemented the request for that Ministerial Statement by asking you to do a comparison between the swoop that you are carrying out in Eastleigh *vis-a-viz* the theft of Kshs80 million from Co-operative Bank of Kenya. Why did you not put a swoop in place? You will be able to deal with that in the Statement.

Mr. Farah: On a point of order, Mr. Speaker, Sir. Whereas I do not wish to go back to what you have just ruled on, there is a very disturbing thing going on right now. Members of the Somali ethnic community are being rounded up every night as we are here. Could the Assistant Minister give an undertaking that this will stop?

Mr. Speaker: Order, Member for Lagdera! Even as I appreciate that you are very concerned over this matter, we have actually moved from it. We cannot go back to it. We cannot do that. Maybe when the Statement comes, you may have an opportunity to intervene.

MINISTERIAL STATEMENT

USE OF PUBLIC FUNDS BY COUNCILORS TO ATTEND PRIVATE MEETING

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I wish to make a Statement in response to a request made by Dr. Bonny Khalwale on Tuesday 30th November, regarding the Ministry of Local Government.

Mr. Speaker, Sir, first of all, I wish to inform the House that no authority was granted by me to facilitate councilors to attend a private meeting in Gatundu South Constituency on 21st and 23rd November, 2010. In addition, I would like to state as follows that no council has requested for my authority to use public funds to attend the meeting referred to by the hon. Member.

Secondly, councilors are not facilitated to attend any meetings within their areas of jurisdiction and in this particular case, I am referring to Thika. Thirdly, the Ministry has not rolled out a programme to deliberate on the Constitution in any region of the country.

Fourth, I wish to state that I am not aware as of now, of any public money which has been used to pay bills at the Blue Post Hotel in Thika; two, to pay councilors allowances for the same meeting from 21st to 23rd November or to meet the

cost of fuel and oils in respect of the meeting referred to herein and any incidental cost related to the said meeting.

Finally, I wish to assure hon. Members that any public officer who will be found to have used council funds for private functions, as the one mentioned here, shall be surcharged.

Mr. Speaker: Deputy Prime Minister and Minister for Local Government, please take note of the clarifications.

Dr. Khalwale: Mr. Speaker, Sir, it is a fact that the Assistant Minister who works under Mr. Mudavadi did issue a directive to the Town Clerk to ensure that these councilors were given a night out for two days and that the bill at the Blue Post Hotel was settled. That letter is dated 19th November, 2010 and signed by hon. Lewis Nguyai on the Government letter head, whose copy I wish to table.

(Dr. Khalwale laid the document on the Table)

Mr. Speaker, Sir, in view of the fact that the function has already taken place, that it is already public domain and in fact all the media covered it extensively, could the Minister now come clean and give us full disclosure on how much usually a councilor is paid on a night out so that this House can now work out how much money was used following this directive by your Assistant Minister?

Secondly, you have said that you will take stern action against any public officer who is found to be abusing public funds. What will you do or advise the Prime Minister and the President to do regarding the Assistant Minister who abused his office and directed that that money be paid and it was paid?

Mr. Speaker: Deputy Prime Minister and Minister for Local Government please take your notes.

Ms. Karua: Mr. Speaker, Sir, I am quite pleased with the answer the Deputy Prime Minister and Minister for Local Government has given but I want to remind him of 2008 after the coming together of the Grand Coalition Government and his own homecoming in his upcountry home. Is it not also a fact that councilors countrywide attended your homecoming on public funds? Will you also surcharge them and how many other functions of high ranking Government officials have councilors attended on Government funds? Will you surcharge all of them and stop this practice? How much was used in your homecoming by the councilors?

Mr. C. Kilonzo: Mr. Speaker, Sir, the practice goes further even to party leaders. Every time they want audience, the councilors are paid for attending those political functions by the respective local authorities. What action will the Minister take to surcharge all instances where councilors were paid in these political functions?

(Mr. Kabogo stood up in his place)

Mr. Speaker: Very well. It has to end there. I am afraid, Member for Juja, this is our practice now in the House.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, first of all, I would like to state here that at no time, even during my own homecoming, did I ever give any such instructions. I have never given any such instructions for a private function. I am not aware of any local authority that sought any approval from the Ministry of Local Government to say that I am coming to your homecoming and therefore, I need to be facilitated. I would not

have accepted it and I have never accepted that. So, I want that clarification to be on record.

Mr. Speaker, Sir, I also want to state here that where there are public or political functions, whether they are party or related, that does not qualify for any withdrawal of resources from the public coffers. That is purely a party matter and it should not go to the account of any local authority anywhere in this country. If that happens, then that individual local authority must be held accountable with the individuals involved and they refund the money in question.

Mr. Speaker, Sir, on the issue of the night out for the councilors, there is a slight variation. It also depends on the distance that is involved. Basically, if it is not too far, the allowance per councilor is about Kshs6, 000 per day. I now want to come back to the point. In the case of Thika, we are watching very closely. I am ready and I have even asked the auditors to go and verify if there was any expenditure surrounding the Blue Post meeting that was incurred by that council. If the auditors bring evidence that there was such expenditure, those culpable will be surcharged.

Finally, I want to say that as the Minister for Local Government, I talked to hon. Nguyai as the Assistant Minister for Local Government and told him that he was out of order to have written this letter. In the interest of moving forward, he also acknowledged that he should not have written this letter. I think we are decent people and that communication has gone to my colleague who is also a noble hon. Member of Parliament. I believe that this matter should rest at that.

Mr. Speaker: Very well! There is another statement from the Minister of State for Provincial Administration and Internal Security.

ESCALATING INSECURITY IN MARSABIT

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, on 30th November, hon. Chachu, the Member of Parliament for North Horr rose on a point of order seeking a Ministerial Statement with regard to the escalating insecurity in Marsabit District in which seven people had been killed and a number of livestock stolen in the last two weeks. In particular, the hon. Member sought clarification on the actions taken by the Government to secure the Marsabit people and why the Government had not taken any drastic action in the intervening period to bring the culprits to book and yet Kenyans had lost their lives. I wish to reply as follows.

Marsabit Central District is one of the conflict hot spots in the upper eastern region. The district is cosmopolitan; inhabited by the Rendilles, Boranas, Burgi, Gabbra, Turkana and Konso, among others. The relationship among the communities can be described as uneasy and punctuated by mistrust emanating from cattle rustling, previous conflict and competition over scarce resources and political supremacy. The district is, therefore, conflict prone and a single incident such as murder is known to spark off revenge killings and counter revenges and could lead to full scale war, spreading to the entire region which is quite unfortunate.

The security situation in Marsabit between December, 2009 and April, 2010 was calm. There were no reported cases of cattle theft and banditry. However, the following incidences have raised security concern within the district. On 4th May, bandits suspected to be from Laisamis and Samburu East raided Segel Area and shot dead Diba Guyo Kubi, Abdi Huka Bonsa, both Gabbra and one Galgallo Wario, a Borana. The bandits made away with 61 heads of cattle, five sheep, two goats and one donkey. All of them were recovered by my security officers. The bandits escaped to

Korr area of Laisamis and have not been arrested, despite efforts by officers to truck them down. I want to assure the House that those bandits will be arrested.

On 20th July, 2010, two armed bandits shot dead Bernard Ouko Owuor who is a registered community health nurse at Songa Dispensary. The attack was suspected to be a revenge on Rendilles by Boranas, but the attackers got the wrong target. One suspect was arrested and he is facing murder charges at the High Court of Meru.

On 28th August, heavily armed bandits estimated to be 15 in number, from Laisamis District raided Jaldessa Area of Marsabit Central and made away with 99 heads of cattle belonging to Boru Guyo and Turr Boru Jillo and escaped towards Gudas area of Laisamis District. Security officers from Marsabit pursued the bandits and recovered 52 heads of cattle. During the incident, one raider was shot dead by security officers. Laisamis District Security Intelligence Authority is following up this matter.

On 19th October, a group of 10 armed Morans suspected to be from Samburu District raided the Jaldessa grazing area, but they were overpowered by Kenya Police reservists and the police officers who were on patrol. One Moran was shot dead and the others escaped with injuries. No livestock was stolen.

On 22nd October, two masked robbers forced their way into Kalipale Bar within Marsabit Town and shot dead one John Salesa who is a Gabbra, a GSU police officer attached to West Pokot and injured one Daniel Mwangi, a bar attendant. Police are investigating the incident.

On 15th November, three bandits ambushed and shot dead one Andrew Arite, a Rendille and injured Susan Leparole, a female from Rendille near Badaza Dam. Investigations on this incident are ongoing. The Rendilles suspect the attackers to be Boranas.

