

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 24th November, 2004

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Finance, Planning and Trade on the Standards (Amendment) Bill, 2004

(By the Chairman of the Departmental Committee on Finance, Planning and Trade (Mr. Kagwe))

ORAL ANSWERS TO QUESTIONS

Question No.811

EXPENDITURE ON RELIEF FOOD IN THARAKA DISTRICT

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

(a) how much money the Government spent on relief food in Tharaka District in the last one year; and,

(b) in view of the recurrent famine in Tharaka, whether he could, through the ASAL Programme, urgently provide the ten established societies with a sum of Kshs400,000 each, to ensure food security and stable food prices.

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

(a) From July, 2003 to October, 2004, the Government spent Kshs23,819,090 on purchase of food and transport, to Tharaka District. The cost of food was Kshs20,769,200, while that of transport up to the district headquarters, was Kshs2,076,920. A sum of Kshs972,970 was used for internal transportation. The food included 9,000 80-kilogramme bags of sorghum, 3,615 90-kilogramme bags of maize, 455 90-kilogramme bags of green grams, 711 cartons of 6x3 litres of cooking oil and 16,924x12.05-kilogramme cartons of powder milk.

(b) The Arid Lands Resource Management Project finances community project proposals for funding, especially those related to food security. However, such proposals are given due consideration only if they are channelled through the district steering group and the Co-ordinating

Committee for Development and Emergency Interventions at the district level. All established societies in Tharaka District should, therefore, follow the procedure in their applications. Such proposals are discussed openly and exhaustively. Once they are approved, they are included in the district annual workplan for onward transmission to the project headquarters for funding.

Mr. Kagwima: Mr. Deputy Speaker, Sir, I thank the Government for its effort to feed Tharaka people. Unfortunately, less than half of the relief food that the Government has provided has reached the *mwananchi*. The rest has disappeared on the way. As much as I would not want to belabour the point that the food allocation has been misappropriated, I would like to request the Assistant Minister to ensure that part (b) of his reply becomes useful to the people of Tharaka District. I would like him to consider writing immediately to the chairman of the steering committee of the ASAL projects and also discuss the matter with the Permanent Secretary (PS) in charge of the program in the Office of the President; to ensure that the societies are funded, so that they can buy food from the next harvest in January. That will ensure good prices for farmers and food security for those people.

Dr. Machage: Mr. Deputy Speaker, Sir, I would like to thank the hon. Member for appreciating our efforts in assisting the people. However, I take with regret the complaint, that more than half of the relief food supplies provided by the Government does not reach the people. I will investigate the allegation, as I have done in other areas, and take serious action against those involved. The community has to apply to the District Steering Group Committee for the allocation of these funds. It is not the other way round. So, I can only respond if the committee applies for the funds.

Prof. Olweny: Mr. Deputy Speaker, Sir, the large amount of money that is spent on relief food supplies is an indication that we have enough money which could be spent on food production to enable us have food security. What makes it difficult for the Office of the President to liaise with the Ministry of Agriculture and ensure that this money is spent on food production activities rather than buying relief food, some of which is imported?

Dr. Machage: Mr. Deputy Speaker, Sir, that is wise thinking. As you know, environmental factors come into play when it comes to production of food in this country. However, my Ministry is liaising with other Ministries and all other stakeholders to try and make Kenya self-sufficient in food production. Prof. Olweny's idea is well taken.

Mr. Midiwo: Mr. Deputy Speaker, Sir, there is more than meets the eye in the supply of relief food by the Office of the President to hunger-stricken areas. It is common knowledge that this is one of the most corrupt activities in the Government. Could the Assistant Minister tell us how much money is budgeted for relief food and how it is used?

Dr. Machage: Mr. Deputy Speaker, Sir, the hon. Member has, indeed, given a very unfair analysis. My Department was created only two months ago. It is very difficult for me to appreciate that assessment. But let me say that there is no corruption in the Office of the President. The budgeting for relief food is mainly a duty of this House. In the last Budget, you allocated only Kshs2 billion towards that exercise. What we are using now are funds that have been given to us by local and international donors.

Mr. Kagwima: Mr. Deputy Speaker, Sir, could the Assistant Minister consider allocating Arid and Semi-Arid Lands (ASALs) projects a minimum of Kshs12 million for immediate intervention, so that we do not have to wait until people have died? Could he allocate that money immediately?

Dr. Machage: Mr. Deputy Speaker, Sir, I wish I could! I would love to! I will think about it when funds are available.

Mr. Kagwima: On a point of order, Mr. Deputy Speaker, Sir. We got on very well with the Assistant Minister until his last answer. He has taken it very casually. That is a matter of life

and death! I am pleading with the Assistant Minister because there are emergency funds in the Office of the President. Could he consider using part of those emergency funds to fund those [Mr. Kagwima] projects in Tharaka Constituency?

Mr. Deputy Speaker: Mr. Kagwima, that is another question! The question you asked was answered by the Assistant Minister. You may not have liked the answer, but the question was answered.

Mr. Kagwima: Mr. Deputy Speaker, Sir, I am dwelling on part (b) of the Question. In the last financial year, the ASAL Project was allocated only Kshs2 billion. Does it have the capacity to handle the money he has given? That is what I am asking!

(Applause)

Mr. Deputy Speaker: Order! I will let the Assistant Minister answer that, in view of the importance of the matter. But, certainly, it is not a point of order! It is another question!

Dr. Machage: Mr. Deputy Speaker, Sir, I surely humbly understand the hon. Member's plea. I wish I had the resources. I have exactly said that! I will think about it when funds are available.

Question No. 818

LONG TERM VISAS FOR KENYAN CITIZENS

Mr. Deputy Speaker: Hon. Members, on the next Question, the Minister wants a little bit of more time. So, we will come back to it later.

Let us move on to the next Question.

Question No.948

ALLOCATION OF POVERTY REDUCTION FUNDS TO SAMBURU DISTRICT

Mr. Leshore asked the Minister for Planning and National Development:-

(a) how much money the Minister has allocated and disbursed to Samburu District and especially, to Samburu East Constituency to be used in the fight against poverty; and,

(b) how many individuals, groups or projects have benefited.

The Assistant Minister for Planning and National Development (Mr. Lesrima): Mr. Deputy Speaker, Sir, I seek the indulgence of the House to bring the answer next week on Thursday. I have discussed the matter with Mr. Leshore. All the facts from the field have not reached my office.

Mr. Deputy Speaker: Why so, Mr. Assistant Minister? The House may wish to know why you want the Question deferred. What is it?

The Assistant Minister for Planning and National Development (Mr. Lesrima): I do not have all the information from the field. What I have is not correct.

Mr. Deputy Speaker: Is that okay, Mr. Leshore?

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

Mr. Kagwe: On a point of order, Mr. Deputy Speaker, Sir. I want to get an indication. You said that the Minister for Foreign Affairs is not ready to answer the Question?

Mr. Deputy Speaker: No! We will come to it in the second round. The Question by Mr. Leshore is deferred to Thursday next week.

(Question deferred)

Let us move on to the next Question!

Question No.553

REDUCTION OF IMPLEMENTATION
PERIOD FOR TEACHERS' SALARY AWARD

Mr. Kingi asked the Minister for Education, Science and Technology that, in view of the fact that teachers are overworking in order to assist in the implementation of the Free Primary Education Programme, whether he could consider reducing the period of implementation of the teachers' salary awards from six to three years.

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

The Ministry is not in a position to shrink the payment period of teachers' salary award because of budgetary constraints. The review of the salary award was predicated on the performance of the national economy. The agreement with the Kenya National Union of Teachers (KNUT) was that, when the economy grew and improved, the matter could be revisited. The economy has not recorded any adequate growth to warrant such a revision.

Mr. Kingi: Bw. Naibu Spika, huu sasa ni mwaka wa pili tangu elimu bila malipo ilipoanzishwa. Kwa wakati huo wote, waalimu wamekuwa wakitumika kwa ziada kwa sababu hawatoshi na kazi imekuwa nyingi. Kusema kwamba tutangoja hadi uchumi utakapoimarika ndipo tuwafikirie waalimu, ni kuendelea kuwaumiza. Je, Serikali ina mpango gani wa kuwafidia waalimu ambao wanafanya kazi ya ziada? Wanafanya kazi kuanzia asubuhi hadi usiku kuhakikisha kwamba mfumo wa elimu bila malipo unafaulu.

Dr. Mwiria: Mr. Deputy Speaker, Sir, the shrinking of the payment period from the previous regime's ten years to six years is already a big indication of the extent to which we value what our teachers are doing. Even to agree to the six years was a great deal of sacrifice on the part of the Government. If we shrink that period any further, for example, one year, we will require Kshs19.6 billion. If we do it in two years, we will require an additional Kshs9.8 billion. That is too much to ask from a Ministry, which is already receiving a very large share of the national budget.

Mr. L. Maitha: Mr. Deputy Speaker, Sir, because of the free primary education, the burden of work has increased due to shortage of teachers. Before that, teachers used to have tuition classes, where parents could pay an extra Kshs10 or Kshs20, so that teachers could enhance their income. But since the advent of free primary education, parents are adamant and they always quote the Government and the Ministry; that everything should be free. Could the Assistant Minister assure this House that the Ministry will not interfere if teachers offer tuition classes and earn an extra Kshs10 or Kshs20?

Dr. Mwiria: Mr. Deputy Speaker, Sir, we need to be very careful about that. If extra tuition will take time away from the time allocated for children in public schools, and bearing in mind that some parents cannot afford to pay for that tuition, the Ministry would not support that. But, so long as the arrangements are outside the school calendar and time, there is no problem. But if they take away time that is allocated for teaching, it will not be acceptable.

Mr. Bifwoli: Mr. Deputy Speaker, Sir, if you know the story of teachers versus the Government--- First of all, teachers voted for NARC to remove KANU from power because it had refused to pay them. But the NARC Government, after coming to power, has increased the workload of teachers. The few teachers have very many students to teach. The question is: If the same NARC Government refused to implement what it pledged, would it go back to the teachers to ask for support in the next general elections?

Mr. Deputy Speaker: Order! Sit down! You have asked a question and the Assistant Minister can answer that now!

Mr. Bifwoli: The question is---

Mr. Deputy Speaker: Order! You have already asked a question! Do you want me to remind you the question you have asked? Let the Assistant Minister answer!

Mr. Bifwoli: He has not got the question! Can I repeat?

Mr. Deputy Speaker: Order! We cannot have an exchange like that!

Dr. Mwiria: Mr. Deputy Speaker, Sir, I have said that we have done much more than the previous regime, in terms of paying attention to the needs of teachers. That is why we shrunk the period from ten years to six years, and the hon. Member knows that. Teachers are extremely happy with us because we did what the KANU Government could not do! That is why we will be very confident to go back to them in 2007 to support us.

Mr. Kingi: Bw. Naibu Spika, kuna hatari kwamba elimu tunayowapatia watoto wetu sasa ni duni. Hiyo ni kwa sababu waalimu hawatoshi na wale wachache ambao wapo, wanatumiwa kupita kiasi. Tumeiomba Wizara ya Elimu, Sayansi na Ufundi iweze kufikiria kupunguza muda wa kuwalipa waalimu. Waziri Msaidizi anaposema ya kwamba wamepunguza muda, hasemi ukweli kwa sababu makubaliano hayo yalifanyika mwaka wa 1997. Miaka minane imepita. Waziri Msaidizi anafanya nini kuhakikisha kwamba waalimu wanalipwa kulingana na kazi wanayoifanya, na kwa masaa yale wanayoyafanya?

Mr. Deputy Speaker: Before the Assistant Minister answers, I would like to say that when you put your Question in *Kiswahili* you should ask your supplementary question in Kiswahili. If you put your Question in English, you should ask your supplementary question in English. I have been magnanimous and allowed you to ask your question in Kiswahili though. It is out of order and it should not happen again.

Dr. Mwiria: Mr. Deputy Speaker, Sir, we are already doing what we agreed on and that is why we have shrunk the period. If the situation improves, we are willing to re-visit the number of years in which we will fulfil this pledge. As of now, the agreement stands; that there should be payment in six years.

Question No.459

TITLE DEEDS FOR MATUNGULU RESIDENTS

Mr. M. Maitha asked the Minister for Lands and Housing:-

- (a) whether he is aware that the residents of Kingoti and Nguluni sub-locations in Matungulu Division have no title deeds; and,
- (b) when these documents will be released to the people of these two sub-locations.

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

- (a) I am aware.
- (b) I will issue the titles by the end of next year.

Mr. M. Maitha: Mr. Deputy Speaker, Sir, the Assistant Minister must be joking! The

survey work for Nguluni Location was done in 1980 while that of Kingoti was done in 1990. The people of Nguluni have waited for their title deeds for the last 24 years while those of Kingoti have waited for more than 15 years. Why has the Ministry taken that long to issue title deeds which are very valuable to those people?

Mr. Ojode: Mr. Deputy Speaker, Sir, Nguluni Sub-Location or adjudication section, has about 3,266 parcels of land. As we speak, demarcation and survey work is complete. We were waiting for the objection cases which have not been heard so that we can issue title deeds together in Nguluni. As the hon. Member has noted, in Kingoti adjudication section which was declared on 18th November, 1974, it had about 1,275 cases pending. I want to confirm to the hon. Member that I will issue title deeds which are ready as opposed to waiting for cases for the whole area to be heard and determined.

Mr. Rotino: Mr. Deputy Speaker, Sir, we all know that title deeds are very important documents for our people to acquire loans in banks. It has taken more than 15 years for the people in those two sub-locations to get title deeds. What policy has the Ministry put in place to address such problems? Do we have to wait for a Member of Parliament to bring a Question to this House concerning a particular area for the Ministry to issue title deeds?

Mr. Ojode: Mr. Deputy Speaker, Sir, the only problem we have been facing is that when, it reaches the objection stage, quite a number of the people who are involved do not go to the Committee for objections to be determined. That has been the problem. As of now, the objection cases have been heard and we will issue these titles once they have been determined.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say that he will issue title deeds to those areas where adjudication has been done. Since when did the Ministry amend the Act which prevents issuance of title deeds in areas where there are pending cases?

