

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 21st November, 1996

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

PRAYERS

## NOTICES OF MOTIONS

ESTABLISHMENT OF Roads Authority

**Mr. Mak'Onyango:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-  
THAT, given the crucial role roads play in the economic well being of the country, aware of the problems undermining the development and maintenance of roads in Kenya, concerned over the escalating costs of the same to the Kenyan taxpayers, and the need for transparency, accountability and professionalism in the management of the Road Maintenance Levy, other designated road funds, be they loans or otherwise, and the road transport sector in general so as to speed up development and minimise carnage on the Kenyan roads, this House urges the Government to establish a national institution to be known as Kenya Roads Authority to manage and regulate road-based activities in the country.

ESTABLISHMENT OF NATIONAL  
DEVELOPMENT COMMITTEE

**Ms. Wanjiru:** Thank you, Mr. Speaker, Sir. I beg to give notice of the following Motion:-  
THAT, in view of the fact that resources available for development are limited and scarce, noting with appreciation that the Government continues to equitably spread the resources available throughout the Republic, and realising that the available financial resources fall short of the national development requirements, and appreciating the Government's commitment to develop the socio-economic infrastructure, this House urges the Government to set up a National Development Committee comprising of Members of Parliament to assist in soliciting funds from Non-Governmental Organisations (NGOs), Charitable Organisations and business communities, both locally and overseas for specific projects such as health facilities, small- scale agro-based industries, light industries, for example; jua kali, in order to facilitate expansion of the already existing infrastructure and industrial set up.

ESTABLISHMENT OF SELECT COMMITTEE

**Mr. Maore:** Mr. Speaker, Sir, I beg like to give notice of the following Motion:-  
THAT, being aware of the deterioration of services being provided by the local authorities such water, roads, health, education and social amenities, noting that the Local Authorities Service Charge Act was passed by this House in 1988 to implement the finance of the local authorities, aware that despite the Act, the services continue to deteriorate, concerned that the Fund has never produced audited accounts, and the money so collected is diverted to other un-intended purposes, this House recommends a special audit, and further, this House resolves that a Selective Committee be formed to thoroughly examine the operations of this Fund and come up with recommendations of how best to manage and give its findings before this House within six months.

ORAL ANSWERS TO QUESTIONS

*Question No.956*

## DISTRIBUTION OF BURSARY FUNDS

**Mr. Ruhiu**, on behalf of **Mr. Gitau**, asked the Minister for Education:-

(a) how much money was allocated for bursary to all secondary schools in Thika District in 1995 and 1996; and,

(b) how the funds were distributed and who were those responsible for the distribution.

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

(a) During 1995, Kshs3,494,367.25 was allocated to Thika District for assistance to secondary school students. During 1996, Kshs4,146,182 was allocated.

(b) The District Education Board of each district receiving this money from the Ministry of Education meets and distributes the money to various schools, proportionally, according to the number of classes. At the school level, a Committee of Board of Governors meets to distribute the money to the needy students.

**Mr. Ruhiu:** Mr. Speaker, Sir, the answer read by the Assistant Minister is not the same as the one that I received here in writing. However, I wish to inform the Assistant Minister that we are aware that this year, Kshs300,000,000 was allocated by the Ministry towards these bursaries to needy students in secondary schools. The amount that was allocated to Thika District appears to be very little, indeed.

Can he tell me why there is un-proportional allocation of bursary funds in different districts? For example, why is it that districts within Rift Valley Province get more bursary funds than those in Central Province and other Provinces?

**An hon. Member:** Are you sure?

**Mr. Komora:** Mr. Speaker, Sir, I do not know where the hon. Member got his information from. He did not ask for comparative figures to be provided by the Ministry, but I am prepared to provide them.

**Mr. Ndicho:** Mr. Speaker, Sir, the Assistant Minister has misled the House. I am a member of the District Education Board (DEB) for Thika District and ever since we started meeting, there is no one single day when we have discussed an item of distributing bursary to schools in these district. Can the Government consider reverting to the old system where bursary money used to be given to the districts? The current system requires that money is given to schools which then give it to students in these schools irrespective of which districts they come from and that is why money is misappropriated and not given to the deserving students. Can the Ministry consider reverting to the old system where money is given to the DC and the DEB instead of giving it to schools? Headmasters are becoming very rich these days after taking this money.

**Mr. Komora:** Mr. Speaker, Sir, that is what I exactly said. Money is sent to the DEB and the Board in turn reschedules the money to schools.

**Mr. Ndicho:** Mr. Speaker, Sir, I think we are not communicating with this Assistant Minister. The money is given to the District Commissioner who in turn takes this money to the schools without the knowledge of the District Education Board. I am asking the Ministry to revert to the old system where students of a given district benefit from that money. For example, Thika High School is a provincial school and you will find that students from other districts are getting this money yet they could have got it from their respective districts. This money does not help anybody at all.

**Mr. Komora:** Mr. Speaker, Sir, I am surprised that the hon. Member says that that money does not help anybody at all. It has helped thousands and thousands of secondary school children in this country. The hon. Member may wish to know that the District Commissioner is the chairman of the District Education Board and the District Education Officer is the secretary of the Education Board. If the money is sent to the District Education Board the DC and the DEO are involved in distributing this money to the schools.

**Mr. Ndicho:** Mr. Speaker, Sir, the Assistant Minister is misleading this House. Who is supposed to receive this money; are they the students from that particular district or students who are in secondary schools in that district?

**Mr. Komora:** Mr. Speaker, Sir, the recipients of the money are students in those secondary schools. Money is taken to the DEB or the particular school because they are responsible for the primary and secondary school education and together with the Board of Governor give out that money to the deserving students.

*Question No.675*

## ELECTRICITY SUPPLY TO MAU SUMMIT

**Mr. Speaker:** Is Mr. Mungai not here? We will leave that Question until the end. Next Question.

*Question No.492*

## REVIVAL OF ELECTRIFICATION PROJECT

**Mr. Githiomi** asked the Minister for Energy:-

- (a) whether he is aware that the electrical posts which had been taken to Kipipiri for the Rural Electrification Project have been removed and the electrification project discontinued; and,
- (b) when the electrification project will be revived.

**Mr. Speaker:** Is there any Minister from the Ministry of Energy? We will come back to it. Next Question.

*Question No.716*

## VICTIMISATION OF MR. ATIKA

**Mr. Obwocha** asked the Minister for Health:-

- (a) whether he is aware that Mr. Samuel M.B.C. Atika, P/No.197406 has been victimised by the Ministry on flimsy grounds; and,
- (b) what are the findings of his appeal case to the Public Service Commission.

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

(a) No, I am not aware that Mr. Samuel M.B.C. Atika, P/No.197406, has been victimised by the Ministry on flimsy grounds.

(b) The Public Service Commission rejected his appeal in that there were no new grounds to allow it. The decision was communicated to the officer and he was given a second right to appeal within one year from the date of the letter which is in accordance with Cap. 185 36(2) of the Laws of Kenya. He has not appealed to date.

**Mr. Obwocha:** Mr. Speaker, Sir, this gentleman had a case instituted against him by the Ministry, but it was dismissed by a competent court of law. He then appealed to the Public Service Commission. Now, could the Assistant Minister tell this House which conditions this gentleman is supposed to meet and has not met so that he can appeal to the Public Service Commission?

**Mr. Criticos:** Mr. Speaker, Sir, like I said earlier on, he was supposed to appeal within six months and since he did not appeal it meant that he had waived his right to appeal. So, he will comply with the outcome of the first appeal.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, hon. Obwocha has just stated that this case was taken to a competent court of law and that the victim won the case. Who is greater than the other, the court or the Public Service Commission?

**Mr. Criticos:** Mr. Speaker, I would like to remind the hon. Member that the Public Service Commission found this gentleman guilty of the offence.

**Mr. Obwocha:** Mr. Speaker, Sir, since the Assistant Minister has told me that this gentleman has not made a second appeal up to date, could he assure this House that if he makes the appeal this case can be considered?

**Mr. Criticos:** Mr. Speaker, Sir, we make laws in this country and it is these same laws that required him to appeal within six months, otherwise, he waived his rights. I cannot go against the law.

*Question No.1130*

## NUMBER OF KENYANS KILLED BY AIDS

**Mr. Murungi** asked the Minister for Health:-

- (a) how many Kenyans have died of AIDS between January 1995 and June 1996; and,
- (b) how many of those in "a" above were (i) male and (ii) female.

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

(a) To date, there have been 70,000 cumulative reported AIDS cases from all over the country. However, reported cases are just one-third of the actual numbers which are currently estimated to be 200,000. Based on these, approximately 60,000 Kenyans died of AIDS between January 1995 and June 1996.

(b) The estimated number of males who died of AIDS between January 1995 and June 1996 was 30,000 while nearly 30,000 females died of AIDS during the same period. These figures are based on the number of reported AIDS cases which are only one-third of all AIDS cases in Kenya.

**Mr. Murungi:** If 60,000 Kenyans died within a period of 12 months it shows that 5,000 Kenyans are dying of AIDS per month and I think not all AIDS cases are reported. So, the figure could be much higher than that. I am sure even a number of Members of Parliament have died of this disease although the Press does not say so. When I visited a few AIDS patients, I found that there was a lot of suffering---

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. Did you hear hon. Murungi say that a number of hon. Members have died of AIDS, although the Press does not want to make this known? Did you hear that? If you did, could we know who among the hon. Members, died of AIDS? It is a shock to me!