On 16th November, two gunmen ambushed Abakula Garse, a Borana juvenile male who was pushing a motor cycle along Marsabit- Dirib-Gombo Road at the edge of Marsabit Forest. The Boranas suspect the assailants to be Rendilles. Investigations on this particular incidence are ongoing.

Again, on 18th November, two unknown men armed with AK-47 rifles ambushed three quarry workers at Gof Chopa Quarry and shot dead one Eric Murangeri who is a Meru and police are also investigating that particular incident.

On 25th November, two armed persons shot dead a herder named Dida Barako at Qubi Kalo area. The bandits are suspected to have been Rendille cattle rustlers, but they did not steal any livestock on that day.

On 28th November, armed bandits suspected to be three in number shot dead three Rendille men, namely John Dayo, Gayere Garmagal and Malmallo Ortoya who were walking along Marsabit Road - Hula Hula Highway near Parkshon Bridge. The assailants escaped to Marsabit Forest. Police tracked the footprints to Sagante area. Police have arrested three suspects and investigations are also going on.

On 2nd December, unknown bandits shot dead a police constable based in Thika Police Station, namely Abdullahi Abraham Yusuf. The officer was a passenger in a lorry headed to Isiolo from Marsabit. The lorry was among seven vehicles on police escort. The bandits escaped into Marsabit Forest. We managed to arrest two people. Investigations are going on.

Following these incidences, the Government has put in place the following measures to secure this area. Firstly, the Provincial Security Intelligence Committee visited the area on Monday, 29th November and held a joint meeting with the District Security Intelligence Committee, Marsabit Central and the entire leaders of the district. Following this meeting, a platoon of GSU Officers was deployed in the area

on 2nd December to boost the local security agencies. It is worth noting here that since the officers were deployed, I am happy to report that no ugly incident has been reported.

Secondly, investigations are ongoing and so far, two people have been arrested and prosecuted. Eighty one people have been interrogated. More are likely to be arrested and prosecuted. Investigations are still continuing. These investigations are also targeting local leaders who are suspected to be inciting the local community.

Thirdly, peace building *barazas* by Security Intelligence Committees are ongoing with one meeting being held today at Songa Badaza. Another one is planned tomorrow at Karatina while on Friday; a meeting bringing together the whole of Marsabit is also scheduled to be held. On 19th November, all chiefs and assistant chiefs held peace meetings at their respective administrative units.

Mr. Speaker, Sir, fourthly, a new team of Kenya Police Reservists (KPR) who have been vetted will soon be issued with firearms to augment the security personnel on the ground.

Fifth, there are enhanced patrols by both the regular and administration police officers with the support of the KPR with regular raids being conducted in areas suspected to be hideouts of the bandits.

Peace Committees which draw membership from different ethnic groups have been reactivated and are constructively engaged in peace building efforts.

In conclusion, I would like to urge the local leadership to support the Government's efforts towards fighting banditry and cattle rustling in the entire upper Eastern region through their participation in peace building initiatives.

Mr. Speaker: We will take three clarifications, starting with the Member for North Horr.

Mr. Chachu: Mr. Speaker, Sir, I would like to thank the Assistant Minister for giving a full and correct account of the incidents in Marsabit. I am sure while listening to the series of incidences where lives have been lost, you are feeling for the people of Marsabit.

Mr. Speaker, Sir, Marsabit Central, Saku Constituency, is less than 2,000 square kilometers. You can basically walk from one corner of the constituency to the other. Where are our soldiers? Where are our intelligence officers?

Since I asked for the Ministerial Statement last Tuesday, other lives have been lost. This has been ongoing year in, year out. Could the Assistant Minister consider putting up a permanent platoon of General Service Unit (GSU) in Marsabit Central so that for once, the people of Marsabit Central live in peace?

Mr. Lekuton: Mr. Speaker, Sir, on February 19th 2009, I asked Mr. Ojode a Question on putting up a police post at Hulahula, Karare and Songa. I beg to read the answer that he gave me straight from the HANSARD:-

“Hulahula Location is situated only seven kilometers from Marsabit, therefore, adequate patrol station for Marsabit Police Station is considered to be enough”.

Mr. Speaker, Sir, since that statement was made, about eight people have been killed on that road. Hulahula has now become a place where people are scared and cannot sleep at night. Is the Assistant Minister going to build a permanent police post now that things are getting out of control?

Could the Assistant Minister also honour his promise of taking illegal guns from the people of Marsabit? The people of Laisamis do not have a single gun to defend themselves. They cannot even go to graze in the places where they used to graze. Could the Assistant Minister commit to this House that lives in Marsabit will be protected by building police stations in Hulahula, Karare and Marsabit Central?

Mr. Ethuro: Mr. Speaker, Sir, I also want to thank the Assistant Minister for a comprehensive compilation of events. However, I think this House and the country, expect the Assistant Minister to engage in preemptive measures so that this kind of chronology of deaths and pain cannot be realized.

I just want to recall that on the 10th April 2006, the entire leadership from Marsabit in this Parliament perished on a peace mission. How many lives is the Assistant Minister waiting to see lost? Does he want the entire Parliament to die so that he can act? He has had enough time from 2006 and now he is talking of December 2010, he must have put sufficient measures to prevent further deaths on that road.

Mr. Speaker: Member for Samburu East, we are making that exception because you come from that area.

Mr. Letimalo: Mr. Speaker, Sir, the Ministerial Statement stated that some of the raiders who were involved in Marsabit District raid come from Samburu East. Could he tell this House what made him believe that the raiders came from Samburu East? These are our neighbours and it is my concern. Why has the Assistant Minister not covered them in the peace initiative that we have put in place to ensure that they do not participate in these raids?

Mr. Speaker: Mr. Assistant Minister, you can respond to those.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I must admit that this is a very grave matter. As Government, we are doing all it takes for avoid a repeat of the raids in that area.

Mr. Speaker, Sir, you are aware that Marsabit area is expansive. We have tried and right now, we have beefed up security by deploying the GSU personnel---

Mr. Lekuton: On a point of order, Mr. Speaker, Sir---

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Why can you not let me finish?

Mr. Speaker: Order, Assistant Minister! Let us hear that point of order and I hope it is!

Mr. Lekuton: Mr. Speaker, Sir, the Member for North Horr specifically said that Marsabit where the problem exists is less than a day's walk across. How can the Assistant Minister mislead the House that the area is expansive?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I confirmed to this House that in certain hotspot areas, we are going to have what we call patrol bases for us to preempt any incidences of insecurity. I confirmed to this House that those hotspot areas must have enough security personnel to patrol. We have managed the situation. We have so far arrested nearly 16 people. Some have been charged with murder. I must congratulate my police officers for a job well done. I will continue doing the same until January next year so that when people go for Christmas, these incidences will not happen.

It is not only in Marsabit. I am going to beef up security countrywide for Kenyans to go for Christmas without any problem.

Mr. Speaker, Sir, there are good leads. We are going to arrest many more people engaged in cattle rustling. Sooner or later, they will enjoy the opening of security centres which will act as patrol bases.

Mr. Speaker: Next order!

BILL

First Reading

THE VETERINARY SURGEONS AND PARA-PROFESSIONALS BILL

*(Order for First Reading read – Read the First Time and ordered
to be referred to the relevant Departmental Committee)*

COMMUNICATION FROM THE CHAIR

DEFERMENT OF ORDER NO.9

Mr. Speaker: Hon. Members, I wish to communicate to the House as follows:

That Order No.9 will be deferred to tomorrow afternoon on the ground that contrary to the Minister's expectations, pertinent amendments that have been generated under the auspices of the Minister's Office were not concluded in time to transact this business. It is our expectation that they will be finalized by tomorrow so that this business can proceed at 2.30 p.m.

Next order!

MOTION

ADOPTION OF 2006/2007 PAC REPORT

THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya Accounts for the Year 2006/2007 laid on the Table of the House on Thursday, 25th November 2010.

(Dr. Khalwale on 30.11.2010)

(Resumption of debate interrupted on 2.12.2010)

Mr. Speaker: Dr. Eseli had 16 minutes remaining. Dr. Eseli is not here! I can see the Member for Gichugu is up on her feet. You may proceed!

Ms. Karua: Mr. Speaker, Sir, I rise in support of the Motion as a Member of the Public Accounts Committee (PAC). I associate myself with the remarks by the mover while moving the Motion. I also want to observe that the country is in reform mood.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, as the PAC and all watchdog committees, it is not proper that we keep complaining year in, year out, about the failings of public servants. It is time they started to mend their ways.