Mr. Ojode: Mr. Deputy Speaker, Sir, I did confirm here that we will issue title deeds once the objection cases have been heard. We will not wait for the whole adjudication area to be done in order for us to issue titles. There are about 56 titles which will be ready sooner than next year. I confirm that I will issue those ones once they are ready.

Mr. M. Maitha: Mr. Deputy Speaker, Sir, the Assistant Minister is going round while answering questions from hon. Members. There are people with land without disputes who have not been issued with title deeds since 1974. Those are very many years. Can they not be issued with their title deeds because the land does not have disputes? Give them title deeds tomorrow!

Mr. Deputy Speaker: Order, Mr. M. Maitha! Give the Assistant Minister a chance to reply!

Mr. Ojode: Mr. Deputy Speaker, Sir, a title deed is not something that can be given just like that without documenting what it entails. The hon. Member should appreciate the fact that we only have 26 cases which are pending. We will give out title deeds for the rest of the 3,266 cases. The hon. Member should appreciate what the Ministry is doing.

Mr. Deputy Speaker: Mr. Assistant Minister, I just want to understand. In an earlier reply, you said that you would issue title deeds even if there were some few cases remaining. Mr. M. Maitha, your last question was about the same thing. Mr. Assistant Minister, are you in a position to issue title deeds to those people whose land has no queries without waiting for cases for the whole area to be concluded?

Mr. Ojode: You are right, Mr. Deputy Speaker, Sir. That is exactly what I said. I said that I have got 3,266 cases and 26 or so appeals to the Minister. I will ignore those appeals to the Minister and issue titles for the ones which are ready.

Cap. Nakitare: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to tell this House that he is holding a few title deeds and yet there are title deeds being held at the District Commissioners' offices? Could he tell us how many of the DCs are holding land title deeds?

Mr. Deputy Speaker: That is not a point of order! That is a question!
Next Question!

Question No.941

TARMACKING OF SUNEKA-
SUMBI-RANGWE-RODI/KOPANY ROAD

Mr. Opoire asked the Minister for Roads and Public Works when he will tarmack the now very busy Suneka-Asumbi-Rangwe-Rodi/Kopany Road.

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Deputy Speaker, Sir, I beg to reply.

(a) There are no immediate plans to tarmack Suneka-Asumbi-Rangwe-Rodi/Kopany Road. My Ministry will, however, continue to maintain the road by carrying out drainage work, spot gravelling and grading whenever necessary.

Mr. Opoire: Mr. Deputy Speaker, Sir, this is a very important road which serves the Suneka Airstrip. It also serves three market centres, two trading centres, a teacher-training college at Asumbi, Asumbi Girls Secondary School, Asumbi Primary Boarding School and Asumbi Catholic Mission. What criteria does the Ministry use to decide which road to tarmack?

Eng. Toro: Mr. Deputy Speaker, Sir, the fact that the Ministry has no immediate plans to tarmack this road does not mean that it will never be tarmacked. Once the current project is completed, the next phase of identifying the roads to be tarmacked will be in place. The Ministry is very much aware of the importance of this road. In Kisii Central, the section of this road is about 11 kilometres long and Kshs580,000 was used during the last financial year for drainage improvement works, which is still going on this financial year. The Homa Bay section of this road, which is from the Kisii Central boundary to Rangwe, is 18 kilometres long, and Kshs700,000 was allocated and it is being used up to August this year.

The Ministry has already allocated Kshs750,000 for Rangwe-Rodi/Kapony section to be used on improvements, gravel patching and drainage works. However, on top of that, this road has been earmarked for Roads 2000 Programme which will be funded by the Swedish International Development Agency (SIDA) and will commence in 2005.

Mr. Waithaka: Mr. Deputy Speaker, Sir, one of the problems that we are experiencing is the classification of roads. According to the classification, a road is classified as either A, B, C or D, or "unclassified". If a road is not classified, sometimes it is very difficult to attract Government funding. I had an opportunity to travel through this road when I was working in Kisii and it is a very busy road. Could the Assistant Minister tell this House in which class this road is?

Eng. Toro: Mr. Deputy Speaker, Sir, this road is classified as Road D215. The condition survey that is being carried out by the World Bank, and which is nearing completion, will do a reclassification of all roads. The important roads will be upgraded. For example, if a road is classified as class D, it will be upgraded to class C and if a road is class C and it warrants to be upgraded to class B, it will be upgraded. There are roads which are not classified at the moment and they require classification. This will be done once the study is completed.

Mr. Opoire: Mr. Deputy Speaker, Sir, could the Assistant Minister undertake to make the road passable as he waits to implement the plans the Ministry has in place?

Eng. Toro: Mr. Deputy Speaker, Sir, we want to ensure that this road is passable and that is why we have allocated all the money that I stated earlier.

Question No.795

ELECTRICITY SUPPLY TO
CHEPKORNISWO TRADING CENTRE

Mr. Moroto asked the Minister for Energy:-

(a) whether he is aware that Chepkorniswo Secondary School and Chepkorniswo Trading Centre, which are only five kilometres from Chepareria Town have no electricity; and,

(b) what urgent measures he is taking to ensure that electricity is supplied to the institution and centre.

The Assistant Minister for energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Chepkorniswo Secondary School and Chepkorniswo Trading Centre have no electricity supply.

(b) The Chepkorniswo Secondary School and Chepkorniswo Trading Centre are not among the five priority projects forwarded from West Pokot to the Ministry in June, 2004. It is, therefore, not possible for the Ministry to give immediate consideration on funding towards the supply of electricity to the aforementioned school and market.

However, plans are under way to extend electricity supply to Bendera Market in Kapenguria Constituency. Survey, design and wayleave acquisition is complete, while tender documents are under preparation to facilitate contracting out the project. It is projected that construction will commence early next year.

In the meantime, priority projects forwarded from West Pokot to the Ministry to be considered for implementation within the next three years are as follows:-

Kabichbich Market/Mission, a health centre and the District Officer's office, St Elias Secondary and Primary boarding schools, Kaptabuk Secondary School and Kapsait Market.

Mr. Moroto: Mr. Deputy Speaker, Sir, it seems as if the Assistant Minister does not understand what is going on, on the ground. Chepkorniswo Secondary School and Chepkorniswo Trading Centre are just within Chapareria. They are less than four kilometres away. The former Minister for Energy, Mr. Raila, visited the school and he donated some computers. He promised to supply electricity to the school up to Ortum.

Mr. Deputy Speaker: Mr. Moroto, I have been patiently waiting for you to ask a question. Now I must intervene and ask you to ask a question.

Mr. Moroto: Mr. Deputy Speaker, Sir, I was just informing the Assistant Minister because he does not understand the issue. When will the school be supplied with electricity? The students are suffering and the computers are just lying idle without being used.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I have explained what I understand. It is for the hon. Member to inform me what I do not understand. However, the Ministry is not dealing with promises that were made during the last few years. We are dealing with new policies and we are implementing what we are able to implement. If the hon. Member is interested, then he can change the list of the priority projects that were forwarded from West Pokot to the Ministry and we shall act accordingly.

Mr. Moroto: Mr. Deputy Speaker, Sir, electricity was to be supplied to Kabichbich and the other areas this year. Chepkorniswo was supposed to be supplied with electricity before the NARC Government took over power. The NARC Government was supposed to continue from where the former Government left. Does it mean that the projects which were initiated by the former Government will not be implemented by the NARC Government?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, the NARC Government does not deal with roadside declarations. If somebody walked into a secondary school and promised to supply the school with electricity without even considering the budgetary allocations, the Government cannot

deal with that.

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

Mr. Deputy Speaker: Order! Mr. Moroto, you are not being fair to the Assistant Minister. You have asked a question, please let him answer. If you have a point of order, you can raise it after he has answered your question.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, it is only good for the hon. Member to relax. If he wants to change the priority projects list that was forwarded from West Pokot, he should come to my office and do so. We have decided to extend electricity supply to Bendera Market even without him asking for it. We can change that. We can look at the priority projects list with the hon. Member.

Mr. Moroto: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House by telling us that the former Minister declared to supply electricity to the said markets and schools by the roadside? It was planned to supply electricity to Chepareria. Chepkorniswo and the surrounding centres were also considered then.

Mr. Deputy Speaker: Mr. Assistant Minister, are you in order?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I am not in order to say that it was a roadside declaration. It is a schoolside declaration. The hon. Member has said that the former Minister for Energy declared it in a school. I have said clearly that we should not deal with politics. If we want to supply electricity to a school, that can only be discussed in an office. We should find out if funds are available. Otherwise, I do not want to please you when I come to your constituency and declare to give you certain things, which are not within the Budget. However, we shall consider that. I will talk to the hon. Member and make sure that, that is done.

Mr. Deputy Speaker: The next Question is by Ms. Mbarire and she had requested that it be deferred. The Question is, therefore, deferred to Tuesday, next week.

Question No.957

MEASURES TO REDUCE UNEMPLOYMENT

(Question deferred)

Now, for the second time we go to the Question by Mr. Kagwe!

Question No.818

LONG-TERM VISAS FOR KENYAN CITIZENS

Mr. Kagwe asked the Minister for Foreign Affairs:-

- (a) whether he is aware that many Kenyans can no longer get long-term visas to the USA and other nations because Kenya has imposed a limited one-year visa on US citizens;
- (b) whether he could inform the House whether there is a financial benefit accruing from this action; and,
- (c) what he intends to do to address this problem as Kenya businessmen and students are being inconvenienced.

The Minister for Foreign Affairs (Mr. Mwakwere): Mr. Deputy Speaker, Sir, I beg to reply.

- (a) It is not true that Kenyans can longer get long-term visas to the USA and other nations

due to Kenya's imposition of a limited one-year visa on US citizens. Kenya has not imposed any new visa regulations on any country, neither has the current application of visa requirement by Kenya on US citizens affected the visa regime that the USA, or other countries apply to Kenyan citizens.

(b) As there has been no change in Kenya's visa regime, there is no financial benefit that has accrued. The income received from visas remains the same in general. It should also be noted that the visa fees are levied for purposes of visa processing and not for their revenue generation *per se*. Proceeds are used as Appropriations-in-Aid at missions. Furthermore, the most important issue in visa matters is not the income accruing to the issuing states, but the security bearing that it has for that country.

(c) Any inconveniences being experienced by Kenyan business people and students cannot be attributed to changes in our visa policy regime. It should be noted that immigration matters and issuance of visas is a sovereign right of all countries which cannot be interfered with by external parties.

Mr. Kagwe: Mr. Deputy Speaker, Sir, it is with a sense of pity that I would like to inform the Minister that he is actually not correct. In the 1990s, Kenya did not have visa requirement for the US citizens and other European nations. In January 2001, Kenya re-imposed visa requirement for tourists from the USA and European nations valid for a period of about three months. In May 2001, the US State Department, in the principle of reciprocity, reduced the visas from five years to one year. On the information that the US State Department has actually requested the Ministry of Foreign Affairs, following questions last year, to actually lengthen the period of visa requirement for US citizens, so that they in turn, can lengthen the period that they are giving Kenyans, particularly students, we have 4,000 students out there who are suffering. Could he, therefore, agree to double-check the information which he has given to this House, because it is simply not true? Following which---

Mr. Deputy Speaker: Order, Mr. Kagwe! I think the Minister got the gist of your statement!

Mr. Mwakwere: Mr. Deputy Speaker, Sir, Kenya's visa regime has not changed and it is as follows: One, we have transit visas for which we have always charged US\$20. Two, we have single entry visas for which we charge US\$50. Three, we have multiple entry visas for which we charge US\$100. For further clarification, single entry visas issued by our missions abroad entitle an individual to stay in Kenya for up to three months. But this is further enhanced by a stamp that is given by an immigration officer at the point of entry. Two, for the multiple entry visas, one can stay in the country for a period of not more than one year. But the issuance of a multiple entry visa must have the approval of the Department of Immigration. We know that the USA also gives multiple entry visas, but they can give up to five years in specific cases, for example, for diplomats or students. We, in Kenya, are not at variance with any other country because it is sort of an international understanding and reciprocity is enhanced in many cases.

Mr. Mukiri: Mr. Deputy Speaker, Sir, I am surprised to hear the Minister say that the policy of the Government is that they do not get any financial value from the application of visas. We know that some countries, for example, Dubai, are developing their economies through money they receive from visas. Could he confirm to this House that he will change that policy, so that this country earns money from visas, as opposed to what he has just said?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, we determine the fees in a manner that would not be prohibitive. Yes, we could take a policy of maximising profit by charging exorbitant fees, for example, US\$5,000 for single entry visa. But that will not be to the advantage of the country for business, tourism or any other factor that you may consider. That is why we say visa fees are for administrative purposes. The amount charged is determined to encourage interaction in business and

other activities that benefit individuals.

Mr. Muriithi: Mr. Deputy Speaker, Sir, I am surprised to hear the Minister say that there is no financial benefit accruing from the issuance of visas. Simple mathematics will tell the good Minister that the British High Commission has got a visa handling company. If you take a simple arithmetic of 50 Kenyans a day applying for visas at Kshs10,000 each, that amounts to Kshs500,000. In 30 days, it will be nearly Kshs16 million. We are literally running the British High Commission. The same applies to the USA visas. Our children pay for the visa applications and in the end they are denied the facility and yet, their parents have already paid over US\$10,000 for fees! We have had a case where a parent could not receive any refund. What is he doing to save Kenyans from losing billions of shillings?

(Applause)

Mr. Mwakwere: Mr. Deputy Speaker, Sir, I would like to make a correction. I did not say that we are not aiming at generating income from the issuance of visas. I said that the purpose is to cover administrative costs, but to determine a figure that will encourage interaction for business and other activities of mutual interest; to allow people to visit our country. Now, the determination of the fees is the sole responsibility of a sovereign state and it is supposed to be the same across the board. We cannot say we will charge, for example, "X" amounts to US citizens and "Y" amount to the rest of the world. It is determined at a level which we know would encourage interaction by business people and the movement of persons freely in the countries that are concerned. But I agree with the hon. Member that countries differ in their assessments and it is not always right to reciprocate and expect to have a healthy ground for encouraging business people and students to move.