**Mr. Speaker:** What is your response, hon. Murungi?

**Mr. Murungi:** Mr. Speaker, Sir, AIDS does not kill somebody. It weakens somebody's system so that he or she dies of another disease. So, some of the cases that we hear of hon. Members who have died, may have been because of AIDS. Hon. Members are just like other ordinary Kenyans. Are you saying that hon. Members of Parliament cannot die of AIDS?

**Ms. Wanjiru:** On a point of order, Mr. Speaker, Sir. I would request the hon. Member to stop misleading this House because God has given me power to pray for AIDS patients. The people who are suffering from AIDS are dying because they are not coming to me. So, I am also asking people including hon. Members whose relatives have AIDS to bring them to me, so that I can demonstrate to them my power.

*(Laughter)*

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. The situation is even worse now! It started with hon. Murungi, who said that there are some hon. Members who have died of AIDS, and the Press has not found it necessary to make it public. I still insist that this is something that we should all be worried about. It is a very serious matter. Is he sure that hon. Members of this National Assembly have died of AIDS?

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! Order, hon. Members. I am being put into a very difficult situation. I am neither a doctor nor have I ever received a death certificate of any hon. Member who has died. I will not be able, therefore, to say whether he is in order or out of order.

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! Order! Hon. Murungi, I am afraid, you have brought an "AIDS" problem into the House. It is "infecting" our time. What is it, hon. Ndicho?

**Mr. Ndicho:** Mr. Speaker, Sir, I think what hon. Shikuku is asking is unethical because it is legally wrong, for anybody to disclose the cause of death to anybody else, other than his medical doctor!

**Mr. Speaker:** Order, hon. Ndicho! Who has asked you to assist me? Proceed, hon. Murungi!

**Mr. Murungi:** Mr. Speaker, Sir, presently, there are 60,000 people in hospitals, and there is no cure for AIDS. Could the Assistant Minister let those who want to die a dignified death to do so, by allowing them to request doctors to terminate their lives, because he has failed to find a cure for them?

**Mr. Criticos:** Mr. Speaker, Sir, what the hon. Member is asking is called euthanasia. That is not part of our laws in Kenya, unless we pass them here. The answer is; "no".

**Mr. Moiben:** Mr. Speaker, Sir, we want to get our figures correct. Can the Assistant Minister tell this House, how many of those females who have died of AIDS, contracted it as a result of circumcision?

**Mr. Criticos:** Mr. Speaker, Sir, I did not understand the last part of the question.

**Mr. Speaker:** Hon. Moiben, what did you say?

**Mr. Moiben:** Mr. Speaker, Sir---

*(Loud consultations)*

**Mr. Speaker:** Order! Can we hear the hon. Member!

**Mr. Moiben:** Mr. Speaker, Sir, my question is this: Can the Assistant Minister tell this august House, the number of females who have died as a result of AIDS contracted through circumcision?

**Mr. Criticos:** Mr. Speaker, Sir, I obviously cannot answer that. But I would say that there must have been some cases, somewhere in this country.

**Mr. Achieng'-Oneko:** Mr. Speaker, Sir, since AIDS is a very serious disease and it is terminal, could the Assistant Minister tell us what the Government is doing to encourage Prof. Obel, who claims to have invented *Pearl Omega*, which can cure AIDS? What is the Government doing to encourage him?

**An hon. Member:** But we have Ms. Wanjiru here!

**Mr. Achieng'-Oneko:** Leave aside Ms. Wanjiru!

*(Laughter)*

**Mr. Criticos:** Mr. Speaker, Sir, I thank the hon. Member for bringing such a good question to the House. I would like to remind the House that the *Pearl Omega* drug comes under the Herbal Act, and this does not fall under our Ministry.

*Question No. 982*

#### MAINTENANCE OF ROADS IN KITALE

**Mr. Kapten** asked the Minister for Local Government:-

- (a) whether he is satisfied with the state of roads within Kitale Municipal Council; and,
- (b) if the answer to "a" above is in the affirmative, when the roads within the Council will be re-carpeted,/resealed or tarmacked.

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

(a) The state of roads within Kitale Municipality is bad. That is true. However, roads within the Council are going to be handled under the Kenya Urban Project.

(b) Subsidiary agreements under the Kenya Urban Project have been signed and work is due to start at any time.

**Mr. Kapten:** Mr. Speaker, Sir, Trans-Nzoia District is known as the granary of Kenya. For the last 19 years, roads in Kitale Municipality have been neglected. The Assistant Minister says that an agreement has been signed. When was this agreement signed, and when will the actual work on reconstruction start? Who is the contractor for those roads?

**Mr. Mutahi:** On a point of order, Mr. Speaker, Sir. There is something going on in the House. It seems that chaos might explode between hon. Nyagah and Bishop Njeru.

**Mr. Speaker:** What are you saying?

**Mr. Mutahi:** There is an issue here---

**Mr. Speaker:** Where is it?

**Mr. Mutahi:** There is an issue between "Embians" and "Kirinyagians". It seems as if their argument is going to create some kind of a fight in the House. Can you separate them?

**An hon. Member:** It is like a tribal clash!

**An hon. Member:** Can we have hon. Nyagah on the KANU side?

**Mr. Speaker:** Order! Order, hon. Nyagah and Bishop Njeru! Well, I do not expect hon. Members to behave in a manner that is likely to create a breach of the peace in the House, and least of all, when a Bishop is involved. So, I trust that the Bishop will pray very hard for hon. Nyagah.

**Mr. Nthenge:** On a point of order, Mr. Speaker, Sir. Could Bishop Njeru resume his normal seat in the House? He is the one who has gone to sit next to hon. Nyagah.

*(Loud consultations)*

**Mr. Speaker:** Order! Order! I warn the two hon. Members concerned that any further behaviour, on their part which is likely to disrupt the proceedings in this House, will see both of them out of this House. That is serious and you better take me seriously. Proceed!

**Mr. Kamuren:** Mr. Speaker, Sir, in replying to the Question by hon. Kapten, I agreed with him that roads in Kitale Municipality have been in very bad state for a long time. The signing of this agreement was done at the end of last month and the contractor will report on the site any time from now. If the hon. Member would

want to know who is the contractor, I can furnish him with the name any time because I do not have it now.

**Mr. Nthenge:** Mr. Speaker, Sir, can the Assistant Minister give the House an apparent time when work on those roads in Kitale Municipality will be finalised? In other words, when will the work on the roads scheduled to end?

**Mr. Kamuren:** Mr. Speaker, Sir, we will start off immediately and I am sure officers are pushing hard so that these things are done in order that people in Trans Nzoia can have good roads.

**Mr. Wamalwa:** Mr. Speaker, Sir, I am quite sure what is true of the Kitale Municipality with regard to the bad state of the roads, is true of Eldoret and it is true of many other municipalities. Does this programme that the Assistant Minister has talked about cover all municipalities or how many municipal and city councils does it cover? And why did the Ministry look aside and let the state of the roads deteriorate to the point they have reached now before doing something about it?

**Mr. Kamuren:** Mr. Speaker, Sir, we will start with Kitale Municipality first and then we shall move on to other councils if funds will be available.

**Mr. Kaptan:** Mr. Speaker, Sir, can the Assistant Minister assure us that this contract covers all the roads within Kitale Municipality?

**Mr. Kamuren:** Mr. Speaker, Sir, I would like to assure this House that it will cover all the roads within Kitale Municipality.

*Question No.1005*

MOBILE TELEPHONES IN WESTERN PROVINCE

**Mr. Wetangula** asked the Minister for Transport and Communications:-

- (a) if he is aware that the whole of Western Province is not provided with mobile telephone services; and,
- (b) when this service will be provided to the area.

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

(a) Yes, I am aware that the whole of Western Province is not provided with mobile telephone services.

(b) However, plans are underway to provide mobile telephone services in Kakamega, Bungoma, Webuye and Samia areas in near future.

**Mr. Wetangula:** Mr. Speaker, Sir, could the Assistant Minister tell this House when is this "near future", and why the services were provided up to Turbo from the Rift Valley side and up to Kibosoa from Kisumu side and Western Province left out?

**Mr. Morogo:** Mr. Speaker, Sir, this service was provided on phases and Nairobi was first, Mombasa, Kisumu and parts of Rift Valley were provided. We are in the move towards the Western Province and that is why I said very soon we shall provide that service in Western Kenya.

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, could the Assistant Minister tell this House when the Government will provide telephone mobile telephone services to "cooks and watchmen?" Why are mobile telephone services---

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. I take great exception to the remarks by the hon. MP. This is not a laughing matter to refer to a community as that of watchmen and cooks. We are not amused by that and any hon. Member trying to talk about that sort of thing on the Floor of this House is humiliating us and we might as well ask him to get circumcised!

*(Laughter)*

**Mr. Ojode:** On a point of order, Mr. Speaker, Sir. I am not sure whether I heard hon. Shikuku saying that hon. Dr. Otieno-Kopiyo is not circumcised? How does he know that?

*(Laughter)*

**Mr. Speaker:** Order, hon. Members! Can we, as a House, become a little more serious and stop being personal. I warn the hon. Members not to subject any community in this country a battle of jokes and I want every hon. Member in this House not to refer to another hon. Member in a manner that is disrespectful. Dr.

Otieno-Kopiyo, you go direct to the merit of the Question. If you are joker, I will give the chance to a more serious hon. Member.

**Mr. Wetangula:** On a point of order, Mr. Speaker, Sir. It is not fair to let hon. Dr. Otieno-Kopiyo get away with that rude remark against our community. Nobody has the right to stand on the Floor of this House and make derogatory remarks against any community or any person, for that matter, and for that he has to withdraw and apologise. There is no community in this country that is of "cooks and watchmen!" He has to withdraw and apologise.