One of the major complaints is that officers fail to avail the accounting documents in time for audit. This is a manifestation of the culture of impunity. We should be able to have necessary punitive measures which will compel the officers to comply. Many Permanent Secretaries or Accounting officers also display lack of

fiscal discipline and this is something that should attract sanctions in order to get compliance. We need to start having value for money audits because when works are being undertaken on behalf of the Government or procurement, prices are exaggerated to the extent that the public ends up losing money. It is time that we started doing value for money audits that look at the performance of the task at hand, but also check as to whether the public has been able to obtain the best obtaining market rates at the time. If this is not done, then we will keep on losing public funds.

Mr. Deputy Speaker, Sir, we have also noted the need to audit the Central Bank of Kenya (CBK). While we are making the relevant laws under the new Constitution, this should become a reality. We should never have a public institution that is not subjected to audit by the Kenya National Audit Office.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Prof. Kaloki) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, we have experienced something very negative from the Ministry of Public Works. Every Government department undertaking civil works has to get authorization from the Ministry of Public Works in either buying buildings or undertaking repairs of buildings. Exaggeration of prices is rife at the Ministry of Public Works. Even in the repairs of this very Parliament, the prices for certain items are clearly just like everything else in Government, exaggerated. We need to find a way of reining in this. It is only by tightening the rules so that anybody who occasions loss by exaggerating prices or not getting the best value obtaining in the market is held personally liable.

Mr. Temporary Deputy Speaker, Sir, the issue of pending bills has also been a thorn in the flesh. In 2003, the Government appointed an *ad hoc* Committee, the Pending Bills Closing Committee. That *ad hoc* committee has lasted nine years and it is threatening to become a permanent committee and I am glad that we have recommended that this committee must wind up by 31st December, 2010. You cannot have an *ad hoc* committee translating into a permanent body because it becomes also an issue of accountability. The committee is likely to lose its credibility by making itself, a permanent committee. It is time they gave their final report and if a need is felt for having a permanent body, that audits, then that should be brought by statutes but not making an *ad hoc* body a form of permanent employment.

Mr. Temporary Deputy Speaker, Sir, I think this Report does bring out something very strongly about the conflicts of interest in the Attorney-General's Office in handling certain cases. It is the Attorney-General's Office that advised in the fraudulent Anglo Leasing deals, Goldenberg cases and many others. It is not right that the same office continues to advise on how to get out of those fraudulent deals. I am aware that under the current Constitution, the Director of Public Prosecutions is the sole authority on prosecutions. It is time that the Government moved swiftly to appoint a Director of Public Prosecutions (DPP) so that prosecutions are completely divorced from the Attorney-General. That will help to ensure that the handling of these cases arising out of financial scandals, namely, Anglo Leasing, Goldenberg and other related ones like Ken Ren are handled by officers other than those who authorized them in the first place. In the case of the civil cases, we have recommended, and it has already been stated, that the Kenya Anti-Corruption Commission (KACC) takes up the matter. The KACC has legal mandate under the

Act that sets up that body in terms of civil prosecutions. It is the recommendation of the Committee that this office should take up all the conduct of the civil matters relating to Anglo Leasing, Ken Ren and any other financial scam where the Attorney-General's Office has been a party to advising in those fraudulent deals.

*[The Temporary Deputy Speaker
(Prof. Kaloki) left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, we trust that the Government will not wait to be compelled by Parliament to implement this recommendation. We have been moving in circles as a nation since the Anglo Leasing issues came up in 2004. We have not been able to conclude them. We believe that some payments have either been made or are being prepared to be made. We believe that unless this is done by persons other than those who authorized these fraudulent deals, the country is likely to continue losing money. It is time an independent office like that of the KACC took up the issue of concluding the civil part of these transactions.

Mr. Temporary Deputy Speaker, Sir, all in all, the Report does order investigations of certain matters by the KACC, especially the matter of missing documents. What are we to conclude when audit documents go missing? It is clear that there is somebody who does not want the transactions relating to use of public funds audited and verified. I think a swift conclusion of these investigations would help to nail the culprits. Parliament is not equipped to fully investigate crime. Therefore, Parliament has to turn to the arms of Government that do those investigations.

Mr. Temporary Deputy Speaker, Sir, I want again to say that it is reform time. The Government must accelerate police reforms so that when Parliament orders investigations, they are done competently and swiftly. Reforms entail not only weeding out the undesirable elements within the force but also making sure that meritocracy is the order of the day; making sure they have the right equipment and facilities, so that they are able to serve Kenyans.

Mr. Temporary Deputy Speaker, Sir, with those many remarks, I beg to support the Report.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I rise to contribute to this Motion on the Report of the Public Accounts Committee (PAC) on the Government of Kenya accounts for the year 2006/2007 laid on this Table on Thursday, 25th November, 2010.

Mr. Temporary Deputy Speaker, Sir, as you can see, we are in the year 2010 and are discussing the Report of almost four financial years ago. This means that we still continue to discuss these reports of both the Public Investments Committee (PIC) and PAC as historical documents. This raises a major issue in Government of accountability and the need to correct wrongs in time and, therefore, speed up performance improvement in Government.

Mr. Temporary Deputy Speaker, Sir, Ms. Karua has said that we are in a mood of reform in this country since the promulgation of the Constitution on 27th August, this year. These are reforms for which we have for many years struggled in this country and the fact that they have finally been enshrined in the new Constitution is

news to celebrate. But having said that, we should not sit in our laurels; we should, on the contrary as a Government, double our efforts to implement the provisions of this Constitution and to correct the wrongs of the past of not taking up recommendations of the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) in time and bringing them to Parliament so that Parliament can debate them in a contemporary way and not in a historical way.

First, I would like to comment on a few issues raised by Ms. Karua in her contribution this afternoon. She referred to the Pending Bills Committee which was initiated by the NARC Government in 2003 and I was a member of that Committee. The aim of that Committee was to ensure that the Government verifies all pending bills; decides which were genuine bills that it should pay; decides which ones were fraudulent and, therefore, worth investigations and prosecutions and decides which ones were doubtful, though not necessarily fraudulent and, therefore, needed verification so that the amounts claimed could be determined to factual levels. This committee was also the Cabinet Committee on Corruption which went further to deal with the bills that were arrived at in a corrupt manner and recommend action by the Government; such bills as those Ms. Karua has said related to Anglo Leasing and so on. I remember that this was not a very easy task. It was a monumental task and as you can remember and now it is known to Kenyans that its output led to substantial knowledge on the extent and nature of corruption in the Government and what eventually needed to be done to tighten the screws of the anti-corruption institutions and anti-corruption steps that the Government could take to stop such occurrences in future. The fact that the committee has lived too long may be a pointer to the monumental task that was needed to be done and the fact that its life is now pegged to end on 31st December this year, should lead to the demand that its achievements should be as was intended when it was established.

Mr. Temporary Deputy Speaker, Sir, the reasons why the Government tends to arrive at pending bills are many but I want to touch on a few which I think need attention - some of which are currently receiving attention - of this House because this House is the law making institution for the people of Kenya and hence, it bears the responsibility to lay down the ground rules for legally enforcing accountability processes and responsibility in the Government.

First is the issue of procurement rules. When the current procurement rules were brought into place in the 1990s, it was as a response of the pressure of the donor community and the people of Kenya that procurement in the Government was lackluster. To some extent, a reaction to that lackluster character of procurement which led to corruption and misuse could have led us to write into law or into rules and regulations, procedures that further complicated the matter. That further brought into play, elements of hesitation in decision making or elements of unnecessary litigation once decisions were made; and, when those who were aggrieved by those decisions took undue advantage of the legal process to delay the implementation of programmes in the Government and hence, sabotage or undermine development. For that reason, it is high time that these procurement rules were looked at very carefully by the Government and by this House to ensure that rules were not made for men and not men for rules; and that these rules should first ensure transparency and accountability in the manner in which decisions are made in the Government and resources are used but at the same time, undertake to see that efficiency and prompt implementation of Government policies and development programmes are also achieved. This is because the people of Kenya expect this Government not only to use public resources efficiently and accountably but also to ensure that the use of these

resources leads to the improvement of the quality of lives for the Kenyan people and hence, to development and social progress.

The second thing that I want to touch on is another historical aspect of pending bills and that is the misunderstanding, misinterpretation and misuse of variation orders. These orders are either, misunderstood, misinterpreted or misused in the Government and also by the private sector which renders services to the Government. In road construction, for example, or in any construction for that matter, depending on the length of time a project takes, there will always be a tendency over time for a contractor working either for the Government or the private sector to request a variation order occasioned by unexpected rise in prices of construction items or at times the introduction of certain taxes which were never envisaged before.