Mr. Deputy Speaker: Hon. Members, this Question has taken a lot of time. So, I will allow only two hon. Members to ask their questions.

Yes, Mr. Omingo!

Mr. Omingo: Mr. Deputy Speaker, Sir, this country is being taken for a ride by the Super Powers so to say. We actually submit to their interests. I do not think for once an American has been denied a visa to come to this country. We have opened our borders. Could the Minister now bring up cases of Kenyan citizens seeking to travel on the same level and treatment? We give these people a special treatment as opposed to fellow Kenyans!

Mr. Mwakwere: Mr. Deputy Speaker, Sir, as a summary, I would like to make a clarification, and take a certain level of responsibility. The issue of Kenya's visa regime is governed by the Immigration Act, whose application falls under the Office of the Vice-President and Ministry of Home Affairs. The Ministry of Foreign Affairs simply issues visas and implements visa policies and regulations through its diplomatic missions abroad, on behalf of the Office of the Vice-President and Ministry of Home Affairs; Department of Immigration.

Any proposals for change in visa policies should, therefore, be addressed to the Office of the Vice-President and Ministry of Home Affairs, which will act in consultation with other relevant Ministries and Government bodies. Those include the Office of the President and Ministry of Foreign Affairs. In that context, I shall convey the sentiments as expressed by hon. Members.

Mr. Maore: On a point of order, Mr. Deputy Speaker, Sir. I wish you were not consulting, so that you could have listened to what the Minister has said. He said that the subject matter of this Question should be handled by the Office of the Vice-President and Ministry of Home Affairs and yet, he has been answering it!

Secondly, if that is the position, it is very important to know what happens with the visa charges to the United States of America (USA), the United Kingdom (UK) and India, where we are

losing a lot of money. The duration is very punitive.

Mr. Deputy Speaker, Sir, could we plead for your wisdom, so that this Question is responded to properly? It needs to be deferred and taken to the Office of the Vice-President and Ministry of Home Affairs.

Mr. Deputy Speaker: First of all, if the Minister felt that he was not competent to answer this Question, he should have mentioned that earlier. I take that he is competent because he has answered it.

Mr. Nderitu: On a point of order, Mr. Deputy Speaker, Sir. With all due respect to this House and all Kenyans, I tend to think that it would have been prudent if the Minister brought all the visa rates that are paid to foreign countries by Kenyans, and compare them with rates that are paid by foreigners who visit Kenya. That way, we would be working from a point of understanding. Right now, it is a blanket charge. Kenyans are paying Kshs30,000 for a visa to go to the USA. Some of them do not even get the visas, but the Americans collect the money. Then, they purport to be giving us aid!

(Applause)

Mr. Deputy Speaker: That is a good point, Mr. Nderitu, but you stood on a point of order! First of all, the issue of comparative rates was not the subject. At this point, I think it would be unfair to ask the Minister to bring the comparative figures for all the countries to this House.

Mr. Minister, do you have anything to say?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, the Question dwelt on application and not policy change. But a point of order that touched on policy change was raised. As far as the issue of application is concerned, this Question was sent to the right Ministry; that is, the Ministry of Foreign Affairs. That is because it touched on the application of the Act, particularly in our foreign missions. However, when it comes to change of policy, that falls under the Office of the Vice-President and Ministry of Home Affairs. I only responded so to a point of order.

Mr. Deputy Speaker: Very well!

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. This is an important Question that ought to be answered correctly. The Minister has said that we need to address this Question by looking at the Immigration Act. Could the Minister channel this Question to the right place, so that we can also answer the question of the British people, who have employed a private British firm to fleece Kenyans? We are not getting those visas anyway. We want to know under what Act they are operating. Are they operating under the Immigration Act? Under what Act do we allow foreigners to fleece our people in the name of visa fees?

Mr. Deputy Speaker: Mr. Midiwo, I want you to look at the Question as asked by Mr. Kagwe. It is in the right Ministry. It is the subsequent points of order that are diverting to another area, which is in the jurisdiction of the Office of the Vice-President and Ministry of Home Affairs.

Therefore, on that score alone, I will not defer the Question. If you wish to ask a Question on policy change, you are free to do so.

(Capt. Nakitare stood up in his place)

What is it Capt. Nakitare?

Capt. Nakitare: Mr. Deputy Speaker, Sir, you have answered my question!

Mr. Deputy Speaker: Very well! Mr. Kagwe, please, proceed!

Mr. Kagwe: Mr. Deputy Speaker, Sir, as you are aware, whenever hon. Members travel to the European Union (EU), they are subjected to a system of visa application that is insulting. In

view of what the Minister has said regarding reciprocity, is it possible for him to intervene on behalf of Kenyans, so that visa requirements for foreign nations--- Last week, hon. Members had to go and show their faces at the Swedish Embassy for nothing. They just looked at your face and when they saw you are not handsome, they told you: "Get out!" Could the Minister intervene on our behalf and that of other Kenyans, so that we are treated humanely and with dignity when we apply for visas?

(Applause)

Mr. Deputy Speaker, Sir, there is fleecing in terms of money. If you are given a visa for nine days to go to the Scandinavian countries, and you need to go there again for nine days, they will give you eight days. Could the Minister intervene in that matter?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, where we have cases of Kenyans being humiliated by foreign missions, the Ministry will intervene accordingly.

Mr. Deputy Speaker: Very well! Next Question!

QUESTIONS BY PRIVATE NOTICE

CONTRAVENTION OF PHYSICAL PLANNERS REGISTRATION ACT

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

(a) Is the Minister aware that his decision to appoint Members of the Physical Planners Registration Board through Gazette Notice No.5939 contravened the Physical Planners Registration Act as there was no recommendation from the Architectural Association of Kenya?

(b) Is he further aware that the Kenya Institute of Planners is in the process of administering examinations for registration of planners, which is a breach of the Physical Planners Registration Act?

(c) What action is the Minister taking to rectify the above anomalies?

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Deputy Speaker, Sir, I plead with the Chair to defer this Question to tomorrow because the answer that I have is quite unsatisfactory.

Mr. Deputy Speaker: Mr. Gachagua, can we defer the Question to tomorrow?

Mr. Gachagua: Mr. Deputy Speaker, Sir, while I agree with the suggestion by the Assistant Minister, the same thing happened yesterday. Clearly, the Assistant Minister is running away from answering this Question.

Mr. Deputy Speaker: Mr. Gachagua, do not impute improper motive on the Assistant Minister! I asked you: "Is it okay that I defer the Question until tomorrow?"

Mr. Gachagua: Mr. Deputy Speaker, Sir, it must be okay because I have a written answer which is quite unsatisfactory.

Mr. Deputy Speaker: Very well. Question deferred until tomorrow afternoon.

Mr. Assistant Minister, this Question was deferred yesterday. We are deferring it today for the last time. Tomorrow, Thursday, it has to be answered!

The Assistant Minister for Lands and Housing (Mr. Ojode): Be sure of that, Mr. Deputy Speaker, Sir!

(Question deferred)

Mr. Deputy Speaker: Next Question, Ms. Mwau!

Ms. Mwau: Mr. Deputy Speaker, Sir, this is not the Question I wanted to ask.

(Laughter)

Mr. Deputy Speaker: What is it?

MEASURES TO PROTECT GIRLS
/WOMEN FROM RAPISTS

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

(a) Is the Minister aware that an 18-year-old Form I student died on 1st of November, 2004 at Rift Valley Provincial Hospital where she had been admitted after being gang-raped?

(b) What action has he taken against the culprits?

(c) In view of the increasing number of gang rapes, what is the Minister doing to protect women and girls?

*(Several hon. Members stood
up in their places)*

Mr. Deputy Speaker: What is happening? The Question was directed to the Minister of State, Office of the President! I ask the Minister to come forward!

Prof. Olweny: But she said this is not her Question!

Mr. Deputy Speaker: She finally asked it!

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Deputy Speaker, Sir, there is a problem because, either there is a typographical error, or something else because the Questioner said that the person she is referring to did not die on 1st November, 2004. Therefore, as a result of that error in terms of the date, the hon. Member has requested the Question to be deferred, so that she can ask a proper one. But now, I will answer a different Question and I am ready to do so.

Mr. Deputy Speaker: Ms. Mwau, do you want the Question to be deferred? Is that correct?

Ms. Mwau: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: The Assistant Minister is agreeable. Is that okay, Mr. Assistant Minister?

The Assistant Minister, Office of the President (Prof. Kibwana): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Very well.

(Question deferred)

Next Question!

ISSUANCE OF ID CARDS TO TESO RESIDENTS

Mr. Ojaamong: Mr. Deputy Speaker, Sir, I beg to ask the following Question by Private Notice.

(a) How many people in Teso District applied for identity cards in the years 2002 to 2004?

(b) Could the Minister table the names of those who applied and have already been issued with identification cards in the District within the same period?

(c) What urgent measures is the Minister putting in place to ensure speedy processing of identity cards for the applicants throughout the Republic of Kenya?

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

(a) A total of 9,390 applicants applied for identity cards between January, 2002 and 15th November, 2004.

(b) Out of 9,390 applicants, a total of 9,265 have been registered and issued with identity cards. The names of the applicants are available in the various registration centres. I will table the statistics for each division.

(c) The Government has been deploying mobile registration teams in various parts of the country to supplement the normal registration exercises especially in institutions and other areas that are far from the registration centres. The Government has also upgraded its production system in order to enhance production capacity; that is, the processing of more forms than before.

Mr. Ojaamong: Mr. Deputy Speaker, Sir, I must thank the Assistant Minister for that answer. However, the situation on the ground seems not to tally with what he has just said. Previously, identity cards used to be given on the spot. One would just fill the application forms and after one or two hours one would have the identity card. Now, people along the borders are subjected to vetting committees right from the location, sub location and we even have a national vetting committee. These committees do not even have dates to show when they meet and as a result the processing of forms takes very long. What measures is the Assistant Minister taking to ensure that the vetting committees are disbanded and people are issued with identity cards instantly?

Prof. Kibwana: Mr. Deputy Speaker, Sir, although I am an East African to the core and I believe that East Africa should be one country, the hon. Member will appreciate the fact that as far border districts, divisions and locations are concerned, it is necessary to determine that an identity card is not given to Ugandan, Tanzanian or somebody from a neighbouring country. That is why it is necessary to take more care in terms of ensuring that people who apply are Kenyans. So, that is the reason why it takes longer to get an identity card in the border areas of Kenya.

Mr. Onyancha: Mr. Deputy Speaker, Sir, usually registration clerks give as an excuse the fact that they lack registration forms during the process of registering persons. What can the Assistant Minister put in place to ensure that the forms are available when they are needed by people for registration?

Prof. Kibwana: Mr. Deputy Speaker, Sir, on the whole, when the Ministry undertakes the registration exercise, it ensures that there is adequate material to facilitate registration. We believe that all Kenyans who are 18 years and above must be registered expeditiously. It is actually against the law not to have an identity card if you are 18 years old and above. In some instances, some registration clerks who want to be bribed mislead Kenyans who are in need of the forms. So, it is the Government's policy that when the registration exercise is going on, all materials for that purpose are available.

Mr. Kajwang: Mr. Deputy Speaker, Sir, I also come from an area that shares Lake Victoria with Uganda and Tanzania. We rarely see Ugandans or Tanzanians because they have a large expanse of the lake. However, my people have a problem similar to that facing hon. Ojaamong's people. Who are the best people to know who is a Kenyan and who is not? Is it not from one's mother, father, elders and the Chief? Why do you subject people to unnecessary problems when you have employed a chief, an assistant chief and, in fact, you pay them to do just that?

Prof. Kibwana: Mr. Deputy Speaker, Sir, I can see that hon. Kajwang is more friendly than

usual today. We are friends now. It is important that we accept the fact that there must be a procedure for ensuring that foreigners do not get Kenyan identity cards. It is unfortunate that sometimes that process takes longer than it should. I think, however, hon. Members will agree that we should not register as Kenyans people from other countries. This matter is one which the Ministry is going to look at closely so that we do not subject people who reside along the borders to long periods of waiting. I said before that, by law, when one is 18 years he or she should obtain an identity card; otherwise, one can be taken to court.

Mr. Kombe: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House what is the possible cause of the delays experienced in the issuance of identity cards for applicants who bring to the registration centres identity cards belonging to their parents? Why does it take so long for such people to be issued with identity cards?

Prof. Kibwana: Mr. Deputy Speaker, Sir, if both parents have the identity cards, and assuming that they obtained them properly, their children should not take long to get identity cards.

Mr. Deputy Speaker: Hon. Members, please, appreciate that we still have three Questions to deal with, and yet we have passed Question time. The last question by Mr. Ojaamong!

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

Mr. Deputy Speaker: Order, Mr. Maitha! When you miss a chance to ask a question, you do not turn your question into a point of order.

Mr. M. Maitha: Mr. Deputy Speaker, Sir, you will find that there are orphans who upon attaining the age of 18 years, do not obviously have the identity cards of their parents. What are they supposed to do?

Mr. Deputy Speaker: That is a question!

Mr. Ojaamong: Mr. Deputy Speaker, Sir, the Assistant Minister said that it is not proper for us to give foreigners our identity cards. Because of the good relationship between Kenya and its neighbours; for my case, Uganda and Kenya, men from Kenya have married Ugandan women. Naturally, my society is polygamous; you will find one with three or four Ugandan wives. These are families that stay in Kenya, but they cannot get identity cards, and as a result the Government cannot plan for them. What measures is the Ministry putting in place to simplify the situation? I now have over 50,000 Ugandan women married in my place. They do not have identification cards and so on. What measures is the Ministry going to put in place to ensure that they also get identity cards?

Prof. Kibwana: Mr. Deputy Speaker, Sir, even the issue raised by hon. M. Maitha about orphans who might not have identity cards of their parents is a very important issue. As far as the Ministry is concerned, those who issue the identity cards in the field need to really scrutinise those cases so that Kenyan orphans do not go without identity cards, particularly in this era of rampant HIV/AIDS.