**Mr. Speaker:** What were going to say, hon. Dr. Otieno-Kopiyo? Are you going to comply?

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, I want to make it clear that I have no ill-feelings against the Luhya community, and secondly, I am not hon. Kamotho who raised the matter. In any case hon. Kamotho is already circumcised!

**Mr. Speaker:** Order, hon. Members! That is absolutely no excuse, hon. Dr. Otieno-Kopiyo! To the best of my knowledge, hon. Kamotho has never used that term on the Floor of this House. You are the one who has used that derogatory term against the community within the precincts of the august House of the National Assembly of Kenya. I now order you to withdraw and apologise to that community as a whole.

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, on behalf of myself and on behalf of hon. Kamotho, I withdraw and apologise to the Luhya community!

*(Applause)*

Now, I would like to know why are mobile telephone services which are relatively cheap elsewhere---

**Mr. Anyona:** On a point of order, Mr. Speaker, Sir. This is a very serious matter and it happens in this House more often than we realise. Very often, there is offensive language used against persons, against groups of people contrary to the Standing Orders. Is it not in order, in view of what has happened, for the Chair to remind the House, once again, of the provisions of Standing Order No.73(3) which states:-

"It shall be out of order to use offensive or insulting language whether in respect of Members of the House or other persons."

Mr. Speaker, Sir, there is a very specific Standing Order which is being breached.

**Mr. Speaker:** Indeed, and for a quite a long time, I am on record as having warned this House on numerous occasions that hon. Members should use civil language against each other and other members of the community. May I assure you that I will ensure that Standing Order No.73(3) is going to be complied with henceforth for the benefit of the House.

*(Applause)*

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, why are mobile telephones so expensive in Kenya when they are relatively cheap elsewhere?

**Mr. Morogo:** Mr. Speaker, Sir, this is a new technology in Kenya and we cannot be compared with other countries where they started a long time ago. Again the fee is coming down as we move on and improve that technology and hopefully very soon every one will be able to afford it.

**Mr. Wamalwa:** Mr. Speaker, Sir, can the Assistant Minister tell the House why the Kenya Posts and Telecommunications refuses to give a number to anybody who buys his set from outside or away from them. They would only give you a number if you bought your set from them. Why should they not give you a frequency if you have bought a set cheaply elsewhere?

**Mr. Morogo:** Mr. Speaker, Sir, one of the areas that this telecommunications service affects is security. Let me advise the hon. Member that as a result of the services being liberalised, very soon this will not be a problem. It was first a problem because we had to make sure that everything was in order.

*Question No. 703*

#### REPLACEMENT OF BILLBOARDS

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

(a) whether he is aware that all the road signs and bill-boards erected along Thika Road are in a dilapidated state; and,

(b) what plans he has to replace them with others which are legible and of more durable materials.

**The Minister for Public Works and Housing** (Prof. Ng'eno): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that some traffic signs along the road are in a state of disrepair.

(b) The Ministry has plans to replace the damaged or missing traffic signs along Thika Road during 1996/97 Financial Year and further continue to ensure that traffic signs are made and installed in accordance with traffic signs applicable in Kenya.

**Mr. Speaker:** Mr. Speaker, Sir, I thank the Minister for agreeing that he is aware that the traffic signs along Thika Road are in a state of disrepair. The Minister should know that the lack of these traffic signs, not only along Thika Road, but in all our roads in this country, is one of the major causes of accidents that we witness.

There is a Magazine called *The Point* which is saying that in all the developing countries in this world, Kenya is leading with the largest number of road accidents because 8.2 lives are lost daily through these road accidents. Now, is the Minister going to wait for the 1996/97 Budget in order to erect traffic signs? How many people do you think will have died before the 1996/97 Budget is read here and passed? What are you going to do as a precautionary measure to provide these traffic signs immediately?

**Prof. Ng'eno:** Mr. Speaker, Sir, let me remind the hon. Member that the Budget for 1996/97 has already been read.

**Mr. Wamae:** Mr. Speaker, Sir, will the Minister co-ordinate with other Government Ministries to ensure that publicity is given through KBC and other media against people destroying road signs? We need public education through the Assistant Chiefs and Chiefs so that these road signs are not vandalised.

**Prof. Ng'eno:** Mr. Speaker, Sir, in fact, I am very happy that the hon. Matu Wamae has raised that issue and I would use the opportunity to say that it is our duty as hon. Members and everybody else concerned, to educate the public on the importance of road signs and the fact that they should not be vandalised.

**Mr. Gitonga:** Mr. Speaker, Sir, would the Minister tell this House who is responsible for erecting these road signs? Is it the Ministry of Public Works and Housing or contractors?

**Prof. Ng'eno:** Mr. Speaker, Sir, it is responsibility of the Ministry of Works and Housing and also contractors.

**Mr. Ndicho:** Mr. Speaker, Sir, can the Minister deny or confirm that the contractors are using very inferior materials to paint these traffic signs whereby they only three or six months before they fade away? Can he ensure that if it is a contractor who is doing this work, the materials used are of internationally accepted standards because they are using sub-standard materials?

**Prof. Ng'eno:** Mr. Speaker, Sir, I do not agree that the materials being used are sub-standard because we inspect them and when we find that they are sub-standard, we make the contractor do the same job with the material of the highest standard possible.

#### *Question No. 792*

#### PAYMENT OF DUES TO MR. AMUSAVI

**Mr. Shikuku** asked the Minister for Land Reclamation, Regional and Water Development:-

(a) whether he could explain why Mr. Elias M. Amusavi, P/No.62077, has not been paid his salary for the period 1st March, 1981 to 1st December, 1985, despite his affirmative reply to Question No.PQ/240/87 of April, 1987; and,

(b) whether he could state who has been responsible for this delay and when Mr. E. M. Amusavi will be paid his dues.

**The Assistant Minister for Land Reclamation, Regional and Water Development** (Mr. Ligale): Mr. Speaker, Sir, I do not feel comfortable answering this Question having tried to assist the person involved in this matter and I would prefer that, it was answered by one of my colleagues.

**An hon. Member:** But where are they?

**The Assistant Minister for Land Reclamation, Regional and Water Development** (Mr. Ligale) Mr. Speaker, Sir, I would suggest that we defer the Question so that one of my of colleagues could answer it next time.

**Mr. Speaker:** Well, I will defer the Question, but the Chair does not take it kindly. That is an issue that you would have sorted out in the office. It should not be sorted out on the Floor of the House.

I will defer it to Tuesday next week.

Next Question, Prof. Rashid Mzee.



(Question deferred)

*Question No.1016*

PAYMENT OF BENEFITS TO FORMER EMPLOYEES

**Mr. Speaker:** Mr. Njenga Mungai's Question for the second time.

**Mr. J.N. Mungai:** Mr. Speaker, Sir, I beg to apologize.

*Question No.675*

ELECTRICITY SUPPLY TO MAU SUMMIT

**Mr. J.N. Mungai** asked the Minister for Energy whether he could consider supplying electricity to Mau Summit Centre and the surrounding farms.

**The Minister for Energy** (Mr. Ngala): Mr. Speaker, Sir, I beg to reply.

The Ministry will consider supplying electricity to Mau Summit and the surrounding farms once sufficient funds have been secured.

**Mr. J.N. Mungai:** Mr. Speaker, Sir, the question of availability of funds as an answer by the Ministers in this House has been misused so much. It has been misused; one, to prevent some areas from getting services. Secondly, they have been using it as a bait to campaign for KANU. Since the Minister has said that electricity will be provided when the funds are available, can he tell us how much will be made available? What does he mean when says; "when funds are available?"

**Mr. Ngala:** Mr. Speaker, Sir, I was expecting the hon. Member to ask his question in an honourable manner because what he started with was provoking and I am not interested in using provocative words. But what I would like to say is that the question of funds being available is a genuine thing and we are not using it to cheat or to buy people from the Opposition. We are portraying the situation as it is.

Now, I would say that supplying Mau Summit Centre and the surroundings with electricity involves a construction of 7 kilometres of high tension lines, establishment of three substations. The total cost of the project is Kshs10 million.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, Kshs10 million is very little money compared to the work it could do. Besides that, could the Minister explain to this House where he would get that electricity since at the moment we are under-supplied with electricity? We have a problem even here in the City whereby we have frequent rationing of electricity and yet---

**Mr. Speaker:** Are you repeating hon. Njenga's question?

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, we should be honest. What plans does the Ministry have to provide electricity for the whole country since we are already experiencing a shortage of this commodity?

**Mr. Ngala:** Mr. Speaker, Sir, I think that is a different question. If the hon. Member submits it to the Ministry, I will answer it an appropriate way.

**Mr. J.N. Mungai:** Mr. Speaker, Sir, Kshs10 million is very little money considering the amount of money that Kenya Power and Lighting Company (KP&LC) gets from its customers. Does the Minister want to tell us that supplying electricity to Mau Summit is a waste? All we know is that it is not a waste but an investment because many people are going to tap that electricity to their homes. By so doing the Kshs10 million would be re-paid within very few days. Could the Minister consider going to a bank and borrow money to supply electricity there because this will definitely be an additional source of revenue since it will not be static?