In that regard, variation orders can be verified and justified but again, rules of contracts specify the extent or percentage to which variation orders are allowed. When they go beyond those expected percentages, they need particular attention. In the Government, the relationship between the Government and service providers has always suffered the historical problem of variation orders being misused or misinterpreted. Misused in the first place because certain service providers enter or demand variation orders unjustifiably and then go ahead to demand their being implemented through under-hand means or at times, to be more precise, through corruption. These are the issues that we discovered when we were in the Pending Bills Committee or the Cabinet Committee on Corruption. It means, therefore, that we should put in place, institutions and processes that can guard against the misinterpretation or misuse of variation orders.

Mr. Temporary Deputy Speaker, Sir, if you read our present Constitution carefully, you will find that those institutions are now in place or should be in place and with a careful watch of this House and the effective performance of Departmental Committee, we should be able to deal with this problem. I am not saying in any way that this problem can be done away with completely, but we should put in place checks and balances and institutional procedures, rules and regulations that minimize the misuse or misinterpretation of variation orders. There is also an aspect to misinterpretation of variation order which I would like to point out. When I was the Chairman of the PIC in the mid 1990s, I found out that we, as Members of Parliament, and as civilians sometimes, misunderstand variation orders. Sometimes, we think that any variation order is *ipso facto* and not genuine. That is not true. I have said that even in law and in proper contractual procedures, especially in the construction industry, variation orders are allowed in a certain percentage and for reasons that are given within a specific project. So, we should not, for that matter, misunderstand variation orders. An understanding of variation orders is, therefore, required when, for example, we are looking audit queries and, therefore, asking civil servants to explain themselves in the two Committees, namely; the PIC and the PAC, regarding variation orders.

I want to raise another issue which has been problematic in the PAC and PIC reports, namely; the issue of audit queries. The two very key and important persons in the Government, especially on issues of accountability, are the Auditor-General (Corporations) for the PIC and the Auditor and Controller-General for the PAC. When these two auditors do their work, they submit to the two select Committees of Parliament, namely; the PIC and the PAC, audit queries for them to discuss. They, therefore, bring to the Committees the public servants against whom these audit queries are raised. The aim of giving the public servants the occasion to appear before the two Committees is not to hang them on the nearest tree that they committed

travesties in the Government, but to give them an opportunity to explain why those audit queries are there and, therefore, to find out whether they are culpable of any transgression in the exercise of their duties. Secondly, that, indeed, this was an issue that the two auditors could not understand and, therefore, if more light is thrown into the matter, the audit query can be resolved. Those are the two major options for which audit queries are brought before these two Committees of Parliament. These two Committees, after going through the State Corporations Act and the various Acts establishing the various State Corporations or the Constitution giving power to the various Government Ministries, and also after understanding the Powers and Privileges Act, should then query the respective civil servants on the audit queries.

When audit queries, therefore, rests in the reports of the PAC or the PIC for too long and become historical documents, too much time is left for such queries to hang around the neck of the respective civil servants unnecessarily. Therefore, in the 1990s, we pushed for the reports to come urgently before the House, so that they can be resolved. However, it looks as if we still have not managed to catch up with the auditing and the bringing of the reports to the Committees, so that the queries can be addressed and answered promptly. This is something that should be addressed between the House and the Government, particularly the offices of the two auditors, so that the process of auditing can be done speedily and so that these audit queries can also be sorted out promptly with the public servants concerned. Noting that there is an audit query in any Government department or parastatal does not necessarily mean that there was a transgression. The extent of a transgression can only be established when you give the opportunity to the respective individuals to explain themselves to the two respective Committees and hence, for those Committees to find the opportunity to get more evidence, either from the auditors or the respective individuals about the queries raised.

Mr. Temporary Deputy Speaker, Sir, it was brought to my notice when I was the Chairman of the PIC for two consecutive years that one of the problems in both the Controller and Auditor-General's office and the Auditor-General (Corporations) is lack of auditors. Secondly, these two offices are allowed to hire private auditors to help speed up their work. But one problem did arise that when the Government work is outsourced to the private sector, especially on issues of auditing which are very sensitive, to what extent are those private auditors bound by the Oath of Secrecy which civil servants are bound to? To what extent, are they immune from undue influence? If it is discovered that they are vulnerable to undue influence, what would the two offices do? This really requires that the Government should have well trained and enough auditors in the Government as internal auditors in the various Ministries, who can be used trans-departmentally in helping the Controller and Auditor-General as well as the Auditor-General (Corporations) to do their work.

I say trans-departmentally because if a query is raised in the Ministry of Medical Services, it will not be good for the Controller and Auditor-General to use the auditors in that Ministry to help sort out the audit queries because they are insiders and, therefore, they may not have that independence in looking into those queries. We can do this trans-departmentally where internal auditors in the Ministry of Medical Services help in sorting out some audit queries in the Ministry of Youth Affairs and Sports, so that we can capitalize and use our own internal resources knowing very well that as civil servants, they are bound by the Oath of Secrecy. We also bear the responsibility of ensuring that they work expeditiously within the timeframe that the Government expects to work in.

Let me say one last thing which is related to why the PAC and the PIC were established. The aim of these Committees is to give opportunity to Parliament to help the Government. It is really to ensure that the Government listens to Parliament in view of these audit queries and also to know that in Parliament, we have people from various backgrounds. They are not necessarily accountants or lawyers. It is like jury which can be made up of all kinds of people or civilians. Therefore, they are more prone to give independent, perhaps objective analysis of these matters and, therefore, sort them out. The process of establishing these Committees must be observed and respected.

I beg to support the Report.

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, I thank you for giving me this opportunity. I stand to support the Motion. I would like to state that I am a Member of the Committee.

As I contribute to the Motion, I want to inform Prof. Anyang'-Nyong'o, who has spoken, that we are not talking about historical accounts here. For his benefit, we are basically current. This Committee has covered the audited accounts for the Government of Kenya from the year 2004 to the year 2009. We are finalising the accounts for financial year 2008/2009 and, very soon, we will start the accounts for financial year 2009/2010. So, for his information, we are very much on top of things and we are discussing a very current audit report. We are dealing with the current Accounting Officers of the various Ministries.

Mr. Temporary Deputy Speaker, Sir, if you look at this voluminous Report, you will still see a lot of wastage of public resources. There are so many incidents of rampant corruption, and this needs to be dealt with. Even now, the culture of impunity and lack of fiscal discipline is very much inherent amongst our Accounting Officers. It is time we had value for money audit, instead of the procedural audit that we do every year. We do not have a real performance audit, whereby we get real value for money; for services rendered or from goods procured. It is time we moved towards performance audit and go for value for money audit.

It is very clear from this document that we still lack clear policy on recovery of Government dues from officers. I have sat in this Committee for three years now. The same audit queries keep recurring because we have no policy dealing with the particular problem of officers who have passed on, but who had not paid their dues while they were alive. We need a clear policy in this regard, so that we can clear this off our records and be able to move on.

Mr. Temporary Deputy Speaker, Sir, we also lack a clear policy on bailing out our ailing state corporations. While some state corporations are quickly, and conveniently, bailed out, others are left to struggle year in, year out. Most of the time, political considerations come in, instead of economic prudence. It is time that, as Government, we have a clear policy on what to do with our ailing state corporations in terms of bailing them out, while looking at the economic sense of doing so and looking at the services rendered to this nation.

It is very important for Kenya Anti-Corruption Commission (KACC) and the Criminal Investigations Department (CID) to implement our recommendations. We look upon them to take on board issues where we feel that there is need for further investigation so that those who committed economic crimes can be arrested and taken to court. Year in, year out, we have made recommendations, but most of them are yet to be fully implemented by the Government.

Mr. Temporary Deputy Speaker, Sir, with the new Constitution in place, the culture of impunity is over. It is time our officers became responsible and did what is

necessary to ensure that those who have wasted or squandered public funds are taken to book in the spirit of our new Constitution which calls for accountability, transparency and ensuring that we get real value for all the services that are rendered by the Government.

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

Mr. Mbau: Mr. Temporary Deputy Speaker, Sir, I thank you for giving me a chance to support this very important Motion on Government expenditure.

Right from the onset, I want to applaud the PAC, led by hon. Khalwale, for actually having achieved a very commendable feat of ensuring that the reports of the Controller and Auditor-General on expenditure by the Government of Kenya are brought up to date. As we talk, we are discussing the Audit Report of 2007/2008, noting that only today did the Chairman of the PAC actually lay on the Table the most current Report of 2008/2009. I want to applaud them for that bit.