Mr. Deputy Speaker, Sir, I am so much impressed that hon. Ojaamong knows even the number of Ugandan women married in his constituency. He really is a watchful Member of Parliament. There is no shortcut, however. Marriages have to be proved and when that is done through legal avenues, then those persons are entitled to get identity cards.

Mr. Deputy Speaker: Next Question, Mr. Waithaka!

COMPLETION OF MUGUMU-NJABINI ROAD

Mr. Waithaka: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Roads and Public Works the following Question by Private Notice.

(a) Is the Minister aware that the contractor on Road C68 Magumu-Njabini is in the process of leaving the site before successfully completing the works?

(b) Has the Ministry inspected the road and satisfied itself that the contractor has done what he was contracted to do?

(c) What immediate action will the Minister take to ensure that public funds do not go to waste?

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that Kirinyaga Construction Ltd, who is the contractor for Road C68, Magumu-Njabini, is in the process of leaving the site before successfully completing the works.

(b) My officers have been making regular site inspections to ensure that the quality of works being executed is up to specifications.

(c) The project has defects liability period of 24 months upon the substantial completion of the road. During this period, Kirinyaga Construction Ltd will be responsible for maintaining the road and rectifying any defects detected.

Mr. Waithaka: Time and again, this House has been misled by this term: "Defect liability period". When the contractor has done a shoddy job, we are always told that there is the defect liability period, in this case it is 24 months, and they will go to the site and rectify the defect. It is only last month that the Minister of State, Office of the President in charge of Special Programmes told me that Mugoya Contractors will go back to the site and rectify the anomalies in Road C69, and that the defects liability period is supposed to end on 26th November, 2004, which is on Friday and they have not gone to the site.

Because of this misuse of the words "defect liability" period, can this Minister tell us when Kirinyaga Contractors were awarded the contract to do this job, what was the contract value, and when were they supposed to complete doing this job?

Eng. Toro: The contractor was awarded this project on 29th June, 2000. The construction period was supposed to be 18 months and he was supposed to finish in March, 2002. However, there was a variation order which was included and the construction period was extended by 285 days, and it was supposed to be complete by 3rd June, 2004. The contract price is Kshs839,073,170.10.

Eng. Muriuki: There is a tendency of contractors, once a contract has been awarded, to look for all manner of excuses to stay on the site so that they can make all manner of claims and, at the end of the day, you will find that the contract sum has doubled or even tripled. Could the hon. Assistant Minister tell us what the original contract value was and what the variation is now. What has given rise to the rise so that the value has doubled or tripled?

Eng. Toro: Originally, the contract price was Kshs440 million, and this was to cover Magumu-Njabini Road, which was to be constructed to bitumen standard. This also included the Naivasha-Kirima-Donyo Njeru Road. After this was done, there was another vital section of the road which was omitted and it was found necessary to include it; this was the Githioro-Gathavai-Koinange to Karati Road. This section of road was included and the variation order for this section was Kshs389 million, making a total of Kshs839 million, as I had said before.

Mr. Muchiri: Cant the Assistant Minister tell us what the distance from Magumu to Njabini is, where this tarmac road was done? Can he also tell us what other roads this contractor has done in the country, and are they all complete?

Eng. Toro: The initial contract was Magumu-Njabini Road which measured 24 kilometres. The other road which was a variation order is also measuring about 24 kilometres. The contractor has other road works going on, and the one that is now in progress - because the other ones are almost complete - is the Murang'a-Sagana-Marua Road, and the Sagana-State Lodge Road.

Mr. Deputy Speaker: Last question, Mr. Waithaka!

Mr. Waithaka: In his answer to Question (a), the Assistant Minister said that he is not

aware that the contractor is in the process of leaving the site. If he is not aware of that, it means that the contractor is on site. Has the Ministry inspected the road and satisfied itself that it has been complete? Or are they still on site? If they have not given a completion certificate, how much has not been paid to the contractor and what is the retention fee?

Eng. Toro: The substantial completion certificate has not been issued because the final inspection will be done on 17th December, 2004, that is, next month. The work that is remaining is basically putting road markings plus a few other road works. Currently, and as I said earlier, the amount of money that has been paid so far is Kshs735,040,000 as opposed to the contract price of Ksh839 million. The difference is the 10 per cent retention fees, which will be used in case the contractor does not make good the defects that arise during the defect liability period. The contractor is still on site and until the certificate is issued, he cannot leave.

Mr. Deputy Speaker: Next Question, Mr. Mwanzia!

RE-INSTATEMENT OF
COUNCILLOR DOROTHY NDUKU NZIOKA

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

(a) Is the Minister aware that an order was issued by the High Court on 1st October, 2004, to reinstate Ms. Dorothy Nduku Nzioka to her position as a nominated councillor of Machakos Municipal Council?

(b) Why has the Minister not complied with the above order?

The Assistant Minister for Local Government (Mr. Kamanda): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that an order was issued by the Hight Court in October, 2004, to reinstate Ms. Dorothy Nduku Nzioka to her position as a nominated councillor of Machakos Municipal Council.

(b) I have already signed a Gazette Notice of reinstatement of Ms. Dorothy Nduku Nzioka to her position as a nominated councillor of Machakos Municipal Council.

Mr. Mwanzia: I actually appreciate the answer which has been given by the Assistant Minister, though in itself, it is very fake as you have heard. This is a very big issue in Machakos Municipal Council because the councillor who was nominated is always turned away from committee meetings by the clerk when she attends these meetings because she has been re-gazetted. The other legally nominated councillor continues to attend meetings illegally. The Assistant Minister has said he has actually signed the *Gazette Notice*. The Minister has been promising me for the last two months that he will gazette it. I do not believe they have done it. Could the Assistant Minister table the copy of the *Gazette Notice* and the date?

Mr. Kamanda: Mr. Deputy Speaker, Sir, we received the order on the 10th of November. The Minister signed the *Gazette Notice* on the 16th of November. I want to assure the Member that I have the *Gazette Notice* as signed by the Minister and I want to assure him that by Friday, it will be in the *Kenya Gazette*.

Mr. Sasura: Mr. Deputy Speaker, Sir, such incidents are not very new since last year. Could the Assistant Minister confirm or deny that there are over 57 over-nominated councillors in this country who are impoverishing our local authorities?

Mr. Kamanda: Mr. Deputy Speaker, Sir, it is true, and we are compiling the list and the Minister will remove the names of those councillors as soon as we are ready.

Mr. Muturi: Mr. Deputy Speaker, Sir, since the Assistant Minister admits that those over-nominations are illegal, and those councillors illegally over-nominated have been receiving allowances, what action is he going to take to ensure that public funds which were paid illegally to

those over-nominated councillors are recovered and given back to the rightful councillors?

Mr. Kamanda: Mr. Deputy Speaker, Sir, the nomination of councillors is not done by the Ministry. All we do is communicate recommendations from the parties to the Electoral Commission. If the money is to be recovered, then we will ask the parties to refund the money, since they are the ones which initiated the recommendations.

Mr. Deputy Speaker: Hon. Members, look at the clock. I do not want to dwell on this matter. We are now drifting from Machakos to other areas. I will give Mr. Mwanzia the last chance.

Mr. Mwanzia: Mr. Deputy Speaker, Sir, I want to thank the Minister for saying that he has actually signed the *Gazette Notice* on the 16th November. But we have had so many things promised by this Government and they have never been implemented. May I request the indulgence of the Chair to defer this Question to Tuesday when he can actually bring that *Gazette Notice* which has been signed?

Mr. Deputy Speaker: Order! Mr. Kamanda, you were asked to table a copy of the *Gazette Notice*. Would that suffice?

Mr. Kamanda: Mr. Deputy Speaker, Sir, you cannot defer the Question when I have just said that the Minister has signed the *Gazette Notice*, and it is not the responsibility of the Ministry to print it. I can lay on the table the *Gazette Notice* signed by the Minister.

(Mr. Kamanda laid the document on the Table)

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

Mr. Deputy Speaker: Order! Order, Mr. Mwanzia! Are you ordering the Chair? The Assistant Minister has given his word of honour and I do not think there should be any reason to doubt that. He has said that he will table the *Gazette Notice* and he has already done it. So, this should suffice. This is sufficient as far as I am concerned. For the information of Members, it is a schedule revoking nomination of councillors--- But, Mr. Kamanda, this is revocation, not nomination.

(Mr. Mwanzia stood up in his place)

Order, Mr. Mwanzia, Please! The appointment of Nzioka Sera Nzemi is revoked and the appointment of Dorothy Nduku Nzioka is done by this. This is now official record. That is the end of that Question.

Next Question by Mr. Wario!

IMPLEMENTATION OF TANA DELTA SUGAR PROJECT

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

(a) Is the Minister aware that a Kshs24 billion sugar project in Tana Delta is about to commence?

(b) Is he further aware that Tana Delta received international recognition as one of the four priority sites identified in Kenya under the East African Marine Ecosystem?

(c) Is he also aware that the implementation of this project will contravene Sections 42 and 43 of the Environmental Management and Co-ordination Act of 1999?

(d) What action is he taking to ensure that the implementation of the above project complies

with the law?

Mr. Maore: On a point of order, Mr. Deputy Speaker, Sir. If you look at the Question, and given the issue at hand, this investment is in Garsen Constituency. Unless the Member says he has a leg in Garsen Constituency, has he sought consent from the Member for Garsen?

Mr. Deputy Speaker: Order! Mr. Maore, you have been here long enough. You know that any Member can ask a Question from any part of the country. Therefore, if you wish, you can ask a Question on Mwingi South. I think the Chair has ruled in the past that no Member owns a constituency.

(Applause)

The Assistant Minister for Environment and Natural Resources (Prof. Maathai): Mr. Deputy Speaker, Sir, I have spoken to the Member and I would like to request that I be given time to answer this Question, perhaps, tomorrow or even on Tuesday, because there are certain issues I would like to clarify.

Mr. Wario: Mr. Deputy Speaker, Sir, with due respect to Prof. Maathai, I have a comprehensive answer and I am very happy about it. Could I ask the Assistant Minister to just read it?

Mr. Deputy Speaker: But the Assistant Minister must have a reason to want not to answer now. She says that she consulted you. That is not the first time where a Minister consults a Member.

Mr. Wario: Mr. Deputy Speaker, Sir, it is true I talked to the Assistant Minister.

Mr. Deputy Speaker: I will defer it to tomorrow afternoon.

(Dr. Godana stood up in his place)

Will you sit down, Dr. Godana? We will listen to the Member on the Floor!

Mr. Wario: Mr. Deputy Speaker, Sir, I have a very urgent issue in my constituency tomorrow and I will not be around.

Mr. Deputy Speaker: How about Tuesday?

Mr. Wario: That is all right.

Mr. Deputy Speaker: Very well.

Dr. Godana: Prof. Maathai, *chungu sana*. You have a reputation of an international award!

(Question deferred)

POINTS OF ORDER

ALLEGED CORRUPTION AT KENYATTA NATIONAL HOSPITAL

Mr. Omingo: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Ministry of Health regarding alleged corruption at Kenyatta National Hospital (KNH).

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! Could we give attention to the hon. Member on the Floor? Proceed, Mr. Omingo!

Mr. Omingo: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Ministry of Health regarding alleged corruption at KNH. I would like to know what action the Minister has taken in view of the recently released report by the task force. Do we have directors of KNH who are still in office while investigations are on going, while others are sent home? What was the role of the director in office during the time the task force was conducting its work? I expect the KNH to be a nucleus and centre of excellence for the pilot proposed programme of the National Hospital Insurance Scheme (NHIS). I expect the Minister to come to this House and explain the status of that issue.

Mr. Deputy Speaker: Does any Minister here wish to take the brief to the Minister for Health?

The Assistant Minister for Energy (Mr. Kiunjuri): I will inform the Minister.

Mr. Deputy Speaker: Mr. Kiunjuri, the Ministerial Statement should come next week.

REHABILITATION OF OL JORO
OROK - DUNDORI ROAD

Eng. Muriuki: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Roads and Public Works with regard to the rehabilitation works on Road C383, Ol Joro Orok-Dundori Constituency---

Mr. Deputy Speaker: Order! Eng. Toro, are you listening? This is a Ministerial Statement being sought from you! Eng. Muriuki, if you may, please, repeat!

Eng. Muriuki: Mr. Deputy Speaker, Sir, I wish to seek a Ministerial Statement from the Minister for Roads and Public Works on the status of the contracted rehabilitation works on Road C83 Ol Joro Orok-Dundori, in Ol Kalou Constituency. This road is in very bad condition. Last year, over Kshs70 million was supposedly spent on it to make it all-weather standard. Even now, some portions are totally impassable. In the Ministerial Statement, the Minister should tell the House if he is satisfied that the specifications were followed; the name of the contractor, the contract price, and how much out of the contract price has actually been paid. He should also tell us whether he is aware that two inspections were actually carried out before the contractor left the site. Was a completion certificate issued? He should also tell us if he is satisfied that, that completion certificate should have been issued.

Finally, he should tell this House the steps he is taking to ensure that the road is actually repaired to the intended standards, and the action he is taking to blacklist both the consultant and the contractors who were responsible for the mess on this road after millions of public funds were spent.

(Mr. Kamanda withdrew from the Chamber)

Mr. Mwanzia: Mr. Deputy Speaker, Sir, it looks like the Assistant Minister has just walked out of the Chamber even before I seek the Ministerial Statement.

Mr. Deputy Speaker: There are many Ministers here who will inform him.
Proceed!

CAUSE OF FREQUENT FIRES
IN MACHAKOS TOWN

Mr. Mwanzia: Mr. Deputy Speaker, Sir, I stand here actually to remind the Minister about a Ministerial Statement I sought on 10th November, 2004, with regard to a fire incident in

Machakos District. I am complaining because Mr. Mungatana said he would inform the Minister and, probably, he has not. Mr. Kamanda has also just walked out of the Chamber. So, I do not know who will inform the Minister about this issue.