**Mr. Ngala:** Mr. Speaker, Sir, I agree with the hon. Member that it is useful to supply people with electricity. We are looking for Kshs10 million regardless of whether it is a small or a large amount. Once we get that money we will supply that electricity that is required. I do not want the House to get an impression that the Ministry is not doing anything as concerns supplying electricity to those areas. I would like to mention a few places which have been supplied with electricity so that the House can also appreciate. Keringet, Merikal, Sanjingwan, Sinindet, Kitangich are some of the areas that have already been supplied with electricity within Molo.

*Question No.492*

## REVIVAL OF ELECTRIFICATION PROJECT

**Mr. Githioni** asked the Minister for Energy:-

- (a) whether he is aware that the electrical posts which had been taken to Kipipiri for the rural electrification project have been removed and the electrification project discontinued; and,
- (b) when the electrification project will be revived.

**The Minister for Energy** (Mr. Ngala): Mr. Speaker, Sir, I beg to reply. I would like to apologise for not answering the question when it was called for the first time. However, having said that, I beg to reply.

- (a) I am not aware.
- (b) Rural electrification is continuing in Mirangine Location---

**Mr. P.N. Ndwigwa:** On a point of order Mr. Speaker, Sir. It is apparent that the Minister is seeing the answer for the first time and, in view of the seriousness of this question, could we perhaps ask the Minister to give us this answer on Tuesday? This is because he does not know what he is telling this House and it is very apparent.

**The Minister for Energy** (Mr. Ngala): Mr. Speaker, Sir, I am answering the Question and I do not know why the hon. Member should tell me to answer the Question on Tuesday. I want to answer the Question as it is on the Order Paper. I am reading the answer and my response to "a" is that I am not aware.

Secondly, the rural electrification is continuing in the Mirangine Location, Upper Gilgil and Matindiri areas of Kipipiri Constituency. So far my Ministry has completed electrification of Kaptan Market, Salient---

**Mr. Wamae:** On a point of order Mr. Speaker, Sir. Is it in order for the hon. Minister to allow himself to suffer so much due to poor eyesight? Why can he not use his glasses?

*(Mr. Ngala put on his glasses)*

**The Minister for Energy** (Mr. Ngala): Mr. Speaker, Sir, I beg to reply.

- (a) I am not aware.
- (b) Rural electrification is continuing in Mirangine Location, Upper Gilgil and Matindiri areas of Kipipiri Constituency. So far my Ministry has completed electrification of Kaptan Market, Salient Secondary School, Kiambaga Water Pump and Kamande Primary School all at a cost of Kshs8,900,000. The question of reviving the projects does not therefore arise.

**Mr. Githioni:** Mr. Speaker, Sir, it is no wonder that the Minister is not aware that electrical posts were removed from Kipipiri. But I want to make him aware of this by telling him that during the Kipipiri by-election, a lot of electrical posts were taken to almost every trading centre IN Kipipiri and immediately the Returning Officer declared that I had won the seat, and KANU had lost, there were so many lorries outside the County Hall belonging to the Kenya Power and Lighting Company Limited whose staff started loading those posts on the lorries and they were taken to an unknown destination. Notwithstanding that, the people of Ngeta today---

**Mr. Speaker:** Could you ask your question?

**Mr. Githioni:** I am building the question so as to make him understand the question. Notwithstanding that, what is the Minister going to do to make sure that he serves the people of Ngeta location, Wanjohi Location, Miharati and Leleshwa Location because the posts were removed from all those centres? This is a clear indication that the Government has abdicated its responsibility.

**Mr. Ngala:** Mr. Speaker, Sir, I do not believe what the hon. Member is telling this House. Work is going on in the area the hon. Member has referred to in this Question. The rural electrification programme is going on in Mirangine Location, Upper Gilgil and Matindiri areas which is estimated to cost Kshs10,500,000. Therefore, it is very unfair for the hon. Member to come here and try to give a different position from what is happening on the ground. I totally refute what the hon. Member is saying.

**Mr. Shikuku:** Mr. Speaker, Sir, arising from the Minister's reply and taking into account that he is an elected Member of Parliament and we are all colleagues, what makes him feel that he knows better than the area Member and what also makes him feel that we will believe what he is telling us? We were there physically during the campaign. Those posts were there; we saw them. Can he not believe us, senior Members, who were with his late father in this very House? Can he not believe that we saw these posts and they were removed?

**Mr. Ngala:** Mr. Speaker, Sir, I just want to be serious just like the hon. Member is. The posts were not removed. Money has been allocated to this project, work is going on and I do not believe that the posts could all be taken away.

**Mr. Gichuki:** Mr. Speaker, Sir, I want to seek guidance from the Chair because the Minister is

deliberately misleading this House. He does not know what he is talking about because he is hardly a month in that Ministry.

Mr. Speaker, Sir, the project that is going on in Mirangine is for the people of Mirangine who have pulled their resources together, paid the Kenya Power and Lighting Company and that is not rural electrification as far as we are concerned. What policy does the Ministry have as regards rural electrification? Because what you are talking about as taking place in Mirangine is not rural electrification, it is commercial. And what we are talking about here is with regard to the posts that had been taken to Kipipiri during the by-election campaign and were supposed to be for rural electrification. So, we would like the Minister to clarify the position and not mislead this House.

**Mr. Ngala:** Mr. Speaker, Sir, I will make the necessary investigation and inform the House accordingly, if the position is different from what I am telling the House right now.

**Mr. Nthenge:** On a point of order, Mr. Speaker, Sir. I want to thank the Minister because he is really responsible and ready to check and inform the House on the correct position.

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Speaker, Sir. In view of the fact that he has given us an undertaking, could he give us a time frame within which he is going to bring this information?

**Mr. Ngala:** Mr. Speaker, Sir, I will try to give the reply next week on Tuesday.

**Mr. Speaker:** Question No.1016, for the second time! Prof. Mzee!

#### *Question No.1016*

#### PAYMENT OF BENEFITS TO FORMER EMPLOYEES

**Mr. Speaker:** Prof. Mzee, still not here! The Question is dropped!

*(Question dropped)*

#### QUESTIONS BY PRIVATE NOTICE

**Mr. Speaker:** Mr. Nyagah, I hope you are not sitting close to Bishop Njeru!

**Mr. Nyagah:** The reason why there was a big fight pertaining to this Question---

**Mr. Speaker:** Ask your Question!

#### EVICION OF SQUATTERS FROM RANCHING SCHEME

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

(a) Why has the District Commissioner, Mbeere, failed to implement his directive of 12th September, 1996, issued during his Baraza at Karaba Divisional Headquarters, to evict squatters from Mwea Ranching Scheme within 21 days; and

(b) Why the Government has refused to take action on an otherwise explosive situation towards invaders of land in Karaba Location of Gachoka Constituency, which has a likelihood of leading to ethnic clashes.

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

(a) The District Commissioner, Mbeere, reviewed his directive of evicting the squatters from Mwea Ranching Scheme by 12th September and extended the eviction deadline to 30th November, on humanitarian grounds.

(b) There are no land invaders in Karaba Location of Gachoka Constituency as alleged by the hon. Member. There has never been an explosive situation owing to land in that Location.

**Mr. Nyagah:** Mr. Speaker, Sir, we had very honourable PCs in this country. Hon. Nyachae who was PC in Central Province knows the problem. Hon. Mathenge who was PC in Eastern Province knows that problems have been there. But let me touch on the first question.

On 12th September, the DC of Mbeere gave instructions that people in the Mwea Ranching Scheme must vacate within 21 days. It was repeated by the DO, Mwea, on 10th October, during Moi Day celebrations. Again on 20th October, it was repeated by the same DO who has since then been transferred from Mwea Division because of his non interference with my going to my constituency where I have not been licensed to hold public meetings.

What action will the Assistant Minister take to make sure that the DC, Mbeere, who gave the same

instructions is evicted from, Mwea Ranching Scheme where he used tractors belonging to soil conservation (ARTU) three weeks ago to plough for three days?

He also ploughed on Plot No.22, photograph No.1074, and the petrol was bought from Agip Wiyathi Petrol Station in Embu?

**Mr. Awori:** Mr. Speaker, Sir, I will confine myself to the Question. The eviction will take effect on the 30th of November. The reason why it was extended was simply that some of those people to be evicted, had school children who were going to sit for examinations. Surely the young man there must have children, he must have some feelings. A man from Prince of Wales should have compassion for children to sit for examination.

**Mr. P.N. Ndwigwa:** Mr. Speaker, Sir, the situation in Karaba, on the Mwea Ranching Scheme, has been created by the Government. There was the Chesoni Commission whose report on Mwea has never been made public. Now, this land which is under Embu County Council ought to have been subdivided a long time ago. But what is happening is that we are now having invaders from Kitui and Machakos settling on this land. As a result of that, there were clashes there two months ago. Could the Assistant Minister tell this House what urgent measures he is going to take to make sure that the land is sub-divided, so that the situation reverts back to normal?

**Mr. Awori:** Mr. Speaker, Sir, that is certainly not a supplementary question to the Question asked today. If the hon. Member would like to submit that question, I will take care of it.

**Bishop Njeru:** Mr. Speaker, Sir, the Assistant Minister is trying to mislead this House because, for several years now, there has been a dispute in Mwea Ranching Scheme. There was a time people from Embu, Kirinyaga and Mbeere were being shot with arrows, especially my people from Mwea. The Government is doing nothing while clashes are almost going to erupt in Mwea because of this Scheme. What is the Assistant Minister doing now to stop the situation from degenerating into clashes? When will the land be sub-divided?

**Mr. Awori:** Mr. Speaker, Sir, once again I can only repeat what I have said. I am unable to address myself to that question.