Mr. Temporary Deputy Speaker, Sir, the major objective of reports of PAC is to ensure that financial management of monies collected from taxpayers is done prudently and in a manner that delivers value to taxpayers. Reading through the Report of this Committee, one is able to unearth very many anomalies which leave a lot to be desired; anomalies of how our Accounting Officers oversee the application of public monies.

One of the things we must bring into compliance is ensuring that we have compelled, through legal mechanisms, Accounting Officers to take action on corrective measures recommended by the Committee in this Report, which we support, and which we are going to adopt, so that it does not appear like Members of Parliament, as overseers of public monies and expenditure, just come here to talk, talk and just talk. We should not use this House for adopting and making recommendations in vain.

Mr. Temporary Deputy Speaker, Sir, as all the speakers before me have said, I would like to say that we are living in a different country, in a different era and in different times, when Members of the National Assembly must become effective in ensuring that efficiency is achieved through delivery of services to *wananchi*. When we read, in this Report, of over-expenditure by Accounting Officers of various Government Departments and Ministries without them having brought those intended over-expenditures to this House for approval, what are we supposed to make out of it?

When we read in this Report of many Government departments having lived below expectation in the collection of Appropriation-In-Aid (A-In-A) falling within their various areas of expenditure, what are we supposed to make of these Accounting Officers in terms of efficiency and effectiveness? Sometimes, it appears like it is normal when officers spend public money. It does not appear like it is painful because the money appears to belong to the general public.

Mr. Temporary Deputy Speaker, Sir, we must not forget at any one time that public resources that are put to use in the various Government departments are usually collected from very needy people who go to shops to buy very small portions of sugar, milk, salt and other various essential commodities and thereby end up paying taxes painfully. Since they do so painfully, it is imperative that those officers who are given the honour of overseeing the usage of public resources have some due regard to where those resources come from.

Time has come for us as a country to begin asking ourselves how much resources we have, and how much we can achieve with those resources. Can we begin to look into our accounting systems in terms of results and outcomes, so that even when we do budgets and continue to approve monies for various Government

Ministries and departments, we do not just do so for the sake of it but rather, we do so because we have our eyes on the results and outcomes? The Government Ministries and departments should not expect that business will be conducted in terms of “last year, I sought Kshs1 billion and got Kshs1 billion and, therefore, next year, I look forward to getting an increment of 5 or 10 per cent, or Kshs1.1 billion” It should never be the same. It should be a business of asking for Kshs1 billion and you achieve this much with that amount in that Ministry or department. Therefore, your Ministry or department deserves to be given much more, depending on its results.

Mr. Temporary Deputy Speaker, Sir, the Report that we are debating is a repeat of what we have debated many times in the past. In all the years, we make recommendations and nothing happens to them. Time has come for the recommendations to be implemented. You know that we now have a law that requires that once we adopt the recommendations of the Report that we are debating, the Deputy Prime Minister and Minister for Finance would be duty bound to ensure that the various recommendations made to the various Government spending departments are taken on board and action taken. The action taken should accompany the Financial Estimates when read in the House in June. It should properly state the measures that have been taken so that in future, it is not just a question of talking and talking. When the Deputy Prime Minister and Minister for Finance will read the Budget, we will ask him to simultaneously explain the action that has been taken out of the reports of Public Accounts Committee (PAC) which arose from the report of the Controller and Auditor-General.

You will also find in this Report, very many fund accounts. Some of them are in the Ministries while others are in the districts. These accounts year-in, year-out, remain unclosed for no reason at all. Some of these accounts have money while others do not. I recommend accounts such as Rural Development Fund Accounts, District Cash Fund Account and Civil Contingencies which is operative--- The other one is the District Development Fund Account. These accounts remain in the books of the Government but they are dormant. Could we for once, recommend that the same be closed so that a time does not come when a certain Accounting Officer or Minister does use them in a clandestine manner because they are still open? They should be closed and not be re-opened again.

Mr. Temporary Deputy Speaker, Sir, if you read through the Report, you will note that there is impunity or don't care attitude even when accounting officers flout rules and procedures right, left and centre. Irregularities are galore because it appears like there are no mechanisms to bring such accounting officers to account. I am talking about the misuse and abuse of Government Financial Management Act regulations. We have many officers who incur or continue to incur imprest when we all know that Government officers when given imprest are supposed to surrender the same within 48 hours. However, you will find that there is a large amount of imprest incurred for many years on a continuous basis and you cannot explain it. Why should that continue to happen when we have the Government Financial Management Act? We also know that there is serious lack of a clear framework for disciplining accounting officers because they are appointed by a different authority from the one they report to. It is common knowledge that Permanent Secretaries and others are appointed by the President but they report to the Permanent Secretary, Treasury. Because of that variance, you will find the Permanent Secretary, Treasury is unable to ensure that these accounting officers are sanctioned or rewarded as necessary, depending on their performance. Therefore, there should be a review of the Government Financial Management Act to ensure that the appointing authority is the

same as the one supposed to be supervising or the supervising authority is the same that can terminate appointments or alter them so that we bring sanity and a sense of accountability and transparency within our accounting officers.

Mr. Temporary Deputy Speaker, Sir, I also note that we have a heavy burden of foreign and domestic debt which amount to Kshs1.2 trillion. For how long, as Kenyans, shall we continue to live in debt? The Kshs1.2 trillion is more than this Government's Budget for one year. Within that, you will find that domestic debt is about 60 per cent while foreign debt is 40 per cent. The more we borrow from our local sources, the more we continue to make the rate of interest higher and the more we continue to crowd out those other investors both small and big from being able to access affordable capital to begin their own investments and businesses.

With those few remarks, I want to support the Motion and thank you for the chance.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, let me also take this opportunity to contribute to this very important Report. First, let me thank the Chairman of the Committee for the very many sittings that they have held. I know that they have conducted almost 100 sittings. This is real commitment and credible leadership provided by the Chairman of the Committee. I also take the opportunity to thank the hon. Members who were also gallant in terms of contributing to this very important Report.

Mr. Temporary Deputy Speaker, Sir, I note with some frustration that the accounting officers who were called time and again to make their presentations to the Committee, at times were not compliant and non-co-operative. To some extent, they failed to provide the required evidence and documentation. That means that the Committee was impeded in terms of faster compilation of the Report. I propose, therefore, that the incompetent accounting officers must be treated in the best way possible in terms of instilling discipline and to some extent, sanctioning them. They are letting the nation down and that translates to another type of impunity.

Concerning the investigating agency, I note that the Kenya Anti-Corruption Commission (KACC) is doing well but it is high time that it is expanded so that it can give satisfactory services to all the Ministries. Therefore, it requires more funding so that more people could be employed to serve Kenyans well.

Mr. Temporary Deputy Speaker, Sir, delay of information by the investigating agencies has also caused some delay in composing this report. Therefore, the investigating agencies must wake up and be faster so that the Committee's objectives could be realized.

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

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

Mr. Temporary Deputy Speaker, Sir, if you recall, the Permanent Secretary in the Ministry of Finance, Mr. Kinyua, three weeks ago talked about Kshs270 billion being misappropriated and stolen by our people. I call for faster investigations on those who have really embezzled this money so that necessary action can be taken against them. These are the people who are slowing down the pace of development in this country. Proper, faster investigation and prosecution must be mounted by those investigating this menace. There will be no need of looking for external funds if we

are able to manage our national resources properly. Procurements agencies are culprits in this area. They should also be investigated properly. Public debt running into Kshs1.2 billion is likely to strangle the growth of this country.

Mr. Temporary Deputy Speaker, Sir, we realize that the Greek Government was almost getting paralyzed in terms of operations because it borrowed very heavily from international donors. It was not able to keep its own obligations. The Greek Government was bailed out of this problem by the European Union. If the Kenyan situation continues to escalate from Kshs1.3 trillion to Kshs5 trillion, I do not know how we are going to arrest that situation. The Greek Government had some island to sell. Which island do we have to sell to meet that spiraling debt?

Hon. Members: Mingingo!

Mr. Njuguna: Mingingo Island is already contentious and is causing a lot of instability in some parts of this nation.

Therefore, the Deputy Prime Minister and Minister for Finance should not continue with this external borrowing inconsiderably. We must borrow within our economic strength and performance. This money goes according to the report for physical development. Those unnecessary developments should be avoided. We have seen some white elephants scattered in the whole nation. These are consumers of this money.