Mr. Deputy Speaker: Mr. Mwanzia's complaint is justified. He asked for a Ministerial Statement---

Mr. Mwanzia: Mr. Deputy Speaker, Sir, it is now three weeks since I---

Mr. Deputy Speaker: Order, Mr. Mwanzia! We are in Parliament!

Mr. Mwanzia asked for this Ministerial Statement on 10th November, 2004. I remember very well that the Minister was not in the House. However, Mr. Mungatana undertook, like Mr. Kiunjuri is about to do, to inform the Minister for Local Government. Now, up to now, the answer has not come.

Mr. Kiunjuri, will you, please, take over the responsibility?

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Deputy Speaker, Sir. I would like to seek clarification from the Chair. I remember that when I was a Back-bencher, when seeking for a Ministerial Statement, there was a form from the Clerk that one had to fill and submit to the Minister concerned for action. If that procedure has not changed, I think that is the route Mr. Mwanzia should follow.

Mr. Deputy Speaker: Mr. Katuku, I think you are referring to the zero-hour. However, Ministerial Statements are simply asked verbally. If the Minister is not very sure, he could get a copy of the HANSARD and know exactly what the hon. Member wanted.

Mr. Kiunjuri, will you take over the responsibility?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I would like to assure Mr. Mwanzia that I am now the Acting Leader of Government business. Therefore, that will be done.

(Laughter)

Eng. Muriuki: On a point of order, Mr. Deputy Speaker, Sir. With all due respect, the Assistant Minister for Roads and Public Works did not commit himself to giving my Ministerial Statement.

Mr. Deputy Speaker: All right! Eng. Toro, what do you have to say?

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Deputy Speaker, Sir, the Chair moved very fast and went to Mr. Mwanzia. I will give the Ministerial Statement on Tuesday, next week.

Mr. M. Maitha: On a point of order, Mr. Deputy Speaker. Is it in order for Mr. Kiunjuri to say he is the Acting Leader of Government Business when we know he is not?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, now that I am taking up the responsibility, then I am only acting unless we have another dictionary meaning of the word "acting".

Mr. Deputy Speaker: I am sure Mr. Kiunjuri said that with a light touch because we all know who the Leader of Government Business and his Deputy are. The matter is finished.

There are no more Ministerial Statements today. So, let us move to the next Order.

BILL

Second Reading

THE BANKING (AMENDMENT) BILL

*(The Assistant Minister for Finance
(Mr. Katuku) on 17.11.2004)*

*(Resumption of Debate interrupted
on 23.11.2004)*

Mr. Deputy Speaker: Mr. Wamwere, you were last on the Floor. You have 15 minutes to finalise your contribution.

Mr. Wamwere: Bw. Naibu Spika, jana nilisema kwamba benki ni kama gala la nchi. Tunahifadhi utajiri wetu katika benki zetu. Kwa sababu hiyo, haifai benki zetu kumilikiwa na wageni. Katika nchi nyingine, benki hazimilikiwi na wageni. Kwa hivyo, ni makosa kwetu kujaribu kufanya hivyo. Kumilikisha benki zetu kwa wageni ni sawa na kujitia kitanzi tufe kiuchumi, au ni sawa na kujiuza kiuchumi kwa wageni. Hiyo ndio maana ya ukoloni mamboleo.

Bw. Naibu Spika, jambo lingine ni kwamba Benki ya Dunia haifai kututawala. Kwa hivyo, haifai kwa mwakilishi wa benki hiyo hapa nchini, Bw. Diop, kutoa matamshi kama yeye ndiye gavana mpya wa Kenya ambaye ana mamlaka ya kutuagiza tufanye hili na lile. Kweli tunatambua umuhimu wa Benki ya Dunia, lakini mamlaka ya kuongoza nchi hii yamepewa Rais. Pia Rais mwenyewe hawezi akamwachia mtu mwingine mamlaka hayo, kama vile Bw. Diop, ili atuamrishe mambo ya kufanya ya na kutofanya kwa sababu tunahitaji pesa za wafadhili. Kuna wakati ambao ni afadhali kuwa maskini kuliko kutawaliwa na wageni. Isitoshe, kama ilivyosemwa jana na mheshimiwa mmoja hapa, hakujapatikana nchi yoyote ambayo imeendelea kwa kutegemea misaada ya Benki ya Dunia au ya wafadhili wengine. Hili ni jambo ambalo watu wengi hawalielewi na hawataki kulizingatia kwa makini.

Bw. Naibu Spika, jambo lingine ambalo ningemwuomba Waziri alizuie kupitia Mswada huu tunaoujadili ni kuwa Wakenya wasifanyiwe utapeli wa kutozwa ada bila ya kujulishwa na benki tulizo nazo nchini. Ningetaka kutoa mfano wa wakati mmoja ambapo nilienda kununua dola za Marekani katika benki moja hapa nchini. Kulingana na magazeti, bei ya dola siku hiyo ilikuwa ni Kshs80. Lakini nilipoingia katika benki moja hapa nchini, waliniambia ya kwamba walikuwa wakinunua dola moja kwa Kshs78. Hapo nikanunua US\$1,022. Wakati nilipokabidhiwa stakabadhi ya malipo ambayo nilikuwa ninadaiwa baada ya kununua hizo dola, nilishangaa sana kuona ya kwamba badala ya kuuziwa dola kwa bei ya Kshs80, nilinunua kwa bei ya Kshs73.50. Sikuweza kuamini macho yangu. Niliwauliza: "Inawezekanaaje ninunue dola kwa bei ambayo ni tofauti na ile iliyo magazetini? Kwa nini kuna bei moja ambayo mmetangaza gazetini, na nyingine ambayo ni tofauti kabisa?" Wakasema hili ni jambo ambalo linafanyika, lakini kwa maoni yangu, huu ulikuwa ni utapeli mtupu na Wakenya wana haki ya kulindwa kutokana na utapeli wa aina hii. Kwa muda wa dakika chache, benki hii iliweza kunitengeneza faida ya zaidi ya Kshs6,000 pasipo ya kuhesabu riba ambayo walikuwa wanaitoza. Sioni namna tunaweza tukastawi au hata tukapona kiuchumi kama mtu akiingia kwa benki, benki inaweza kufanya faida ya Kshs5 hapo kwa hapo wakati benki haifanyi kazi yoyote isipokuwa kuwa na mtu nyuma ya kaunta!

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

Bw. Naibu Spika wa Muda, kama kazi zote zingekuwa zinaleta faida ya aina hii, watu wengine wangukuwa wanaishi "mbinguni". Na ni kweli, hata sasa, wanaomiliki mabanki kwa kweli wanaishi "mbinguni", lakini wanaishi "mbinguni" kwa sababu wametutupa katika jehanamu. Ile faida inawapeleka "mbinguni" ndio inatusukumiza sisi katika jehanamu na mabanki hayamo nchini kwa hiyo kazi. Ni jambo muhimu sana Waziri kuelewa ya kwamba ni jukumu kutolea Wakenya

ulinzi kutokana na utapeli huu wa mabenki. Mimi wakati mmoja nilifanya kazi na benki na wakati ule singeamini ya kwamba mabenki yana kazi nyingine kama ile ya kutapeli wateja; lakini, kwa kweli, kazi hiyo iko, na ni jambo ambalo linastahili kusimamiwa na kuzuiwa lisiendelee.

Bw. Naibu Spika wa Muda, jambo lingine ambalo ningetaka kugusia ni kuuliza Waziri asiachie mabenki uwezo wa kusimamia ada za huduma kwa sababu akifanya hivyo, atakuwa anapatia mabenki uwezo mkubwa sana wa kunyonya wananchi. Ninaweza kusema ya kwamba Waziri asipobaki na uwezo huo na auweke mikononi mwa mabenki, wananchi wa Kenya wawe tayari kunyolewa bila maji. Ninasema hivi kwa sababu, kwanza, nadhani ni kinyume cha kanuni za biashara mtu kutozwa ada bila ya kuelezwa mapema na bila ya kuambiwa anatozwa ada hiyo kwa huduma gani. Lakini ukitazama, kama mteja, ile karatasi anayopewa mtu na mabenki, utagundua ya kwamba pahali pengi umetozwa ada ambazo hujui zilichukuliwa kwa sababu ya huduma gani.

Bw. Naibu Spika wa Muda, kuna wakati ambao mimi nimejaribu kutoa pesa nikitumia mashini ya ATM ya benki moja hapa nchini - na kusema kweli benki yenyewe ni Kenya Commercial Bank (KCB) - nikakuta ile mashini haifanyi kazi. Halafu wakati niliona haifanyi kazi nikaingia katika benki. Nikachukua ile karatasi yao ya kutolea pesa ili nitoe pesa. Nilishangaa ya kwamba ingawa ni mashini ambayo ilikuwa haifanyi kazi, wakati nilitoa pesa nikitumia ile karatasi yao, nilitozwa Kshs300 hapo kwa hapo na kwingineko ukitumia hiyo karatasi ya kutolea pesa, unatozwa Kshs500. Huu ni wizi wa wazi kwa sababu mtu hakuchagua kutolea pesa ile karatasi kama sio kwamba umeingia pale ukakuta ya kwamba hii mashini ya benki haifanyi kazi.

Na kama benki inaweza kuruhusiwa iwe inatoza watu pesa kiasi hicho cha Kshs300, Kshs500, zinaweza kuwa si pesa nyingi sana kwangu, lakini ukichukua mwananchi wa kawaida kama mamangu, anakwenda benki kutoa pesa tuseme Kshs1,000, halafu pale anatozwa Kshs500 kwa sababu ile mashini ya benki haifanyi kazi na ni lazima atumie ile karatasi ya kutolea pesa; huwezi kusema benki hizo tunazo ili zituhudmie. Utasema ya kwamba kazi yao kubwa ni kutunyonya na kutuibia. Wakati mwingine, benki hiyo hiyo--- Hatujui kama Waziri anasikia au anajali kwa sababu kitu kimoja ambacho kimefanya tunyonywe na tumalizwe nchini ni kuwa na Mawaziri ambao hawajali. Hata ukiongea, wana mazoea ya kusema: "Wacha waseme, watachoka. Hii ni sauti ya vyura. Vitapiga kelele na vitakuja kunyamaza siku moja." Unashindwa wanachukua msimamo huu kwa sababu wanaajiriwa kazi na nani? Wanaajiriwa kazi na wananchi au na mabenki haya?

Bw. Naibu Spika wa Muda, ningetaka Waziri ajue kwamba mimi ninahesabu kama wizi kama nitafungua akaunti na tawi moja la benki, halafu nikienda kwa tawi lingine nitake kutoa pesa, na ni benki ile ile, eti kwa kutolea pesa tawi ambalo ni tofauti na lile ambamo nilifungilia akaunti, ninatozwa Kshs600. Huu ni wizi! Benki ni ile ile. Umetoka kwa tawi moja na umekwenda kwa tawi lingine. Pesa ni zako. Pesa hizo wanazichukua na kwenda kuzikopesha kwa watu ambao wanalipa riba, lakini kwa sababu humo katika lile tawi ulimofungulia akaunti unatozwa Kshs600. Huu ni wizi ambao unafaa kukomeshwa kwa sababu unapoweka pesa katika benki, una haki ya kuzitoa pasipo ya kuadhibiwa.

Bw. Naibu Spika wa Muda, jambo lingine ambalo linanishangaza ni kwamba sisi kama wateja wa benki, unakwenda unanua kitabu cha hundi, tuseme 50 au 100, lakini wakati unataka kutumia hiyo hundi kutolea pesa, tena unatozwa Kshs100 na huko kwanza ulinunua kitabu cha hundi na pesa. Ni kama unanunua kitabu na ukaenda ukakiweka nyumbani. Ukiandika hundi hiyo uipeleke kwao wakupe pesa, wanakutoza Kshs100. Wale ambao wanaweza kupona unyonyaji wa aina hii labda ni mabilionea tu pekee yake. Nikiongea juu ya mabilionea, ningetaka kusema ya kwamba kuna haja kubwa ya ofisi ya Gavana wa Benki Kuu ya humu nchini kuwekewa ulinzi wa kikatiba ili isitumiwe vibaya na wanasiasa.

Bw. Naibu Spika wa Muda, wale wengine wetu ambao tumekuwa tukisikiza uchunguzi ambao unaendelea wa kashfa ya Goldenberg tumesikia namna magavana wa Benki Kuu, Cheserem na Kotut, walivyotumiwa kwa makosa na Rais mustaafu, aliyekuwa Makamu wa Rais, Mawaziri

wake na marafiki zao, kuibia Benki Kuu mabilioni ya shilingi. Imani yangu ni kwamba uchunguzi huu unafanyika ili kuzuia kashfa nyingine kama hii isitokee nchini. Lakini ukiangalia Tume ya Bosire inavyofanya kazi, ni wazi ya kwamba hii tume haiwezi kusaidia kuzuia kashfa nyingine ya Goldenberg isitokee. Ninasema hivyo kwa sababu tunajua ni mabilioni ya shilingi ambayo yalipotea. Tunataka kufuata pesa hizi mpaka zipatikane. Uchunguzi unatolewa. Watu wametajwa ambao ndio wahusika wakubwa, akina Rais Moi, Mudavadi, Saitoti na Kulei. Watu wengi wametajwa halafu tunaambiwa na Tume hii ya kwamba hawa wahusika wakuu ambao wanatakiwa waende pale kutoa ushahidi watueleze namna walivyosaidia wizi ule kufanyika, eti hawawezi kuitwa kwa Tume wakatoa ushahidi mbele ya tume, wakahojiwa ndio tuweze kupata ukweli.

Ule mchezo ambao unaendelea hapa ni mchezo wa panya na paka. Hata wale wetu ambao sio mawakili, tunajua ya kwamba jambo ambalo tutaambiwa mwishowe ni kwamba mambo haya aliyehusika nayo ni mtu mmoja tu anaitwa Kamlesh Pattni. Ndiye peke yake alifanya wizi, na wengine wote hawana makosa ya kwamba walipokea zawadi za mamilioni ya shilingi.