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. I do not know whether the hon. Assistant Minister saw what happened here. After the supplementary question by hon. Bishop Njeru, they said *ngeithia* and they all shook hands. Did he see that? I do not know what it means, but they shook hands. So, they are very united on this issue.

**Mr. Mulusya:** On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to continuously refuse to answer questions as they are being put to him by these hon. Members? He has been asked what he is doing to sub-divide the land. Why is he avoiding to answer that question?

**Mr. Awori:** Mr. Speaker, Sir, I did not avoid to answer any question. This afternoon, when I came to answer the Question by Private Notice, I addressed myself entirely on that. That question by hon. Bishop Njeru cannot, by any stretch imagination, be called a supplementary question; as to when the eviction is going to take place.

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

**Mr. Speaker:** Order! Order, Ndwigwa! I have given that Question enough time and I was just going to give Mr. Nyagah the very last chance.

**Mr. Nyagah:** Mr. Speaker, Sir, I must register my disappointment with the manner in which this Question has been answered. But the people back at home will judge this Assistant Minister who is answering this Question. Before the Provincial Commissioner went to Europe for an operation, he wrote to me, and I have a copy of that letter about the looming danger in Mwea which the Government was going to control as a result of the people moving around with bows and arrows. I have since then been stopped by the District Commissioner, Mbeere District, from moving in there and I am ready to die there. I would be the next Member of Parliament for that place. The date when the District Officer for Mwea Division was going to intervene and evict the people from Karaba Sub-location, he was called to the district headquarters by the District Commissioner, who has since then transferred him from there, because he must not interfere with the Kamba community who are expected to vote for KANU as a block. It is only the Kambas who have invaded the shambas belonging to Kikuyus, Embus and the Mbeeres. That is enough.

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

**The Assistant Minister for Education (Mrs. Ndeti):** On a point of order, Mr. Speaker, Sir. Is the hon. Nyagah in order to preach tribal sentiments in this House, when we are trying to create one nation in this country?

**Mr. Speaker:** Order! Order, Mr. Nyagah! I have had occasions to ask hon. Members not to make the situation that is already fluid worse by using the Floor of this House to create unnecessary tribal hatred.

**An hon. Member:** Mr. Speaker, Sir, throw him out!

**Mr. Speaker:** Order! Order! I may as well begin with you for interjecting. Next Question by Private Notice.

**Mr. Kiliku:** On a point of order, Mr. Speaker, Sir. Let me state that in the 1992 General Election, Mr. Kibaki got 50 per cent of his votes from Eastern Province, including the Kamba votes and got only 35 per cent from Central Province.

**An hon. Member:** How does Mr. Kibaki come in?

**Mr. Kiliku:** The hon. Member who is here should stop inciting and provoking the Akamba community.

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

**Mr. Speaker:** Order! Order, Mr. Nyagah! Order, all hon. Members! You can see this is just an inkling of what tribalism can do. I want all of you not to persist on this issue. Mr. Ndwiga, you better not repeat that. I now order all of you not to visit that issue any further. Next Question.

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

**Mr. Speaker:** You are out of order! Sit down! Order, Mr. Nyagah! You have already made the situation worse and if you think you can atone by being thrown out, I am prepared to do it if you misbehave. Next Order!

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

**Mr. Speaker:** Order! Order, Mr. Nyagah! Mr. Nyagah, I am afraid, if through your own recklessness, you have made a political blunder, do not expect the Chair to come to your assistance.

**Mr. Nyagah:** I do not need any!

**Mr. Speaker:** Alright. Order! Mr. Nyagah, you must now leave the Chamber.

**Mr. Nyagah:** The truth of the matter is what I have said.

**Mrs. Ngilu:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! Order, hon. Members!

*(Mr. Nyagah withdrew from the Chamber)*

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. Standing Order No.83---

**Mrs. Ngilu:** Mr. Speaker, Sir, why did you give Mr. Shikuku a point of order, but not me?

**Mr. Speaker:** Order! Order, Mrs. Ngilu! First of all, I must bring to the attention of all hon. Members, that you cannot bulldoze your way to catch the Speaker's eye, in whatever way. Number two, when Mr. Speaker has expelled an hon. Member, until that hon. Member leaves this House, we cannot transact anything until that order has been complied with. That is why, Mrs. Ngilu, you were not given the Floor. In any case, I am not bound to give you the Floor. I must make that absolutely clear. We will now leave all this and go to the next Question.

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. This is not about the matter here, but on Standing Order No.83. It states very clearly that once Mr. Speaker is on his feet, or when he is communicating to the House, everybody must be seated. I have seen when you are standing some hon. Members are interjecting and others are talking. Could we have this Standing Order complied with otherwise we are going to have chaos in this House?

**Mr. Speaker:** Order! Order! If the hon. Members are completely disregarding the rules, even if this Chamber is going to be left with no Member, as a result of expulsion for disregarding the Standing Orders, so let it be. Next Question, Mr. Raila Odinga.

#### SALE OF COUNCIL ESTATES

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

(a) Is the Minister aware that the Kisumu County Council is about to lose two estates, namely: Joel Omino and Opiyo Oguma Estates, to unscrupulous businessman through irregular auction?

(b) If the answer to "a" above is in the affirmative, could the Minister take immediate action to stop the sale and arrange for rescheduling of the loan to the Council?

**The Assistant Minister for Local Government (Mr. Kamuren):** Mr. Speaker, Sir, after two weeks, having carried my investigation on the Question by the hon. Member for Lang'ata, I beg to give the following reply.

(a) Mr. Speaker, Sir, I am aware that Joel Omino and Opiyo Oguma Estates were auctioned on 8th July, 1996 to a businessman Sadrudin Gilani.

(b) My Ministry cannot possibly take any action since the houses have already been sold. Kisumu County Council had been given ample time to service the loan, but it eventually did not do this. As a result of this M/s Savings and Loans Kenya Limited, through the High Court sitting in Kisumu, received a court order allowing them to go ahead with the sale of the houses.

**Mr. Raila:** Mr. Speaker, Sir, this is the third time this Question has been asked in this House. The Assistant Minister is giving the same answer that he gave the first time when it was asked. The Question says that these houses were sold through an irregular auction. This answer does not talk about the nature of that auction, even though we have said that the auction was irregular. Be that as it may, is the Assistant Minister aware that on 8.11.96 when his Excellency the President visited Kisumu, he received a delegation of councillors from Kisumu County Council, who were led by their Chairman, and having listened to the delegation, the President directed that this irregular sale be cancelled and the Asian be refunded his money? Is it not a fact that it is the Provincial Commissioner himself who stands to benefit from a gift of a plot in those estates, and that he is the one who is trying to frustrate the Presidential directive?

**Mr. Kamuren:** Mr. Speaker, Sir, I am not aware of that. However, in line with the principle of collective responsibility, I will allow my Minister, who is sitting next to me, to also chip in.

*(Hon. ole Ntimama stood up in his place)*

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. I think history is going to be made. We have never seen two Ministers replying to the same Question!

**Mr. Speaker:** I will not allow that history to be made. Since I understand the sensitivity of the Question, and since the Minister may have better information, I will defer this Question to Tuesday next week to be answered by the Minister himself.

*(Question deferred)*

#### TERMS OF POWER GENERATION CONTRACTS

**Mr. Mak'Onayngo:** Mr. Speaker, Sir, I beg to ask the Minister for Energy the following Question by Private Notice.

(a) Given the energy crisis Kenya faces because of hydro-electric power plant breakdowns in the country, is the Minister satisfied that M/s Sabah Shipyard of Indonesia and Iber-Africa of Spain are the best firms for the power generation jobs that have been placed?

(b) What are the costs and terms of the contracts?

**The Minister for Energy (Mr. Ngala):** Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am satisfied. Of the nine firms that participated in the bids the two firms were the most competitive, both technically and in price.

(b) The Kenya Power and Lighting Company (KPLC) is not investing in the two plants as the entire procurement, construction and commissioning costs of the generating equipment will be the responsibility of the two firms. Consequently, the Government does not have the investment cost figures. The contract terms require payment by the KPLC for capacity and energy guaranteed as and when it is delivered.

**Mr. Mak'Onyango:** Mr. Speaker, arising from that unfortunate answer, which shows lack of seriousness on the part of this Government on so serious a matter like this one, this country is now faced with serious power rationing. This rationing is costing the country billions of shillings in terms of unrealised production. Thousands of jobs are falling by and the tourism industry is threatened because of this rationing. Can the Minister tell the House since when these two firms found it necessary to undertake such massive projects without cost input from the Kenya Government? Can he for once rise up and tell this House what it will really cost this country to realise the stop-gap measures to put an end to power rationing?

**Mr. Ngala:** Mr. Speaker, Sir, I do not want to allow the hon. Member to get away with his comment that we are not serious. I am serious and I gave an answer. I will not take kindly to the hon. Member's comment that I am not serious. He said that my answer was unfortunate, but it was not.

**Mr. Wamae:** Mr. Speaker, Sir, will the hon. Minister confirm to this House that these contracts have been accepted by the World Bank? We understand that the World Bank may withhold funds for further

development of power generation because of the way these contracts were awarded?

**Mr. Ngala:** Mr. Speaker, Sir, I have said that I am satisfied that procedures were followed as required by regulations.

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, given the fact that M/s Sabah Shipyard is owned by the same persons who own M/s Arkel International, the firm which is famous for the failed expansion of Nzoia Sugar Factory, which cost the tax payer Kshs5 billion or \$75 million, is the Minister still satisfied that this time round they will perform?