Mr. Temporary Deputy Speaker, Sir, Kenya Revenue Authority has been doing good work. It is important that KRA does not allow contraband goods into this country. We have seen batteries, tyres and even drugs coming through illegal entry points. It is important for the KRA to consolidate its own position. They should also pay special attention to the border points. Corruption at the Port of Mombasa is also causing a lot of uncollected revenue. This is done by businessmen who are not patriotic in terms of paying their taxes to our country. The KRA should also pay special attention in the manner it employs its own employees. This should reflect the face of this nation. They should employ qualified and competent Kenyans.

Mr. Temporary Deputy Speaker, Sir, I have noted that the Kenya National Examination Council (KNEC) has been putting up new offices. These offices were allocated a lot of money. This project has been running for the last 24 years. You can imagine a child that was born the last 24 years; where is that child? Married women; this is really bad. We are calling for proper audit of this very important Government institution. The money allocated to this Ministry should go to the intended use. The KNEC is a very important institution for this nation. We cannot allow that project to continue for another 24 years. Therefore, the sooner the project is completed the better. The Council spends a lot of money for rentals to some landlords.

Mr. Temporary Deputy Speaker, Sir, it is also important that I recall that KNEC this year conducted the most efficient examination without any leakages. This is a body that needs to be strengthened and supported.

Mr. Temporary Deputy Speaker, Sir, Kenyans also got value for their money and invested in the Teachers Service Commission (TSC) premises. The TSC leadership needs to be appreciated for proper investment and utilization of public finances within a very short time. The TSC is now located at a very spacious accommodation. Other Government Ministries should emulate the TSC.

Mr. Temporary Deputy Speaker, Sir, in this country, taxation is being evaded by those who have the potential. The tax collection efforts must be redoubled, if we want to improve our economy. We cannot improve our roads, water supply and healthcare if we allowed impunity to be the key principle in Government institution.

I, therefore, support this report because it gives proper directions as to where the pitfalls are.

With those few remarks, I beg to support.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I want to thank you, first and foremost, for giving me this opportunity to contribute to the report of the Public Accounts Committee.

Mr. Temporary Deputy Speaker, Sir, this Committee has traditionally defined oversight of Parliament and it continues to play that role. Of course, with the new Standing Orders, even the Departmental Committees are now becoming more active. But this Committee, PIC and other investigatory Committee such as the Local Authorities and Fund Accounts Committee have a critical role in terms of dealing with the Reports of the Controller and Auditor General. We, as a Parliament, after appropriating money to the Executive, need somebody to check whether that money was spent for the purposes it was intended for.

Mr. Temporary Deputy Speaker, Sir, this is a good job. In the last Parliament, I served in this Committee and started a good tradition of doing two reports per annum. We found there was a lot of backlog. We were basically dealing with dead matter and dead people. To seek evidence from dead people, you remember Justice Kwach, during the enquiry of the late Ouko to the pathologist that he was lucky he was dealing with the dead people. That is how the Government used to get away with it. But the Committee comprises of eminent Members. The Chairman described the contribution each one of them was making to the Committee.

Mr. Temporary Deputy Speaker, Sir, the bull fighter of Ikolomani has brought the same tactics of bull fighting to the parliamentary business. Unless Dr. Gilchrist too, may have problems with the animal welfare concerns, I think those same tactics are finding meaning and relevance in this Committee. I think, Dr. Khalwale is demonstrating one thing, and this is what we said in Parliament. Well, generally, it is good for people professionally aligned to a particular matter to be there, and I think the honorable Minister for Medical Services, Prof. Anyang'Nyong'o has also alluded to the same. When we sit in Committees, we are like the members of the jury. In the jury system, you do not have to be a lawyer; you are looking at other issues of public interest or public concern. Also, the skills that members bring irrespective of their professional backgrounds, can really take this matter forward. I think we are very grateful as a House that we have hon. Members under the chairmanship of Dr. Khalwale, who has been taking this business of the Public Accounts Committee (PAC) forward. Public accounts and dealing with reports of people who have been misappropriating public money is not easy. If you are not strong enough; if you are not here with a mission to do a good job for Parliament---

Mr. Temporary Deputy Speaker, Sir, you only need to know the history of PACs, even in this Parliament. There were days when PAC Members could not agree on any matter because they were beholden to interests outside Parliament. But, now, this Parliament has basically come of age and, I think, it can interrogate any matter confidently and sufficiently enough in order to send even Ministers home. In fact, now, the most insecure job is a Minister's job. During Moi's era, Permanent Secretaries were never permanent but now, Ministers are joining the league of not being sure whether they will have a job the next day if they did one or two funny things.

In this particular Report, the Committee had 100 sittings, and you know how intensive this business is. I wish them well. The Committee has also owned up that they lacked quorum. It was a challenge because we have made more Committees and

the membership is spread thinly. I think they owned it up and I just want the House to take some lessons from this. Hon. Members of the PAC should be vetted properly for purposes of integrity. Two, we should think of giving them some special terms so that they can dedicate more of their time to this so that they are not even put into so many other Committees because this is really the crux of the matter of Parliament – to play that watchdog role – which we do through these investigatory Committees.

Mr. Temporary Deputy Speaker, Sir, this particular Report has looked at issues of Anglo Leasing promissory notes. There is also the issue of the debt and I will just cover those two. On the Anglo Leasing, when this matter came up, we sat in the Committee under the able chairmanship of Omingo Magara and we instituted a special audit. This is a trend that Dr. Khalwale has continued and sometimes, people do not seem to understand that the PAC has actually the power to do special audits on any matter that is emerging and needs to be sorted out so that we do not wait four to five years down the road to deal with dead matters again. We instituted a special audit on Anglo Leasing and Ministers came before us, gave us those promissory notes and said: “We have cancelled them.” They made those arguments to a Committee of the House that they had cancelled the promissory notes. That the Kenya Government is not going to lose anything and, indeed, we were even convinced that some money had been wired back to the country. But what the PAC Report now is detailing is that the Kenya Government is paying those promissory notes. At that time, we told them: “How do you say you cannot pay a promissory note, unless you go challenging them in court?” A promissory note is basically a debt; it is a first charge and when it is due, it is your obligation to pay.

Mr. Temporary Deputy Speaker, Sir, this Committee should go beyond just making those kind of statements. They should name the people responsible and they should penalize them for misleading the House and the nation.

The second issue is about debt. The Chairman of the Budget Committee, hon. Mbau, has said that we have a Kshs1.2 trillion debt. We have 40 million debt, including children and we are adding about 1 million every year. At the rate at which, of course, we are getting a bit older, we are not dying as many as the new born ones. So, if you divide Kshs1.2 trillion – which is Kshs1, 200 billion – by 40 million, you are talking of a debt to every person of about Kshs30, 000. This is what we are giving to our future generations; to the third and fourth generation. It is like a curse. The Bible says: “If you mess with these Ten Commandments, we will curse you to the third and fourth generation.” That is what we are doing as a nation. Sometimes, you do not know what these loans were for. Obviously, we know that they are coming through Anglo Leasing or they may be coming through Goldenberg. It is a shame that we are burdening our progeny because we are not getting it right. Even in this House, we know those Government guarantees and all that.

Mr. Temporary Deputy Speaker, Sir, we should take advantage of the fact that we have already reports of the House that have catalogued and quantified the amounts of money that is going to debt that we should not allow. Even the last time, we were being asked to extend the facility of the Government to borrow; we should deny the Government this excessive borrowing. Any borrowing can only be prudent, to the extent that it is serving a particular public good and public service that, actually, can be determined by the House, because this is the House of the representatives of the people.

I have been wondering why the Kenya Government has been reluctant even to benefit from the highly indebted countries facility by the World Bank. Granted, we seem to be managing and it is good to see that we are managing. But when we have

this extent of debt, I think we can make a case that we should benefit from that facility so that we can retire some of those debts.

Mr. Temporary Deputy Speaker, Sir, in the Eighth Parliament, there was a man known as hon. Simeon Nyachae who said that the economy was in the "ICU." What did the appointing authority do? He was transferred. Part of the recommendation he was making and which made a lot of sense to us when we had that conference on the economy in which the entire Parliament participated was that if we must retire some of this debt, instead of the domestic debt, we should retire more of the foreign debt, which has better terms of repayment than, may be, the crippling domestic debt. I think these are the proposals that we need to consider and I would invite the PAC to consider really, giving value for money and going ahead and be bold enough, as the air, to actually give certain proposals to the Government, because this is a Government that is basically asleep. They have been talking of bringing the Organic Management Bill for all the years I have been in this House and they have not brought it until we brought our own Fiscal Management Act here.