Bw. Naibu Spika wa Muda, hili jambo linaweza kuangusha kabisa ile juhudi yote inayofanywa kupigana na ufisadi nchini. Na litalitea nchi hii huzuni kubwa. Ninaomba sana mambo hayo yasije yakafanyika, kwa sababu, hatutaweza tena kuamini ya kwamba Serikali hii ina haja ya kupigana na ufisadi, tofauti na Serikali ambayo ilitolewa wakati wa uchaguzi.

Jambo lingine ambalo ningetaka kugusia ni kwamba, wakati benki zinapofilisika---

Kwa hayo machache, ninaunga mkono Mswada huu.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, in supporting this Bill, I have the following comments to make. The first one is that, it is a very good move to transfer the many functions that were being undertaken by the Minister to the Central Bank of Kenya (CBK). That is a step in the right direction. You will find in the body of the proposed Bill that very many functions, that as of now are undertaken by the Minister for finance, are being transferred to the CBK. However, while that is a step in the right direction, we need to clarify a number of matters. The first one is that the Governor of CBK must enjoy constitutional security of tenure and not just security of tenure granted in the CBK Act. The Governor is a very key position and he should be able to come up with policies that are best for the nation without caring about the political expediencies of the day. For him to be able to do that, he must enjoy constitutional security of tenure.

Mr. Temporary Deputy Speaker, Sir, let us not go in reverse order. Let us get the sequencing correctly. It is not enough to give the Governor constitutional security of tenure. Before we do that, we need to clarify confirmations of important public positions, particularly constitutional positions like the Governor of CBK; we must have in place tight mechanisms for ensuring that the correct individuals; men and women, are given these positions. What I am saying is that, while it is good to have transferred powers and functions from the Minister to CBK, we should now complete the whole work by quickly moving in to identify all public positions that the law can now say, from now on, these positions cannot be filled without the individuals in question being vetted by Parliament.

*(Mr. Musila crossed the Floor to greet
Mr. Ogur without bowing to the Chair)*

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to interrupt Mr. Muite, but something has happened here that I want to draw the attention of the Chair to. I was talking to Mr. Musila, who is the Deputy Speaker of this House, and he crossed the Floor and shook hands with Mr. Ogur without bowing to the Chair. Is that in order?

Mr. Ogur: The Chair did not see that!

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Ogur! Were you greeted by the Deputy Speaker?

Mr. Ogur: Mr. Temporary Deputy Speaker, Sir, for more than a week-and-half, I have not seen the Deputy Speaker. I was wondering, and I have not been---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Ogur! I asked you whether he crossed the Floor to greet you!

Mr. Ogur: Mr. Temporary Deputy Speaker, Sir, I am building up--- However, you were not in the Chair at that time and, therefore, you did not see him. But my hand was shaken!

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Ogur! Give a short answer; either "yes" or "no". I am sitting on the Chair!

Mr. Ogur: Mr. Temporary Deputy Speaker, Sir, yes, he shook my hand. Could I also apologise on behalf of the Deputy Speaker?

The Temporary Deputy Speaker (Mr. Khamasi): If that is the case, then the Deputy Speaker crossed the Floor without bowing to the Chair. When he comes in next time, we will request him---

(Mr. Ogur stood up in his place)

Order, Mr. Ogur! Can you go back to your place? You cannot start any movement when the Speaker is talking.

Mr. Ogur: I am sorry, Mr. Temporary Deputy Speaker, Sir. I am making too many mistakes!

(Laughter)

The Temporary Deputy Speaker (Mr. Khamasi): We will request the Deputy Speaker to do the right thing when the House resumes tomorrow.

Proceed Mr. Muite!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, it would have assisted the Chair tremendously, and this House as well, if the Assistant Minister was quick to draw the attention of the Chair in time, before the hon. Member went out.

The Temporary Deputy Speaker (Mr. Khamasi): You are right, Mr. Muite!

The Assistant Minister for Finance (Mr. Katuku): I could not believe it!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the point I was making was that while this transfer of functions and power is a step in the right direction, we must do two things; we must ensure that the Governor of the CBK is created as a constitutional position with constitutional security of tenure. However, that is not enough. In fact, it could compound the problem if we gave the wrong person security of tenure. Any constitutional office that requires security of tenure must be preceded by carefully worded vetting procedures. In this country, one of the ways in which excessive powers in the institution of the Presidency have been abused, it is with regard to appointments. You can today be an Inspector of Police, and the President, tomorrow, without consulting anyone, can announce that you are the Commissioner of Police. The manner in which key public positions have been given has manifested itself as the worst form of abuse of power.

Mechanisms and procedures for Parliament to vet these important positions must now precede the granting of constitutional security of tenure to the Governor of CBK. Any person whom the Government and President of the day wishes to appoint as Governor of the CBK must have his or her name submitted to this House. The law should be worded to say so, so that Parliament can vet the track record, knowledge and criteria. The law must make it quite clear that once this House has said no to a name brought to this House by the President, then that should be the position. That

should be the end, and the President will have to bring another name. As long as the President knows that this House has the authority to reject an appointment, then he will be obliged to consider merit and ability as the only criteria for bringing names to this House. This is because he will know that if the suggested appointee does not have the necessary qualifications, or *ana kasoro*, he will know that the name will be rejected by this House.

That will be very balancing, and there must not be any doubt about that. We must adopt the position adopted by the Senate. If the President wishes to appoint an ambassador even to a country like Kenya, the name of the appointee goes to the Senate. There are many people who know that they have got skeletons in their cupboards. So, they privately go and tell the President to withdraw their names. They know that if the matter is debated in Parliament, they will be undressed. Those skeletons will be laid on the table. That is the only way to ensure that only suitable persons get those appointments.

So, let us get the law regarding vetting clear. That is how you devolve power between the institution of the Presidency and Parliament. It is for the President to bring forward names of the person he wishes appointed in a particular place. It is the power of the House to say "yes" or "no". If the House says "no", the matter rests there. The President has to bring another nominee. As long as that balance and checks mechanism is in place legally, we will get correct persons being appointed as Commissioner of Police, Director of Criminal Investigation Department (CID), Permanent Secretaries and ambassadors.

We must have in the new Constitution, a complete list of key public positions, which as per the law cannot be filled without the authority of this House. Once that is in place, we will have a name here, do the vetting and approve the appointment. We will, for instance, approve the appointment of a suitable person as Governor of Central Bank of Kenya to run that institution for the benefit of the country, and not at the direction of the Government or President of the day. That is how this country will advance. That is the kind of person who should then enjoy constitutional security of tenure.

There is nothing more dangerous than appointing an incompetent officer, or even a judge, and give him constitutional security of tenure. It becomes very difficult to remove such a person from office. So, we should, first, have in place a law relating to parliamentary approval, and then provide for constitutional security of tenure. Once that is done, the provision for transferring these functions from the Minister of Finance to the CBK is a step in the right direction.

Mr. Temporary Deputy Speaker, Sir, the other issue I would like to draw the Minister's attention to is the proposed amendment in Clause 17. He is introducing what in common parlance is called the *In Duplum* Rule. That is the maximum amount recoverable by commercial banks in respect of a bad debt or non-performing debt. Put simply, it is double the amount. If you borrow Kshs5 million and you default, when this Bill becomes law, the maximum amount that can be recovered from you will be Kshs10 million. If you borrow Kshs10 million, the maximum amount recoverable from you will be Kshs20 million, as opposed to the present situation where individuals borrowed Kshs1 million and, today, they are being asked to pay Kshs40 million.

Unless the issue of bad debts is resolved, this country's economy will not recover. It is not the fault of the borrowers. There are many Kenyans who borrowed money when the interest rate was 15 per cent. They did not foresee, whatsoever, that the interest rate would jump from 15 per cent to 40 per cent. In the early 1990s, bank interest rates even shot up to 70 per cent. Which legitimate business would generate income to repay a loan if the interest being debited is 70 per cent, in addition to other charges and penalties? All that happened because of the Goldenberg rip-off. The banks knew what was happening. They were not innocent by-standers. They knew about this matter, but they kept quiet and allowed customers to borrow, knowing that there was going to be havoc in interest rates.

Incidentally, in most countries, Kenya included, if you borrow money from, for example, the

Housing Finance Company of Kenya (HFCK), they do what is called a sensitivity test. The test is done on the basis of your salary and other income. If you are going to spend more than one-third of your salary or income repaying the loan, they will tell you that you do not qualify. They will tell you that on the basis of your salary alone, you do not qualify for this loan to buy a house. So, they ask you to tell them your wife's salary, so that the two can be combined. They know that if you are going to spend more than one-third of your salary in repaying the mortgage instalments, you are likely to default. Mr. Temporary Deputy Speaker, Sir, the point I want to make about the sensitivity test is that when they calculate to see whether you can repay the loan; if at the time of the loan application, the interest rate is 15 per cent, for example, the sensitivity test says that the worst case scenario is that the interest rate could go up three percentage points. So, they will do their calculations on the basis of the worst case scenario, that the interest rate could go up from 15 per cent to 18 per cent. That is because, in most civilised economies - and one would like to think that Kenya is a civilised economy - there is no situation where interest rates go either way more than three percentage points. If you do that, you disrupt the entire economic strategies and planning. So, the worst case scenario is that at the time of borrowing, interest rates, if the worst happens, could go up by 3 per cent. There is no economy which can foresee that the interest rates will increase from 16 per cent to 50 per cent, and to 60 per cent. The borrowers were innocent. So, I support this clause. There are some amendments we have discussed with the Departmental Committee on Finance, Planning and Trade, which will be proposed when we get to the Committee Stage. So, I need not go into them.

Mr. Temporary Deputy Speaker, Sir, I would like to draw the attention of the Minister to Clause 17, which is about the *In Duplum* Rule. I would like to remind the Minister that provisions identical substantially to what is proposed now in Clause 17 are the laws contained in the Central Bank of Kenya Amendment Act, 2001, commonly known as the Donde Bill. It had identical provisions. The Donde Bill was debated in this House, received Presidential assent and became law. However, the banks formed a cartel and filed litigations, which stalled the full implementation of the Donde Act. The Minister should avoid a situation where we will have this law in place and have the same provisions in the Central Bank of Kenya Act, 2001. When this Bill becomes law, we should repeal Section 38(A) of the Central Bank of Kenya Act, which inserted the Donde Bill. It should be repealed because its purpose will have been taken over correctly under Clause 17 of this Bill.

Mr. Temporary Deputy Speaker, Sir, the other area where I would urge the Ministry to be very careful is the role of big multi-national banks. You remember not too long ago, when we had the "Dream Team", one person working for Barclays Bank was appointed the Permanent Secretary in the Treasury, as part of that team. In those days, it was like Barclays Bank was running the Central Bank of Kenya (CBK). No sovereign nation can afford to have the policies of its central bank being influenced and directed by a multi-national. We ask this Government to develop a comprehensive banking policy. If you go to Indonesia, where they have a fairly comprehensive banking policy, they cannot permit a foreign bank to have more than one branch. We have a situation where Barclays Bank, Standard Bank and one or two others banks combined are controlling well over 70 per cent of the money in this country. What sovereignty can we claim to have? We are not in control of the reservoir of available money. A lot of money is controlled by banks and insurance companies. If we are going to move towards Independence, then we have got to look internally into ourselves. Let us learn from examples of countries that have gotten to their feet.

Mr. Temporary Deputy Speaker, Sir, today, Singapore is the third largest refiner of petroleum in the world. They do not produce any petroleum, but they are the third in terms of volumes. They have very efficient refineries. They have high-tech information technology and modern financial centre. Yet, in 1965, the Gross Domestic Product (GDP) of Kenya was way above that of Singapore. What happened in 1965 is that the economy of Singapore was 90 per cent

dependent on the British military camps that were in Singapore. The Government of Harold Wilson wanted to close those bases. There was a delegation to Britain led by all the leaders, including the Prime Minister of Singapore, to go and beg on their knees that the British battalions and the army should not be removed from Singapore, because it was the under-pinning of the economy of Singapore. Harold Wilson refused and told them that the only thing he could do was to give them three years to be on their own. When they went back to Singapore, they consulted and decided to be economically and commercially self-independent. They have achieved that by coming up with strategies to utilise what they have. They are now part of the first world, economically.

Mr. Temporary Deputy Speaker, Sir, it can be done and we must do it. But we need to think outside the box. We need to be innovative and radical in the management of our economy. The starting point is to have a policy on banking. Do not think that Barclays Bank and other multi-national banks are ever going to develop this country for you. Their objective is to make maximum profits for their shareholders and you cannot blame them for that! In fact, during those days of 70 per cent interest rates, that was the first time that Barclays Bank declared they had made a profit of more than Kshs1 billion. Today, they count their profits by Kshs2 billion and above. So, we need to have a policy on banking. I am asking the Government to watch very carefully because there seems to be a conspiracy by multi-national banks to ensure that small banks go under, so that they completely control the banking industry in this country, in a cartel-like kind of fashion. That is something that needs to be watched very carefully. The CBK must not be used to bring the small banks down. They have a vital role to play in servicing the small person, the small and medium industries, who the big multi-nationals treat like dirt. Can you imagine that today, if you go to Barclays to deposit some money, you have to pay. It is your cash, but the first thing they do is to take your money because you have deposited. All that is because of the monopoly they have on banking. If we allow them, through remote control, to influence things and kill the small banks, we will be doing a disservice to the economy and the people of this country.

The other area which the Government must watch very carefully are the plans which are afoot for the acquisition of the National Bank of Kenya (NBK) and Kenya Commercial Bank (KCB). We know that those institutions have been run very badly in the past. But that is a disease! Let us correct them by giving competent people positions to manage the banks, clean up the staff there and engage people who know banking, so that they can be run purely on commercial basis. We should not allow the taking over of those two assets that belong to the nation. We should not allow them to be taken over by multi-nationals.