**Mr. Ngala:** Mr. Speaker, Sir, my position is the same: I am satisfied that this time round they will perform.

**Mr. Orenge:** Mr. Speaker, Sir, the Minister has just returned from Washington, and yesterday he said that the World Bank requires him to re-negotiate the Kipevu stop-gap project, which is meant to help the country meet the electricity supply deficit. More importantly, I have here some documents from the World Bank which, in fact, show that the Government has to do two things: It has to offer guarantees for these power companies and open up an escrow account. The Minister is required to deposit in it in excess of \$4 million by March, 1997 to confirm that these companies have funding for these projects. So, he was called to Washington to confirm that he was not going to "eat" part of this money. Is that not correct?

**Mr. Ngala:** The information which the hon. Member has got is not correct. We went to Washington not because of the information which he has got. We went there to negotiate on the credit facilities. Therefore, there was nothing dubious about what we went to negotiate. There is no eating of any kind as alleged by the hon. Member. We are being transparent in this matter and we believe that the companies that have been awarded the tender will deliver the stop-gaps.

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

**Mr. Speaker:** Order! Order, hon. Members! We are 30 minutes behind schedule. The Chair wishes to give a general warning that next time, we are going to stick to one hour. Next Question! Mr. Shidie!

#### TRANSLOCATION OF HIROLA

**Mr. Shidie:** Mr. Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following Question by Private Notice.

(a) Is the Minister aware that the people of Garissa District are deeply concerned with the transfer and safety of the rare hirola from its natural habitat to Tsavo National Park?

(b) Could the Minister state as to what happened to the hirola which were translocated way back in 1960?

(c) What are the costs in translocating the endangered hirola from Garissa to Tsavo East National Park and what are the benefits to the people of Garissa?

**The Minister for Tourism and Wildlife (Mr. D. Mbela):** Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware.

(b) In 1960, 11 hirola antelopes were successfully translocated from Arawale to Tsavo East National Park and by 1995, these animals had increased to 60.

(c) The cost of translocating 30 hirola antelopes from Garissa to Tsavo East National Park was estimated at Kshs3 million.

**Mr. Arte:** On a point of order, Mr. Speaker, Sir. This issue of the hirola is in the court and it is *sub judice* to discuss it at this juncture.

**Mr. Speaker:** Is it in court, Mr. Mbela?

**Mr. D. Mbela:** Mr. Speaker, Sir, I am so new in the Ministry and I do not know whether it is in the court. But I have no reason to dispute what he is saying.

**Mr. Speaker:** Mr. Shidie, to the best of your knowledge, is it in court?

**Mr. Shidie:** Mr. Speaker, Sir, to the best of my knowledge, this matter has been disposed of and it is no longer in the court. A ruling has been made on it and so, this matter is not in the court.

**The Minister for Tourism and Wildlife (Mr. D. Mbela):** The people of Garissa, like all other Kenyans would have benefited from the move because the hirola were being moved to safer grounds for posterity. However, the Government has now decided and directed that no further translocation of the hirola antelopes should take place.

**Mr. Shidie:** Mr. Speaker, Sir, first and foremost, I have two sets of answers. One is saying that: "(a) I am not aware that the people of Garissa---"

**Mr. Speaker:** Order! Order, hon. Shidie! I am getting conflicting information about this issue. I am told on the one hand that it was only the interlocutory matters that were disposed of and not the main suit. So, can we hold this matter until I get the pleadings, to know whether the whole matter has been disposed or it is still pending? So, until I am sure, I will defer this Question. May I order, Mr. Arte to bring the pleadings to me by Monday because he is the one who brought it to my attention?

*(Question deferred)*

### POINT OF ORDER

#### STATUTORY COFFEE DEDUCTIONS

**The Minister for Agriculture, Livestock Development and Marketing** (Mr. Nyachae): Mr. Speaker, Sir, early this week I promised to provide this House with further clarifications on the statutory deductions which have been made out of coffee proceeds for the crop's years 1993/94, 1994/95, 1995/96. The deductions countrywide during those crop years were as follows: 1993/94 crop year, the cess at 1 per cent was Kshs146,251,280. Presumptive tax was nil. Ad valorem levy was Kshs465,230,310. In 1994/95 crop year, cess at 1 per cent was Kshs131,327,540. Presumptive income tax was nil. Ad valorem levy was Kshs428,983,080. In 1995/96 crop year, cess at 1 per cent was Kshs105,833,660. Presumptive income tax was Kshs223,135,760. Ad valorem levy was Kshs341,173,400.

The ad valorem levy is normally utilised for research activities in coffee which takes 65 per cent while 35 per cent of that levy is used for financing the activities of the Coffee Board of Kenya. The actual level of ad valorem levy is decided upon by coffee farmers themselves through the annual delegates conference and I only gazette the levy as per farmers' recommendations, subject to a maximum of 3 per cent of sales realisation. The Government takes keen interest in crop production in the country. In this regard, and in recognition of the need to support farmers, including coffee farmers, the Government does not levy taxes on farm inputs.

**Mr. Wamae:** Mr. Speaker, Sir, does the hon. Minister understand that this amount of money which is being levied on coffee farmers as ad valorem tax for financing research - in coffee related fields - is a lot of money being deducted from the coffee farmers? KARI which conducts research for wheat and maize farmers is financed by the Government from the budget. Why do coffee farmers have to finance the activities of the Coffee Board of Kenya which is a Government parastatal, instead of it being financed by the Government directly through the budget? Why does the coffee farmer have to pay presumptive tax of 2 per cent while the maize, wheat and horticultural farmers are not paying these presumptive taxes? Why should this discrimination against coffee farmers exist? These are the points which the Minister has to consider. Is it because coffee is grown in opposition areas or what?

**The Minister for Agriculture, Livestock Development and Marketing** (Mr. Nyachae): Mr. Speaker, Sir, as I have already said, ad valorem levy is not decided upon by the Government. It is decided by the coffee farmers themselves and then, they make recommendations to the Minister for Agriculture, Livestock Development and Marketing for gazette. The Government does not add a cent on what has been recommended by coffee farmers. With regard to presumptive tax, every farmer, be they maize, wheat farmers or all the other farmers, they have to pay presumptive income tax, with the approval of this House. If you want to remove it, I will be the happiest man.

### MINISTERIAL STATEMENT

#### DEMOLITION OF CHURCH

**The Assistant Minister, Office of the President** (Mr. Awori): Mr. Speaker, Sir, last week, I promised to make a statement on the demolition of the African Israel Nineveh Church in Ruaraka by thugs.

Let me take this opportunity to clarify that the demolition of the church occurred in Dandora Phase Two, and not Ruaraka as the hon. Member had stated. Let me further clarify the circumstances leading to the demolition. The plot on which the church stands in Dandora Phase Two was allocated to Dandora Jua Kali Terminus Association by the Nairobi City Council. There were 300 jua kali plots in all. The African Israel Nineveh Church was allowed to build a semi-permanent church on a portion of the plot by the members of the Jua Kali Terminus. On 3rd November, 1996, the congregation of Israel Nineveh Church went to the church and



started uprooting beacons of the jua kali plots. On the night of 4th November, 1996, a group of unknown people demolished the Israel Nineveh Church structure and went away with the building materials. On the 5th of November, 1996, the members of the church reported the matter to Kinyago Police Post in Dandora and investigations began. Two people were arrested in connection with the demolition, and are assisting police with investigations.

It seems from the foregoing that, the demolition of the church has to do with the raging dispute between members of the church and the jua kali terminus group. I would like to assure hon. Members that, apart from the investigations being carried out by the police, my office is referring this case to the Nairobi City Council, which allocated the plots to determine whether the church in question has a right of ownership of any or two of the plots.

Thank you, Mr. Speaker, Sir.

### POINT OF ORDER

#### MINISTERIAL STATEMENT REQUIRED: PRESIDENTIAL ASSENT TO WRONG BILLS

**Mr. Muite:** Mr. Speaker, Sir, I rise to ask for a Ministerial Statement which I consider has got the gravest possible Constitutional implications. Under Section 46 of the Kenya Constitution, this august House alone has the power to enact laws. This House is entitled to a statement, an explanation and, possibly, an apology from the hon. Attorney-General on the full circumstances under which a Bill, other than the Bill debated and passed by this Parliament, happened to have been taken to the President and given Presidential assent in terms of Section 46 and, thereafter, taken to the Government Printer and printed. Apart from the Auctioneers and the Estate Agents who first noticed that the Bill taken to the President and to the Government Printer was different from the one debated and passed in this House, none of us, as hon. Members of this House, had noticed this. We are entitled, as a House, to assurances from the Attorney-General. Indeed, even Mr. Speaker has got a particular interest in this matter because, under Sub-section 3, the President must, within 21 days, signify to the Speaker, under the Constitution, whether he assents to a Bill or does not assent to that Bill. So, what guarantees or assurances can we have from this Attorney-General, that in the past or in future we are not going to have situations where, matters that have not been debated by this Parliament are sneaked into a Bill after it leaves this House before it goes to the President? What guarantees do we have that we will not have a situation where some matters may be deleted from the Bills? This is a very serious matter.

**Mr. Speaker:** Very well.

**Mr. Muite:** Mr. Speaker, Sir, we also gathered that after some of these Acts had been printed by the Government Printer, they were withdrawn and others substituted. Under Sub-section 7, an Act enacted by this Parliament becomes law when it receives Presidential consent. Was it constitutionally competent for the Attorney-General to withdraw that, and substitute it with another one, instead of, perhaps, coming to this House to effect amendments?