Let Parliament be proactive. We have already demonstrated leadership in this country and we should not be waiting on an Executive that has gone to sleep to try to make it up. It cannot!

Mr. Temporary Deputy Speaker, Sir, as I conclude, I want to wish the Committee well. I want to encourage them that we appreciate the continuation of the desire of the practice of being current. According to the Report, they are dealing with the reports of 2008/2009 so that, at least, let us have a lag period of about a year or two. Anything more than that will not be doing service to this nation that we have committed to serve.

They must make sure that the Treasury Memorandum which is supposed to be a response from Government on the recommendations of the Committee, should not be drafted in the way it is usually drafted. If you read the Treasury Memorandum that is responding to this, they have told us nothing! You will find that we reiterate the recommendations of the last four years which were reiterated in the other third year, which was reiterated in the second year and now the current report will be reiterating the same position. Parliament must now start biting and we have the powers now through the Standing Orders. We have the Committee on Implementation. If something is not done that Parliament has recommended, we should not be reiterating our positions. We should be recommending surcharge. We should be recommending that 1 percent removal from that particular Ministry. These are the recommendations that Dr. Khalwale and the Committee should be considering. We should start biting so that these people know that when Parliament makes recommendations on behalf of the nation, it is up to the Executive. We are not begging the Executive represented by the Whip here and I am not sure where he belongs; whether the Executive or the Back Bench.

We are demanding on behalf of the people who brought us to this House that services must be rendered and money must be put to good use. We appropriate money in the House. It must go to the intended purpose. Any other thing must be condemned and appropriate punitive measures must be taken.

I know that hon. Members are equally interested in this particular subject because it is extremely important.

With those remarks, I wish to support.

Mr. Nyambati: Thank you, Mr. Temporary Deputy Speaker, Sir for giving me the opportunity to support this Report.

Mr. Temporary Deputy Speaker, Sir, I want to, first and foremost, take this opportunity also to join my colleagues in commending the good work that has been done by this Committee under the able leadership of Dr. Khalwale who is a medic and yet he has done a wonderful job as an accountant.

This Committee should be supported fully not only because it has done a good job but because this is the auditor of Parliament and for that matter, of the nation. It audits all the finances of the nation and it is important because it will then ensure that the finances of this country are taken good care of.

Mr. Temporary Deputy Speaker, Sir, even as we support this Committee, I am impressed to see that this is one Committee which had over 100 sittings. This means they were very committed and dedicated to their work. I really want to commend them. If this House was to give a medal to anybody, we could have given a medal to this Committee because they have done a wonderful job.

Equally so, I am a bit disappointed that even up to now the Accounting Officers are not taking their job seriously. One of the things that this Committee has come up with in their Report is that there are still a lot of missing documents even when they go about doing their jobs. I think it is the responsibility of Accounting Officers to ensure that the documents required are in place so that the work of this Committee and that of the other Government departments which do audit are made easy by availing all the required documents. It is incumbent upon the Accounting Officers to ensure that there are documents which are required in this exercise.

Mr. Temporary Deputy Speaker, Sir, it is also disappointing to note that quite a number of accounting officers do not do their work properly. A lot of them are still under the influence of impunity. With the promulgation of the new Constitution, there should be no any impunity in our system. The culture of impunity should now be a thing of the past.

Quite a number of Accounting Officers spend money without proper authorization or they incur expenditure which is not right. That is extremely important because expenditure must be within the required means. We do not want to see Accounting Officers of different departments spending much more than what they are required to do without the authority to do so.

Equally so, there are quite a number of Government departments which under-spend and yet services are required in this country. You find that sometimes, money is returned to the Treasury and yet there is a lot of need in that department to give services to this country. Such accounting officers should not be entertained in this country. They should not be entertained in public offices because they are doing disservice to our people. These are areas which we must look into to ensure that as the engine of the nation which Parliament is, we ensure that, that service which is supposed to be given to our citizens is given.

There are also quite a lot of pending bills. You find a lot of pending bills and money is returned to the Treasury. We must have legislation in place to ensure that if this kind of thing happens, the officers responsible should not occupy public offices.

I was amazed to see that we have a debt of Kshs1.2 Trillion. I was happy to see that the foreign debt is fully skewered and can be managed. From the report that I saw of this Committee, the recommendation is that the local borrowing is not done properly. I think it is important that this House ensures that we put in place a mechanism which ensures that such internal borrowing is done within the laid down regulations so that we do not lose a lot of money in unorthodox ways.

Mr. Temporary Deputy Speaker, Sir, Kshs1.2 trillion is a lot of money that we have borrowed. This is a big debt which will go for many years before it is settled. So,

it is important that we ensure that this money that we borrow as Government and a country is borrowed the right way and it will ensure that it does the kind of work that it is supposed to do.

If you go through this Report, you will also realize that there is a lot of money which is supposed to be recovered by the Government but this has not been done. It is important that Accounting Officers put in place mechanisms to ensure that what is supposed to be recovered by the Government is recovered so that we minimize the debt that we have as a country.

This is important because every single penny that belongs to Kenyans must be accounted for. We must ensure that it is used where it is supposed to be used.

Mr. Temporary Deputy Speaker, Sir, the other area that I must talk about is procurement. Procurement is an area where this country has lost a lot of money. The system of procurement must ensure that it adheres to the required procedures so that we do not lose money in this area.

Mr. Temporary Deputy Speaker, Sir, I would like to talk about the Government parastatals. It is about time that loss-making parastatals are done away with, so that we remain with only strategic parastatals that we need as a country. We should get rid of parastatals which are a burden to the taxpayer, so that we ease the tax burden of Kenyans. Kenyans are the most highly taxed people in the world. It is about time that as a National Assembly and as a country, we looked at the taxation of our people. We should ensure that whatever taxation is enforced goes directly to the benefit of Kenyans. We must also ensure these taxes are utilized in the best way possible.

Finally, once again, I would like to thank the Committee for the good work they have done. I want to ask the other Committees to emulate the good work that has been done by this Committee, so that together, we can make this country a good country. We owe it to ourselves to ensure that this country moves in the right direction. We must ensure that public funds are utilized in the right way. We have been reminded time and again that due to the corruption and the misuse of public funds, this country has remained behind economically. Other countries that we were at par with, at the time of Independence, such as Thailand and Malaysia are now industrialized as we continue to lag behind because of corruption. Those of us who are fortunate to implement policies in this country must continue to lead the fight for the basic reforms which are needed in our society. We must ensure, as the Tenth Parliament, we go down in history as a Parliament which led this country to the right course.

With those few remarks, I beg to support.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, let me begin by thanking the Committee for their hard work in trying to catch up and bring up to date the Public Accounts Reports. I want to support this report of the Public Accounts Committee. I want to thank the Committee for doing a good job.

I have been in Parliament for eight years. This is my second term. In my first term, there was a Chair to the Committee called hon. Omingo Magara who tried to do what this Committee has done. I think the last two Parliaments have really tried. The issue of public plunder is one that this country must take seriously if we want to move from a Third World to a First World country. We, as a country, are poor because of the plunder and theft of public resources. If you look at any Public Accounts Committee (PAC) report, the recommendations are never followed. The recommendations are never taken by the successive Governments.

Mr. Temporary Deputy Speaker, Sir, I have looked at some reports which show how the National Social Security Fund (NSSF) was brought down. The names of the people who brought NSSF down are young people who are politicians. They walk the streets of Kenya. Some of them have been in positions of power or borrowed power. To date, despite recommendations of Parliament that these people should be jailed or prosecuted, nothing has happened.

I want to ask my bold friend Dr. Khalwale, to put recommendations to this Parliament because Parliament now has teeth, on what this country must do with the Controller and Auditor-General's Report. I was once in Stockholm and I visited the office of the Controller and Auditor-General. They had the same problems that we have. What did they do? They forced that office to sit within Parliament and report to Parliament directly. I want to say here today that part of the problem is that the Controller and Auditor-General, seems to want to report to the Executive. The Controller and Auditor-General is like a slave of the Executive. That is why it must be that person who is close to the people in power. That can never give checks and balances. What Parliament gets is that which the Controller and Auditor-General wants us to get. However, if the Controller and Auditor-General sat within Parliament like he does in Stockholm or the Westminster, then Parliament would have control of public expenditure as a watchdog.

Mr. Temporary Deputy Speaker, Sir, you may wish to know that in the last few years, it happened before our eyes, the monster of Anglo Leasing was unveiled as we watched. Ministers walked out of offices but the same Ministers were returned back to offices. Until today, Anglo Leasing does not talk or creep on the streets of Nairobi. You hear about Anglo Leasing in London and Washington.