With those few remarks, I support the Bill.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, I want to say a few things regarding this Bill and, to a large extent, support what Mr. Muite has said about the banking industry in this country. Unless we are very careful, it is banking that will build or destroy this country. That is the policies of banking in this country. Just before the 1992 elections, there were some controls. If you went to a bank to borrow a loan, you could only be charged about 15 per cent. If you went to a financial institution, you would be charged not more than 19 per cent. The bank would give you money on the basis that, if you were to take that money for a period of two years, and after looking at your revenue projections, you could be able to pay. If they were not satisfied that you were likely to pay from your projections, they would not give you the money. Of course, they would also take security which, sometimes, would be more expensive than the money they are giving you. That would make sense.

But in 1993, just after the 1992 elections, something which we did not understand happened. There was something which came into this country called liberalisation and structural adjustments. Whatever it meant, this is what it meant to a businessman who took a loan at either 15 per cent or 19 per cent. Without amending the Banking Act, which authorised the Minister to have certain regulatory powers over the interest rates, the banks decided to charge 43 per cent interest rates from

15 per cent! The financial institutions changed their interest rates from 19 per cent to even 71 per cent at one time. Of course, the dollar appreciated phenomenally. What did it mean? Some business people went to the banks and said: "You gave me money on the basis that I was going to pay at 15 per cent. The law has not even changed. Where am I likely to get the money to pay you the 43 per cent, because you gave me money to do business. You are relying on the performance of my business to pay you. If I tried my best and got some profits, I can pay you 15 per cent. But where, in God's name, would I raise the 43 per cent or the 71 per cent from?" The banks could not understand. In the loan form that you always sign at the bank when you apply for a loan, there is a clause which says:-

"The bank may vary interest rates as it deems fit without consulting you."

Of course we did not bother and the business people did not bother because they were consulted and discovered that there were controls in the loan. So, they knew they were protected by the law. Therefore, they would not vary it to the detriment of the businessmen. But they varied it all the same. The law remained the same, but nobody enforced it because there was something fashionable called liberalisation. As a result, businessmen in this country did not pay because there was no business they were going to engage in which could raise that kind of money. They collapsed and their securities were realised. They were still sued in courts which demanded millions of shillings from them.

Some people jumped from highrise buildings and killed themselves. Some families collapsed. Why did it happen that way? First of all, they would charge you 43 and 71 per cent interest rate which is unlawful. After charging you interest, since you could not pay, they would impose a penalty which is also illegal. They would then charge interest on the penalty and on the illegal interest. It would be compounded interest on penalties and interests. The consequence of that is that all businessmen gave up. They said: "I cannot pay it, so you can do what you like." Of course, they threatened businessmen with jail. You have seen a Clause in our law requiring that, if you cannot pay and we cannot find your salary and we have already realised your security we will take you to jail. The bank is of course asked to pay Kshs600 a month to feed you on beans for 30 days. What can you do?

These people have sold your home and broken your family.

They have taken you to court and have attached whatever property you have. That is the situation in which banks put this country. Millions of businessmen who were industrious and working to build this country, employing people were ruined because the banks decided to liberalise and the Government thought that it was fashionable. Then the banks said that they have to charge high interest rates because the Government is borrowing too much and so this definitely affected interest rates. They said that interest rates must go up because people are now not paying loans so the risk is higher. They ruined the people when they refused to give them money because they were now risk business. There was only one business which became fashionable, that is to take money from all the poor people of Kenya, mop it up and take it to the Government to buy Treasury bonds and Treasury Bills. There was no risk. They were sure of the return and there was no need to do the business of banking. The only job they would do was to receive deposits from the people, take it to the CBK and make money.

All the people who were good in appraising projects in banks and checking whether somebody could repay from his projections went to sleep because the only job which was available was to collect money from the public, give it to the CBK and make your money. They of course collected money from the people, but deprived the people of the capital needed to create wealth. They said that the private person is now "out-crowded" because the Government is borrowing too much. What happened to this economy? We lost the businessmen who are very industrious people. If you asked them to go and take money from any bank now, they will not do so because they do not want to suffer as they did.

If you asked an MP here to borrow money from the bank, they will not do that. They would rather go to their Co-operative SACCO because they are sure that, at least, it will take all their salaries but it will not sell their property. That is what the banking industry in collusion with the Government did to this economy under the supervision of some of the most brilliant people in this country. They could not see the arithmetic that the only way you can pay an interest rate of 71 per cent is if you traded in bhang and cocaine or smuggled elephant tusks.

Mr. Temporary Deputy Speaker, Sir, we destroyed our country and it will take us a long time to get very committed people like the ones who were ruined between 1993 and 2001, when we were discussing the Donde Bill here, because it had become a crisis. The multinational banks started making profits which were unimaginable. I came to the Floor of this House and I told them: "These are not profits. They are windfalls. They were making profits of Kshs4 billion which is something we have never heard of. The banking industry was the only institution in this country which was making profits. All the other institutions and businesses collapsed. The only institution which was making money was the banks. How do you make phenomenal profits of this nature when everybody else is collapsing? Where is the arithmetic? How do you justify the fact that in one economy the institution of banking is making so much money, but the people who are supposed to be borrowing from it and making money are collapsing?"

I studied some little economics in school, but I know that this was wrong and the Government saw it. The most brilliant people saw it at the CBK and they did nothing. They ruined this country. Now we have billions of shillings of bad debts which will never be repaid. How do you repay it? You had imposed interest on penalties, it had become impossible to repay that loan and somebody said: "You can kill me". How will you recover that money? You still refer to it in your books as an asset. Every time they declare their profits, they write that one of their assets is bad debts because they hope to collect it somehow. From who?

We should realise that we have ruined this country and that this thing is impossible. Let us call it a loss. It is not a loss anyway because you had done very well and repaid them quite well. So, they had recovered their money. What is killing you is the illegal interest rates and penalties which were imposed on you. They are call it an asset and it keeps piling up year after year. I told them one time in a seminar when we were discussing the Donde Bill: "You banks are making a mistake. You do not have any money of your own. This money which you are holding is people's money. You are ruining the people who are giving you the money. Sooner or later you will ruin yourself."

You cannot be healthy when the person who is investing in you is unhealthy. It does not work that way. The banks collapsed like hell, each one after the other. You cannot have a system where you demand something which you know you cannot collect, you put it down as an asset to look good and hope that somehow you will survive. Maybe our new Finance Minister has seen that there is need for change.

I remember that our current Finance Minister and the President supported the Donde Bill very much though it was not implemented because of a dispute in court. I have always thought that courts were meant to settle disputes. Sometimes I get embarrassed that courts have become the governors of this country. You will find that Parliament makes a policy and says this is the way we want to recover, but somebody moves to court and gets an injunction. Originally, when I used to practise law, courts could not give you an injunction, but now courts can give you an injunction on anything.

Mr. Temporary Deputy Speaker, Sir, the courts can issue an injunction on anything. You cannot run the City Council because there is a court injunction. Some people do not want to pay taxes and a court injunction is issued. The Government is injuncted left, right and centre. That is the only business which courts now do; the business of injunction. If you injunct this country left, right and centre, nobody does anything else. This country will never go anywhere. Parliament will be injuncted very soon, so that Mr. Kajwang does not speak. Courts must know the principles of

injunction. We read them in school and we have practised them. Mr. Muite and Mr. Wetangula know them very well because they have practised them for so many years. Before they read your papers, they issue a court injunction. Sometimes I am happy because court injunctions are issued against the multinational companies.

If we are going to build this nation afresh, because we have ruined it, then we must think of how to control the interest rates. Nobody can say that control is illegal because this country is liberalised. There is no country which is that liberalised. If you go to America, Japan, Britain and the European Union, you will find that they control their interest rates. Who said that Kenya is the only country in the whole world, which should not be bothered with its interest rates because the market forces will take care of themselves? Which market forces are we talking about? The market is not perfect! You can only let the interest rates be controlled by the market forces if the market is perfect and it can regulate itself. How do you have a market that is controlled by three or four multinational companies and call it a perfect market? I think I read something like this in Form VI Economics.

Mr. Temporary Deputy Speaker, Sir, we have invested in the Kenya Commercial Bank (KCB) and the National Bank of Kenya (NBK) as a country. That is our wealth. Now they say that we must sell the banks. That is fine, but why can we not sell the shares to as many Kenyans as can buy, so that they become real Kenyan banks? This will be removing wealth from the Government and putting it in the hands of the people. They have said that you must sell the banks to a strategic manager. Where did the word "strategic" come from? Since we started reading about the Non-Government Organisations (NGOs), there are so many English words which have come up which confuse us. There are words like strategic, stakeholder and engendering. There are so many of these words which mean nothing! What is so strategic about a British bank coming to buy the KCB and not strategic about selling it to Mr. Kajwang? I can own 100 shares, Mr. Wetangula can own 1,000 shares and Mr. Muite can own 2,000 shares. What is unstrategic about that? We are being told by the IMF and the World Bank that, that is how it is supposed to be done. Have we bought their banks?

Mr. Temporary Deputy Speaker, Sir, the banking policy in this country can only come from the leadership of this country. The leadership of this country is in this Parliament and in the Executive. We cannot just sit and watch it happen. The country cannot grow by some luck. We must give it direction. The war is between the citizens of this country and those who want to benefit from it from outside. They will ruin us! They have ruined us in the last 15 years and they will ruin us much more, unless we take the destiny of this country into our hands.

With those few remarks, I beg to support.

The Assistant Minister for Trade and Industry (Mr. Miriti): Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me to add my voice to the debate on the Banking (Amendment) Bill.

For many years, we have seen banks milk Kenyans. For sure, Kenyans have been impoverished by banks through high interest rates. Foreign banks use discriminative methods of charging interest rates. We know that interest rates are not standard. They are negotiable. Sometimes, you will find that Kenyans are charged higher interest rates than the foreigners. We also know that when multinational banks operate here, some business communities do not borrow money from the branches in Kenya. They borrow money from foreign branches, so that they get the money at lower interest rates. When they get money at lower interest rates and invest it in Kenya, they create an unfair competition with our people. The playing ground in the business climate becomes very unlevel and our people suffer very much. We have seen banks deliberately selling Kenyans' properties, so that some foreign businesses are left to operate in a monopolistic environment. We have also seen Kenyans submitting proposals to banks and they are rejected, to realise that after one year, the same proposals are implemented by a foreign businessman.

I would like to ask the Minister for Finance not to rely very much on the donors. We know that the donors' conditions have some targets. Some of them are not genuine. They are meant to provide space for some foreign businesses to operate in this country. In an area like privatisation, there is a lot of pressure being applied on Kenyans to privatise various banks and institutions, which are operating well. Even if there has been an element of corruption and misuse of finances, we know that such institutions can operate profitably. For example, the Kenya Airways was privatised and shares were sold to the local people and it is now performing and competing with other world airlines. The same can be done to banks like the National Bank of Kenya. I know there is a lot of pressure for the National Bank of Kenya to be sold to a foreign bank, which is operating in this country.

Mr. Temporary Deputy Speaker, Sir, I would like to urge the Minister not to allow our banks to be sold to foreigners. We have invested heavily in these banks with Kenyans' taxes. The same foreigners, who have been donating money to us, are the ones whom we are competing with. Our Kenyan goods have found it very difficult to enter the foreign market due to various barriers. You cannot expect a country that fears to compete with your produce to enable you to produce such produce. The donor funds are supposed to assist us to eradicate poverty, but at the same time, the donors are aware that if they allow us to reach their levels, their markets will face a very stiff competition.

As you all know, Africa has a very high potential in terms of producing whatever is produced in other parts of the world.

Mr. Temporary Deputy Speaker, Sir, I have seen in the Bill the provision on limitation of recovery of non-performing loans. I would suggest that this limitation be extended to everybody. We know that this Bill, if passed as it is, will only benefit those people who are now borrowing money from the banks. I know of a friend of mine who went and got a loan of Kshs400,000. So far, he has paid about Kshs2 million and the bank is demanding Kshs4 million from him. I do not know if we limit the time of recovery of these non-performing loans, it will benefit such people. We know Kenyans have gone through a lot of problems, not because they were not willing to repay the loans, but just because of the prevailing situation then. The conditions were very unreliable. We know that the climate was very unstable. There was a lot of inflation and most of the people, as it has been said on this Floor, went for loans that time and they thought they would repay comfortably. However, the interest rates were being adjusted from time to time.

Mr. Temporary Deputy Speaker, Sir, there is a section in the Bill where the Minister is asking for deletion of the word "minister" and substituting it with words "the Central Bank". Wherever the Minister was supposed to act, it is now the Central Bank to do so. But when you look at the definition of words "the Central Bank" either in the Central Bank Act, or the Banking Act, it is not very clear who the Central Bank is. It is not clear who will act; whether it is a messenger at the Central Bank, the Board or the Governor. We need some clarity in the Bill, explaining as to who we are referring to when we say it is the Central Bank which will act.

So many people in Kenya and even foreigners have really suffered due to bouncing cheques. We have people of different races and maybe, even from this House, who have been issuing cheques which have bounced. I would like to recommend that the Minister issues an urgent legislation, so that we have penalties imposed on anybody who issues a bouncing cheque.

The only way in which Kenyans can be helped in this era is the introduction of micro-finance institutions. That is the only way Kenyans at the lower level can access finances. Indeed, at the village level, Kenyans do not have collateral. Most of them now do not have anything which they can take to the bank and claim it to be their security. So, if we have a legislation providing for such micro-finance institutions, where people can just go in and get money basing it on other factors other than collateral, we shall be talking of eradicating poverty by the year 2020 as it has been said.

With those few remarks, I beg to support.

Mr. Muiruri: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think I have no doubt that enough Members have contributed to this important Bill. I would request that the Mover be called upon to reply.

The Temporary Deputy Speaker (Mr. Khamasi): I am inclined to accept that application having presided over this debate for several days. I would, therefore, call upon the Mover to reply.

The Assistant Minister for Finance (Mr. Katuku): Thank you, Mr. Temporary Deputy Speaker, Sir. I would want to start by thanking hon. Members who have had the opportunity to make their contributions to this Bill. I have been following the debate on this Bill since I moved it and I want to say I am very impressed by the constructive comments coming from hon. Members relating to this important legislation. I want to assure all hon. Members who got the opportunity to make their views known that we will put them into consideration at the Committee Stage. Apart from Members of Parliament who have expressed their views, since we published this Bill, we have also received presentations from other stakeholders in this sector.