**Mr. Speaker:** Mr. Muite, I think you have made your point. We will wait for the Attorney-General.

**Mr. Muite:** Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Next Order!

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. Normally, the Speaker used to tell us how many Bills which had been passed here and received Presidential assent. That is no longer the practice these days. I do not know what is happening.

*(Applause)*

### BILL

#### *Second Reading*

THE CENTRAL BANK OF KENYA (AMENDMENT) BILL

*(The Minister for Finance on 20.11.96)*

*(Resumption of Debate interrupted on 20.11.96)*

**Mr. Speaker:** Mr. Kibaki, you were on the Floor yesterday.

**Mr. Kibaki:** Mr. Speaker, Sir, I was speaking when we adjourned. I was talking about the role of the Central Bank, and that the Central Bank is to be controlled as to whom it may lend, and above all, that it may not lend to individuals or companies. I was just saying that the Central Bank ought not to under-take commercial activities. Those should be left to commercial banks.

I was referring to the limitation that has been put on the total lending that the Central Bank may give to the Government. It is stated as follows: "No more than 5 per cent of the gross recurrent revenue for the latest year over which the Government accounts have been audited." I was raising the question of the present lending to the Government. As of now, the Government has borrowed something like Kshs81 billion through Treasury Bills. Kshs81 billion is to be contrasted with the total revenue that Government collects in any one year, which is around Kshs140 billion, and Kshs81 billion has been borrowed. The point I was just making when the House adjourned, was what is given in Section 18, Sub-section 3. After saying that the Government may not be lent more than 5 per cent of the recurrent revenue of a certified year, there is a proviso, and that is what I was talking about when we adjourned. The proviso reads: "Provided that this Sub-section shall not apply in respect of advances made by the bank to the Government, prior to the commencement of this Section." In other words, money that the Government has already borrowed, is not going to be taken into account when this limitation is being applied. We know the Government has already over-borrowed from Central Bank and it is provided in the law, which we are being asked to pass, that the amount that the Government has already borrowed up till now, will not be taken into account in the application of this limitation. In other words, the Government will be able to start afresh, as if they had no debt and borrow to the full extent of 5 per cent of the recurrent revenue. If recurrent revenue is say Kshs140 billion, the Government will be able to borrow 5 per cent of that without taking into account that it has already borrowed some Kshs81 billion. Now, Kshs81 billion as a proportion of the total revenue of the Government, which is Kshs140, it is something like 58 or 59 per cent. It is almost half. In other words, the Government has borrowed an amount equal to 60 per cent of its revenue through Treasury Bills. If that is not to be taken into account, then what are we controlling? That volume of borrowing is so heavy that it would affect everything we have said in this Act. The rate of interest being paid now by the Central Bank for these Treasury Bills is 25, 26 and 27 per cent. Even if we use the lowest figure, 25 per cent interest, it means that on the Kshs81 billion now borrowed, the Government is going to be paying something like Kshs20 billion in interest. In any one year, they must borrow that much money to pay interest and they must also re-borrow the 81 per cent or whatever proportion so as to refinance it. So, the level of borrowing will not go down.

Mr. Deputy Speaker, Sir, what I am saying is that the Minister must make a statement to this Parliament before the Bill is passed, showing how he is going to handle this situation. It is meaningless for us to say that we are passing a law which limits Government borrowing and say that whatever we have borrowed should not be taken into account. The Government will repay from the same revenue. How can you say that although you are going to pay from the same available revenue, what we have borrowed up to now should not be considered? How can you fail to count that? You have not written off the debts and there is nobody else to take over this Kshs81 billion? It is still a debt and you must repay it when it is due. Are we saying that we are going to print money? There is something unspoken and when the Minister moved the debate, he did not say anything about this particular aspect and yet, it is the most serious aspect about the finances of this nation. What we are laying here as the foundation for the future is sound and good and I support it. I said that I support the Motion, but in practical terms, will it make a difference on the economy of Kenya? Not unless we find a manner of neutralizing the impact of this Kshs81 billion which has been borrowed. So long as the Government needs money to refinance Kshs 81 billion, it will continue borrowing and paying a rate of interest which is 25, 26 or 27 per cent. So long as the Government is paying an interest on its borrowing, which is 27 per cent, the commercial banks will go on charging private investors in Kenya 30 per cent as they are charging now. So long as the interest rate is 30 per cent, nobody will be able to borrow and finance investment. This is something very clear and simple. So, what we are really asking is how we are going to stimulate the economy of this nation. We have been told by both the Minister when he moved the Motion and the Leader of Government Business when he seconded the Motion that the purpose of Government is to stimulate the economy by encouraging investment. How can you encourage investment if the rate of interest remains at 30 per cent? Nobody will borrow money. So, we shall go on as I said with an economy in which only the Government is borrowing and nobody else is able to borrow because you cannot service 30 per cent interest.

So, to get out of that particular vicious circle, something must be done to neutralize this Kshs81 billion which has already been borrowed by the Government. The only way out is for the Government to reduce its own expenditure. We should not pretend that there is another way. There is no other way because of this Kshs81 billion. Some of that money borrowed is the money which has built things like

airports, bought planes and done everything else illegally and unconstitutionally, but it is a loan and it must be repaid. So, I am suggesting that the Government must now---

**Mr. Gatabaki:** On a point of information, Mr. Deputy Speaker, Sir. While appreciating what hon. Kibaki said about the necessity of Government reducing its own expenditure, it must be emphasized that the Government not only reduces its own expenditure, but reduces the dimension of theft of public money.

**Mr. Kibaki:** Mr. Deputy Speaker, Sir, I agree that the Government must reduce stealing. I had talked about that particular item last time and I do not want to repeat myself. There is direct stealing from Government. The taxpayers' money is being stolen directly and Kenyans know it. Even the donors know it and just now, we have heard an example here where two firms are being allowed to rob Kenyans under the pretext that they are going to develop power. One of those companies robbed us of Kshs5 billion in relation to Nzoia Sugar Company and as if that was not enough, we have brought them back now to rob us yet again. This nation needs God's help, but we must help ourselves first. We cannot pretend that God will help us if we cannot help ourselves and above all, if we must surrender to people who have already robbed us. We must surrender to those who robbed us through Nzoia Sugar Company and now we must allow them to come and rob us in regard to power. It is a very difficult matter. These are difficult matters.

**Mr. P.N. Ndwiga:** On a point of information, Mr. Deputy Speaker, Sir. I would like to inform hon. Kibaki that while on this point of over-expenditure, we have an example in this House where the money allocated for renovating the Parliament Buildings was Kshs100 million, but the money being spent is Kshs151 million. The Kshs51 million is not anywhere in the Budget.

**Mr. Kibaki:** Mr. Deputy Speaker, Sir, let me conclude that particular point that when the Minister replies, he has to explain to us how he intends to deal with this overhang? It is called overhang because it is heavy debt, it is already borrowed and it has to be reduced. The only way it can be reduced is to reduce Government expenditure. There is no other way. So long as we want to go on servicing it through new borrowing the Government will continue to be the only borrower in the economy and the private investor will continue to be excluded. This is a tragedy. In this way, we shall not get the economic growth that we are looking for.

It is stated very clearly that the bank may lend money to other banks. It may not lend anybody else. In Paragraph 21 of the Bill, it is stated that it may not lend any other entity. But the commercial banks maybe lent money by Central Bank in the course of their operation if they do need that kind of money. This particular area has been the main loophole through which Central Bank of Kenya lent some seven, or so, banks in this nation billions of shillings. It is through that channel that we got into the economic crisis that we are in now, and which we are just struggling to get out of, but we have not got out of yet. We know that the Central Bank should not lend any other bank, where they are not satisfied that the problems of that other commercial bank are more than just temporary.

In other words, if the Central Bank is going to lend other banks for very short-term periods so that they can get over short-term problems, it should not be such that those commercial banks come to depend on borrowing from the Central Bank to survive. That is defeating the whole purpose of supervision of the banking system. So, I am just expressing a hope that in future, if a bank or any other financial institution has not tried to borrow from other fellow banks in the normal commercial operations, then it should not be embraced by Central Bank, just to salvage it. This is because we have a very peculiar situation. We hear of a bank which has gone into liquidation. We then hear that they have been allowed time, not to go into liquidation like others, but they are going to be given time to look for new money, and to re-start all over.

Mr. Deputy Speaker, Sir, if the measure of the control of commercial banks is to become respectable, it should be uniform.

**Mr. Gatabaki:** Point of information, Mr. Deputy Speaker, Sir.

**Mr. Kibaki:** Mr. Deputy Speaker, Sir, I have been too much informed. Please, allow me not to take any more points of information so that we can allow all these other gentlemen to take their time to speak.

Mr. Deputy Speaker, Sir, what I am saying really is that: If the Central Bank must discipline commercial banks, let its activity be uniform. Let it not have any exceptions. A bank which has gone under liquidation should not be revived, whereas others are not being revived. Perhaps more importantly, where a commercial bank is failing in its duty-- and since the Central Bank would already know, because Central Bank inspects these other banks all the time. So, they know which bank is getting into problems. They know that earlier than anybody else.

**An hon. Member:** Are you sure?

**Mr. Kibaki:** Yes! They know it very much earlier than anybody else. They know it much earlier than Treasury and anybody else. This is because in their daily activity, they are always inspecting these commercial

banks. So, if any bank is about to get into problems, the Central Bank will be the first to know.