The people who have spoken about it fear for their lives. Talk of one gentleman called Githongo who was the whistle blower. I have personally met him. When he tells you about Anglo Leasing, the perpetrators are here. It therefore, means that the work of Parliament is really not taken seriously by the Executive. The Executive must just wake up particularly in light of the new Constitution. You cannot hide information from people and people who do wrong must be punished. We will then give our people a new beginning.

Mr. Temporary Deputy Speaker, Sir, our corporations have come down; the NSSF, the NHIF, have all collapsed. If you go to the Ministry of Medical Services or the Ministry of Water and Irrigation, the problem is the same. Even now, there is the so called Pipeline Maximization Project which is meant to improve the flow of petroleum from the coast to Eldoret. It is bigger than Anglo Leasing but because it has not been looked into by the Controller and Auditor-General, it may be friendly to the people in power; the Committee will look at it three years or four years from now. It is happening and people are raising issues but nobody is listening.

It is a shame that nothing is happening. We have spoken. I know my good friend Bonny, talks about Triton. He has talked about it and we always talk about it. It is a scandal which is happening. A mega thing happened all these years and we know those who have done it in the rumour mills.

We should have zero tolerance to corruption, particularly on mega corruption. It is very important that we, as leaders in this country, guide this country into a new beginning. There is no country where people are told to go and bid to sell a pen. All of us know how much a biro pen costs in the kiosk. But this is the only country where a biro pen that costs Kshs10 can be sold for Ksh50, Kshs500 or even Kshs1,000. They say that you must go through competitive bidding. There is even a sadder story. When we said that the Constituencies Development Fund (CDF) money was supposed to be

given as grants and even the Ministry gave guidelines, the civil servants will never let you. They have found a way to say that these things are against procurement, while when we began the CDF, I would cut a cheque for Kshs1 million and form a project management committee. The people cannot steal from themselves, but the moment you get somebody from Gem and take him to Kwale to look over the procurement process, he will steal. They do! The problem is that somebody from Gem cannot care about somebody from Kwale more than somebody from Kwale can care about themselves. That is a fact. The whole spirit of CDF was to cut out the middleman who the Executive could not check. The Executive was good enough 48 years ago when our population was 13 million. Now, we are 40 million for Christ's sake. It is very important that we follow what can make us better and not things that are retrogressive.

Mr. Temporary Deputy Speaker, Sir, until the 1990s, we used to have a Ministry of supplies, such that the Ministry of Roads, for example, in Siaya, would get delivery of boxes of pens. Now, these Government departments at the district level just spend time doing procurement. Why on earth would you want to procure a piece of paper and yet, the kiosk is there? It is absurd but I think in the new dispensation, we must cut out the so-called supplies officer and do something simple which has no middleman, because the middleman is the problem in our economy.

Mr. Temporary Deputy Speaker, Sir, I know that other hon. Members want to contribute. I thank the Committee for a job well done. Let us hope they will continue doing the good work.

I beg to support.

Dr. Kones: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this chance also to support this Motion.

Mr. Temporary Deputy Speaker, Sir, as the Vice-Chairman of the Committee, I want to also thank my colleagues for putting in the efforts to come up with this important Report. I want to thank also the hon. Members who have contributed in support of this Report. Indeed, it is one of those reports which ordinarily, we would expect each and every one of us to give an input into, because it reflects the performance of our Government and how public finances are spent.

Mr. Temporary Deputy Speaker, Sir, having been in that Committee for the last three years, we must congratulate it for having been very hard on the Executive. We have seen the fruits of the efforts that we have put as a Committee. The Report which we are discussing now is for 2006/2007, but I am happy that in the subsequent reports which we are going to be discussing in the subsequent years, we have seen substantial reduction in the number of audit queries. This gives us some hope to some extent that the Executive has been able to put its House in order but we are still far from sorting out the mess in the Executive.

Mr. Temporary Deputy Speaker, Sir, there are issues which have been raised in the Report which I do not want to dwell on, in detail but they relate to inefficiencies in the Government that led to losses of public finances. One of the issues that we have come across which we have noted and I would like to emphasize it, is the failure by the Treasury at times to put in place the necessary financial systems to seal the leakages that we have in our financial system. We laud the IFMIS system that is in the Government but we want to encourage or ask the Government to continue implementing this system and train the officers. One of the queries in the books is because of misunderstanding by the officers who are supposed to manage this system. If the system was used well, for example, we would not have had issues about issuance of double imprests to Government officers. I think it is the role of the

Treasury to ensure that those who are in charge of running or managing the IFMIS system are well trained. That way, we will deal with the issuance of imprests irregularly.

In the past, we used to see inadequate preparation by the accounting officers but in my view, I think this is an issue that is not a major problem at the moment and we want to congratulate those who have been able to keep up with the standards with which the Committee expects of them.

This Report has also highlighted the role of public works in most of our development agenda that we have. As Mr. Midiwo has noted with some of the Government departments, I think the most notorious department in the Ministries is in the Ministry of Public Works which is in charge of giving estimates to infrastructural contracts which are common in all the Ministries. We find that there are very many inflated costs as we even witnessed this financial year where programmes which are implemented through the Economic Stimulus Programme (ESP), a classroom which you would construct at a cost of Kshs300,000 to Kshs400,000 ordinarily in my constituency, for example, the Ministry has given an estimate of Kshs1.5 million which is two to three times the ordinary cost. This is one of those classical cases in which we can say that the Ministry of Public Works has let us down and we believe it is one of the ways the Ministry officials use to siphon public finances.

Another issue which has been reiterated year in, year out, is some of the dormant funds that exist in the Government. One of them is the Sugar and Cereals Finance Fund. Every report that has been tabled in this House for the last five years has recommended that that Fund be wound up but to date as we speak now, that has not happened.

We must make sure that, we, as a House, take concrete steps to force the Government to abide by its word. Every year, it says that it will wind up these dormant funds within five or six months. However, many years have passed without any concrete step. For the last three years which I have been a Member of PAC, nothing has happened. It is the same case this financial year. The Sugar and Cereals Finance Fund is dormant, yet it is holding a lot of public funds.

Mr. Temporary Deputy Speaker, Sir, if this does not happen, we, as a Committee, may want to find other ways by making recommendations to this House in form of resolutions to force the Government to wind up most of these dormant Funds, including the Sugar and Cereals Finance Fund.

The Ken Ren Chemical and Fertilizer has been talked about so much by several hon. Members. This factory does not exist. However, we, as a country, continue paying millions and millions of shillings to foreign banks in Belgium and Austria. We need to make a decision as to what can be done to save the Kenyan taxpayers and our children from paying these debts. If I remember very well, we are supposed to repay this money in millions for the next 15 or 20 years. I hope with the able leadership of our Chairman, we will see what we can do to stop committing our country and our children from paying debts to a company that does not exist. This is very expensive.

Finally, another point which I want to highlight, which has been common in our reports, is about some conflicting roles of the Kenya Anti-Corruption Commission (KACC) and the Attorney-General's office in matters of investigation. There are some cases in which we feel that the Attorney-General's office has an interest and has no capacity or moral authority to investigate. I hope the KACC will take this with speed, investigate the cases and take action accordingly. A case like Anglo-Leasing scandal should not be investigated by the office of the Attorney-General. We feel that some

people in the Government, particularly in the Attorney-General's office, have no moral authority or ground to investigate it because they were part and parcel of the scandal. If they investigate, we feel that they might not give us clear direction on how to recover the funds that we lost.

With these many remarks, I support the Motion.

Mr. Kaino: Mr. Temporary Deputy Speaker, Sir, let me take this opportunity to congratulate my colleagues in the Committee. I believe we have done an excellent job considering that we started from 2004 to date. Unlike those days when the PAC dealt with reports of people who had died or retired, this Report is current. What would the Government get from people who have already retired and died? This is not good. Today, we are able to call a person who has just retired or is still in office to appear before the PAC. We are beginning to deal with the accounts of 2009.

To add to what Dr. Kones and the Chief Whip have said on foreign debts, it is very dangerous to commit unborn children to some debt. There is a lot of indebtedness in the country.

ADJOURNEMENT

The Temporary Deputy Speaker (Mr. Chachu): Hon. Kaino, you will have 18 minutes next time. Hon. Members, it is time for the interruption of business. The House stands adjourned until tomorrow, Wednesday, 8th December, at 9.00 a.m.

The House rose at 6.30 p.m.