We will be introducing several amendments to this Bill and I hope hon. Members who have issues will also have the opportunity to introduce them. But I would request those who have amendments which may need some legal considerations to present them in good time, so that we can give them due consideration. We will take up even some of the hon. Members' feelings in our amendments if we find them tenable. I would also want to appeal to hon. Members, come Committee Stage, this being a very technical Bill, to bear with us. This is because, for example, I am already in possession of a report by the Departmental Committee on Finance, Tourism and Planning. I want to assure the Committee which did a good job that we will go through the report. I want also to thank the Chairman, Mr. Kagwe and the entire Committee Members, for the good work. We will go through the report which was tabled here yesterday with my technical team and I want to assure the Committee and the House at large that we will see what can be put into consideration. But as I said, this is a technical Bill which many people have a lot of interest in. Therefore, we must bear one another out in terms of negotiating. Where we find we have extreme proposals, we would want to negotiate and get to a level where we can agree.

Mr. Temporary Deputy Speaker, Sir, I want to briefly respond to the concerns raised by hon. Members. Several hon. Members have raised concerns about the independence of the Central Bank of Kenya (CBK) and the Treasury in relation to our development partners and Bretton Woods institutions. Those include the International Monetary Bank (IMF), the World Bank and others. I would like to assure hon. Members that, at no time, since the NARC Government took over power, has the Treasury given in to external pressures. I want to assure Kenyans that we are steadfast on that. We will not do anything to please anybody. We have never done it since we took over office and we will not do it. So, I want to assure hon. Members who have raised a few concerns about the pressure by our development partners that we will not succumb to that.

I remember Mr. Kagwe raised the issue of interest rates. He said that we are under pressure to raise the interest rates in this country. I want to assure Members that if that was to be done, it will be done in line with our own policy and not policies of other people. As the Treasury, we will not allow anybody to interfere with the way we run this country. We normally consult widely and where we find that some of those things are not possible, we always tell those applying the pressure: "This is not possible!"

Mr. Temporary Deputy Speaker, Sir, I also want to thank hon. Members for congratulating us for bringing this important Bill to the House. This Bill is a milestone in the improvement of our financial sector. It should have been brought long time ago, but the regime then was not keen. The NARC Government is keen to reform all sectors in this country, starting with the financial sector.

An hon. Member: Health Bill!

The Assistant Minister for Finance (Mr. Katuku): We are keen to reform even that one.

As the Treasury, we are very keen. That one is still a Government Bill. We will still bring it here.

Mr. Temporary Deputy Speaker, Sir, in relation to some fears expressed by hon. Members on how directors, owners or shareholders will be vetted, I want to assure this House that, we will introduce amendments to the Schedule. We will categorically state the qualities and conditions that one must meet to be licensed to operate a bank. In that Schedule, we will also be keen to show what qualities a shareholder should have. So, the fears that we may allow crooks or people with "dirty money" to invest in that sector have been addressed. I want to assure hon. Members that the schedules we are proposing will check such characters who may bring ill-gotten money. We are going to ensure that, anybody who will be given a license through the Act, will be a person of reputable background. All those with unacceptable backgrounds will not be given licenses. We are saying that, if you are owning more than 5 per cent shares in a bank, you must be vetted. So, I want to assure hon. Members that, that will be done.

Mr. Temporary Deputy Speaker, Sir, the issue of bouncing cheques was raised by Mr. Miriti and Mr. Maore. That issue has already been taken care of by the Finance Bill, which is likely to come to this House very soon. As far as the Treasury is concerned, it is criminal to issue a bouncing cheque. It will be upon this House to pass the same in the Finance Bill, once it comes to the Floor of this House. It is my hope that this time round, unlike sometime back when hon. Members threw out that

amendment, it will go through. So, the issue of criminalising bouncing cheques is well catered for in the Finance Bill.

Mr. Temporary Deputy Speaker, Sir, Members have raised concerns about the Micro-Finance Bill. I want to assure them that the Bill, which is very critical to our economy, is at the final stages. It is out of my desk and is at the Attorney-General's office, where they are doing the final touches, so that it can be published. That way, we will assist Kenyans to access easy credit for doing business.

Mr. Temporary Deputy Speaker, Sir, on the issue of escalating interest rates. I want to assure hon. Members that, that has happened. We have learnt from history during the KANU regime, when the interest rates went up to 70 per cent! That is an experience that, we Kenyans, would not want to go back to. We want to assure you and the honourable House that, the issue of Government borrowing, which used to contribute largely to high interest rates, is something that we are handling carefully. We are now in good books with our development partners. We can borrow money from out there. We are able to get cheap credit out there, rather than borrowing locally. We have, in one way or the other, maintained low interest rates for the 19 months we have been in power, unlike when my friends were there. I want to assure Kenyans that, we will still maintain those policies to ensure that we get cheap money for Kenyans to borrow and do business with. So, we have checked on Government borrowing and we are really trying our best. I would like to assure hon. Members that, that will not occur as it used to happen in the past.

Mr. Temporary Deputy Speaker, Sir, I have heard the concerns raised by Mr. Muite and Mr. Kajwang on courts interfering with the running of the Government or with the legislation that we pass here. I want to ensure them that we have independent institutions. Parliament should be independent. The Judiciary should be independent. We want that independence of institutions, so that each can do its best. That is a practice that we want to ensure prevails. But more importantly, we must also be very careful to pass laws which are not challenged in court by those who feel--- That is why I was appealing to Members that, when it comes to the Committee Stage, we will be sober enough, so that we do not pass laws which will be questioned tomorrow by other Kenyans who might feel that their rights are being interfered with.

Mr. Temporary Deputy Speaker, Sir, on the security of tenure of governors, if you look at this Bill, we have tried as much as possible to give the CBK independence. We are removing most of the powers from the Minister and giving them to CBK, so that they can operate independently

and make fast decisions. One of the important reasons why we are bringing this legislation is to give the CBK the authority to operate independently like the rest of central banks in the world. It should be able to compete and run the financial sector well. In terms of intervention, there has been a problem. It has been cumbersome for CBK to intervene in matters where a financial institution is not run well. The procedure was for the CBK to come to the Treasury first. There has been a cumbersome procedure and that is why we have proposed to limit that to the CBK so that action can be taken as quickly as possible. We do not want a situation such as that of Euro Bank recurring. The money deposited by innocent Kenyans was lost when the bank went under. This was because there was no adequate and prompt action on the part of supervision by the CBK which was supposed to seek approval from the Ministry of Finance. We are now vesting those powers in the Governor of the CBK.

Mr. Temporary Deputy Speaker, Sir, hon. Members have raised concern about Section 44. We have proposed that we do away with it. This Section provides that the Minister should give approval to any charges that banks decide to charge. However, it was not being obeyed until when the other day the Minister for Finance, Mr. Mwiraria, raised the issue in the Budget. We looked into the issue and have thus decided to delete Section 44. Since we are in an era where liberalisation is being allowed in most sectors of the economy, we find it unnecessary to control what banks are charging. However, we insist that the CBK must at all times publish what banks are charging so that people can make the decision of who to do business with. We need to free the economy. In fact, there is no point of controlling one sector of the economy and then liberalising the other. We, therefore, wish to plead with hon. Members not to let this happen. It is necessary to provide for a free business atmosphere.

Mr. Temporary Deputy Speaker, Sir, we have also found it necessary to introduce the *In Duplum* rule. Hon. Members have raised concern about Section 6. They are concerned about the non-performing loans. What we have done in this legislation is to ensure that Kenyans are not charged beyond reasonable limits. So, the *In Duplum* rule will ensure that one only pays the equivalent of the principal from the time the loan became non-performing. That is very important and I urge hon. Members to be keen on it. We will look further into that matter to see whether we can do more on that. If it is not possible, we will let this House know during the Committee of the whole House.

Hon. Members have talked of the so-called Donde Act, that is, the Central Bank of Kenya (Amendment) Act, 2002 which was passed in this House although it has never become operational. However, most of the things in that Act have been taken up by this particular Bill. For example, the issue of interest rates that have made Kenyans suffer has been addressed in this Bill.

With regard to reducing interest rates, we feel that this is an area that may be very controversial given that there are differentials that arise when taking a loan. We do not want to take that route. We shall leave it open for hon. Members to debate and decide. We do not want to interfere with the Section that deals with interest rates. We are afraid it might force banks to go another way and open unpredictable financial institutions. Also, it might encourage capital mobility. So, we have taken on board most issues that were raised in the so-called Donde Bill. This, we believe, will ensure that Kenyans are not charged more than necessary in terms of interest rates.

Mr. Deputy Speaker, Sir, with regard to the control of interest rates, as I had said before, the supervisory committee is doing its work very well. I would like to assure hon. Members that this matter has been adequately taken care of.

Mr. Deputy Speaker, Sir, finally, I want to commend the CBK for the good work it has been doing since NARC took over power. I also want to commend my officers for the good work they have done in ensuring that necessary consultations will be carried out with all the stakeholders.

Mr. Deputy Speaker, Sir, with those remarks, I beg to move.

(Question put and agreed to)

*(The Bill was read a Second Time
and committed to a Committee of the
whole House tomorrow)*

Second Reading

THE STANDARDS (AMENDMENT) BILL

The Assistant Minister for Trade and Industry (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, I am sorry yet again. I have to ask for more time because I am not ready.

The Temporary Deputy Speaker (Mr. Khamasi): Why are you not ready, Mr. Miriti?

The Assistant Minister for Trade and Industry (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, there are some corrections we are making on the Bill.

The Temporary Deputy Speaker (Mr. Khamasi): Next Order!

Second Reading

THE HIV AND AIDS PREVENTION
AND CONTROL BILL

The Temporary Deputy Speaker (Mr. Khamasi): The Minister is absent.
Next Order!

Second Reading

THE WILDLIFE (CONSERVATION
AND MANAGEMENT) (AMENDMENT) BILL

Mr. G. G. Kariuki: Mr. Temporary Deputy Speaker, Sir, before I can move that this Bill be read a Second Time, I wish to thank the staff and particularly the Speaker of the National Assembly for allowing me to bring a Motion seeking permission from this House---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Kariuki! That will be part of your contribution. You should move the Motion and then that will be part of your contribution.

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. Will I not be in order to conclude that ordinary parliamentarians are ready, but the Government has gone to sleep, give, that two Motions---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Ethuro! You know, and I am sure that you know very well that the Chair has no control over Ministers. The Chair does not tame them! It is their responsibility to come here as and when they are required to move their Bills or Motions. Therefore, that still rests with the Government, and it is upon the Government to make sure that Ministers are here to move the Bills or Motions.

So, proceed, hon. G.G. Kariuki. Hon. Ethuro, please, take note of that.

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

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

Mr. G.G. Kariuki: Mr. Temporary Deputy Speaker, Sir, I beg to move the Wildlife Conservation and Management (Amendment) Bill.

Assuming that every hon. Member has a copy of the Bill in his possession, I would like to explain the reason why I thought it was appropriate and important to this country to bring this Bill. Before I embark on that, I would like to thank the hon. Speaker of the National Assembly for approving my proposal to bring the amendment Bill to this House. I would also like to thank the staff of the National Assembly who worked tirelessly with me during the time I was drafting these proposals. At the same time, I also had an opportunity to work very closely with members of the Attorney-General's Chambers, who also advised me on this Bill.

Mr. Temporary Deputy Speaker, Sir, the main concern of this Bill must be pointed out because, I think a number of issues have been raised and a lot of caucus has taken place, but I would like to say that the main concern was the upsurge of periodical reports and the human-wildlife conflicts that have been witnessed across the country. Since Independence, we have had big problems which emanated between the two factions; human beings and animals. Since Independence, an amendment was first proposed in 1976 and the last one was in 1989. All these proposals or amendments did not satisfy the people of this country as far as the protection of their lives and properties were concerned. This matter was just left to be handled by people themselves. In other words, the Government has never found it necessary to give protection to human beings who suffer gross destruction occasionally from the wildlife.

The inadequacy of the current Wildlife Conservation and Management Act has been the main reason for this problem. We somehow leave the responsibility of managing wildlife outside protected areas to our local communities without giving them commensurable benefits and adequate mechanism to effect compensation. That alone is a matter that this nation must take into account. The current Act has fond apathy towards wildlife and, as a result, this has contributed to the escalation of human-wildlife conflicts. We have well over 70 per cent of Kenyan wildlife living in non-prescribed areas that are not meant for wildlife habitation or in other words, privately owned land or properties. Therefore, you can see that the situation is extremely bad because if the animals cannot be protected in the areas that have been gazetted for wildlife, they move into areas where they are not supposed to; private property. If 70 per cent of the wildlife live in private property, the matter becomes even more complicated.

Mr. Temporary Deputy Speaker, Sir, the area of concern is quite wide because there is also a growing threat to the survival of people, wild animals and their shared habitats due to commercial agricultural expansion and encroachment by agricultural communities on either wildlife land or community land; modern economic enterprise on land, destruction of forests, commercial hunting and the loss of wildlife migratory routes and breeding grounds. The animals have also had their misfortunes because the areas which used to be for wildlife have been habited by human beings, thereby, exacerbating the conflict. The above issues must be addressed if the survival of people and wildlife in Kenya is to be guaranteed, bearing in mind that wildlife is a key natural resource critical to the social economic development of Kenya. Efforts, including self initiative should be established to mitigate the problem; a thing that the Government has just been leaving to the ordinary man to survive on his own.

QUORUM

Mr. Rotino: On a point of order, Mr. Temporary Deputy Speaker, Sir. This Bill is very important and we are only five in the House. So, there is no quorum!

The Temporary Deputy Speaker (Mr. Ethuro): Order! You are right, Mr. Rotino, there is

no quorum. I order the Division Bell to be rung.

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Members, due to lack of quorum, the House is adjourned until tomorrow, Thursday, 25th November, at 2.30 p.m.

The House rose at 6.00 p.m.