I am saying that the measures to correct any bank which is drifting into problems should be taken early. This is because it is not good for the economy to get disturbances from time to time, by banks which break down every time, thus upsetting very many individual Kenyans, who would have put their money into them. This is because they never recover that money. They lose it permanently.

Mr. Deputy Speaker, Sir, there is also a provision which I think is valid and welcome. One of the activities that the Bank will be engaging in is what is described here as open market operations, namely, discounting, buying and selling various Government bonds and stocks in the open market.

In this particular exercise, in order for the thing not to remain open-ended, it is important that a lot of that trading should be left more to the commercial banks, and that Central Bank comes into it only when they have to have an intervention for a particular purpose. But that is not something that can be put in the law, as I said earlier. So, it will only be left to them to judge when they want to intervene.

Mr. Deputy Speaker, Sir, the activities of the Central Bank come under the Ministry of Finance. There is need to come out clearly in this particular law, and the Minister may explain where it comes in. This is because we have read it three times, and I do not see exactly where it comes in.

There is a provision here that the Central Bank may issue monetary policies, statements and produce reports every six months. The various reports have to be tabled through the relevant Committee of Parliament. But in this House, because Parliament is supreme, it must remain open to this Parliament, to question the Minister for Finance, regarding any particular activity within the financial and monetary sector, at any time of the year, when Parliament is sitting.

I do not want to interpret this provision the way they are interpreting it; that the Bank itself will be made so independent that we shall have a Minister of Finance, standing up in Parliament and telling us: "I am not able to answer the Question you have raised because it is within the domain and powers granted to the Central Bank". I am saying this because we have seen other Central Banks in Japan, Britain, Germany and Sweden. But the Ministry of Finance remains responsible to Parliament, on the monetary, fiscal, and taxation matters and all other matters which are related to the finances of the nation.

So, despite the powers which must be given to the Bank, to make it independent, with the Governor being given security of tenure necessary---as I said the other day, all those things are good and we support them. But all the same, the answers to financial questions in this House, will have to be answered by the Minister for Finance. After all, he presents the budget. At any time of the year, if we are having any particular thing which is happening within the financial sector, we shall ask him questions. So, I would like the Minister, when he is replying, to clear that particular area for the benefit of this Parliament. Or rather, not just clear it, because nobody can take it away from Parliament. So, if anybody attempts, he would not be able to take it away. So, Parliament will always remain to ask the Minister for Finance those relevant questions concerning finance.

With those few remarks, I beg to support.

**Mr. Orenge:** Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Bill.

Before I state as to whether or not I support this Bill, the principle object of making the Central Bank statutorily independent is welcome because, the argument goes that monetary rectitude can only be guaranteed, by assigning the conduct of monetary affairs to a body beyond the direct control of politicians. To that respect and extent, probably, this Bill is welcome. As hon. Kibaki put it very well yesterday, that independence itself is not enough. If we are to learn from the history of other Central Banks, for example, it is considered that the German Central Bank does not earn its greatest respect or support from the German statute books, but from the reputation it enjoys in public opinion, together with the men who run it. So, I believe that enacting this law in itself is not going to be enough or sufficient. It is going to depend on the reputation of the Bank itself, the respect it is going to command in the public opinion as it were, and also, in so far as the competence of the men who run it.

Mr. Deputy Speaker, Sir, we have been told that one of the principal objectives of this Bill is to confer some degree of autonomy to the Bank. That is found in the Memorandum of Objects and Reasons which has been signed by the Attorney-General. In the first paragraph, the Attorney-General says:- Under the Central Bank of Kenya Act Chap. 49 of the Laws of Kenya, in order to give the Central Bank more independence in controlling money supplies which is the main source of inflation. That Memorandum of Objects is actually there in the Bill in accordance to the requirements of Standing Order No. 97. It is not there cosmetically, it is there because it is required by our Standing Orders.

Mr. Deputy Speaker, Sir, in looking at the Bill, I want to submit that this Bill will not confer the Central Bank any independence or any autonomy. All the intended amendments or replacement of certain sections of the previous law which is found in Clause 2 and found also in Clause 5, which establishes the offices of the Governor,

the Deputy Governor and the Directors, and subsequently, under Clause 8, which confers security of tenure and the manner in which the Governor can be removed from office. All those stipulations in this Bill are nugatory and cannot be achieved, so long as this Clause 4C(1) remains in the Bill.

Clause 4C(1) states:-

"There shall be regular consultations on monetary policy between the Minister and the Bank."

- (2) "Where in exceptional circumstances and after consultations with the Bank, the Minister is of the opinion that the monetary policy adopted by the Bank is inconsistent with the principal object of the Bank, the Minister may, upon resolution by Cabinet, direct the Bank in writing to adopt such monetary policy as the Minister may specify for a period of six months or for such shorter period as the Minister may specify, and the Bank shall, upon receipt of a directive under this section, adopt and implement the monetary policy so directed notwithstanding any other provision of this Act."

Mr. Deputy Speaker, Sir, there are two elements to this Clause. In fact, when the Minister now decides that the Bank is not pursuing the monetary policy in accordance with objectives of this Bill, then he can issue a directive whose full effect will make all other sections of this Bill nugatory.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, I will beg the Minister that in the last paragraph of the Clause I have just read 4C(2), it should be formulated as follows: Instead, of having the words "adopt and implement the monetary policy so directed notwithstanding any other provision of this Act." It should read:- "Subject to the provisions of this Act." Because if you do not say so, then it means that once the Minister has issued a directive then all the provisions of this Act do not matter, and I think that would be terrible for the Central Bank.

The other problem I have with this particular Clause is that "where in exceptional circumstances, the Minister is of the opinion that the monetary policy adopted by the Bank is inconsistent with the principal object of the Bank." What are these exceptional circumstances? These "exceptional circumstances" must be stated in the Act and not left to the Minister to decide what are these "exceptional circumstances."

Mr. Temporary Deputy Speaker, Sir, may I just give a few examples. If the Minister decides that because Kenya is just about to hold its General Elections and, therefore, there are exceptional circumstances and that the Bank is not following "the principal object of the Act," he can give directives to the Bank in relation to objective of the Bank, be it the question of issue of currencies, banknotes and coins, and interfere with normal operations of the Bank and the economy at large. This has happened before, in 1992 before the General Elections. It is now widely admitted that this Government printed money to make cash available to the Government and the ruling party to rig elections. In my opinion, if the phrase "exceptional circumstances" is not defined in the Act, it may bring problems and it may interfere with the independence of the Central Bank.

Mr. Temporary Deputy Speaker, Sir, when the country is at war, that can be an "exceptional circumstance." We have known that in periods of war in Germany, United States and many other countries, that the normal operations of Central Banks and so on, have been interfered with ultimately leading to chaos in those economies. So, it should be stated clearly that if the Minister is to interfere in circumstances where there is war, it should be stated in the Act. It should not be left to the Minister's imagination.

The other "exceptional circumstance" is like in Central African Republic when Bokassa decided that he needed to crown himself as an emperor and looted the Treasury of the Central African Republic to the detriment of the people of Central African Republic. Can that be considered to be "an exceptional circumstance?" In my belief, we may find that kind of example laughable, but when this Government decided to buy our President a Presidential Jet or to build an airport at Eldoret, are those the "exceptional circumstances" that we are talking about? This must be made very, very clear in the Act.

Mr. Temporary Deputy Speaker, Sir, also we have found situations where the Central Bank, as hon. Kibaki was saying earlier, where some banks are being treated differently. For example, Transnational Bank was not being run in accordance with the Act. But the Central Bank bent backwards to serve the Transnational Bank in relation to other banks which were facing problems and it was given preferential treatment. Can that also be considered as an "exceptional circumstance" where the Central Bank is ordered to act in a particular way just because Transnational Bank belongs to certain individuals?

Mr. Temporary Deputy Speaker, Sir, I am saying that those circumstances need to be set out in the Bill

clearly so that there is no misunderstanding whatsoever.

Mr. Temporary Deputy Speaker, Sir, again the affairs of Aslam and the Central Bank participation in the Grand Regency Hotel, and the Pan-African Bank were entered into under circumstances which, in fact, the Central Bank should have not been involved in the first place. But somebody bent the rules and we got ourselves into those problems. So, I am saying this at the appropriate time that this entire Clause should be removed from the Bill because if it is not removed, then it wipes out all the other Clauses which are meant to ensure and secure the autonomy or the independence of the bank as it were. So, at the appropriate stage, I think this should be reformulated to ensure that the desired autonomy and independence of Central Bank is achieved.

Mr. Temporary Deputy Speaker, Sir, when it comes to the issue of the office of the Governor we should realise that the Governor has been given the security of tenure in this Bill and the intention is to put more or less the Governor of the Central Bank in the same position as the Attorney-General, the Controller and Auditor-General and even the Judges of the High Court. On the issue of their removal, that will be subject to a tribunal being appointed under the provisions of this Bill. I think it would be better to create the office of the Governor of Central Bank under the Constitution like the office of the Controller and Auditor-General and the office of the Attorney-General so that, that protection is secured under the Constitution rather than under the Central Bank Act because I am sure it would be easier to change an ordinary Act of Parliament as compared to the Constitution. That office is an important institution that I think should become a creature of the Constitution rather a creature of the Central Bank Act.

Mr. Temporary Deputy Speaker, Sir, the Directors of the bank should also enjoy security of tenure because their decisions are just as important as the decisions of the Governor. Under this present Bill, they will not enjoy security of tenure and I think in the performance of their duties as Directors of the bank, they need that security of tenure.

In the United States and Germany, there is a formulation whereby the directors are appointed not only in terms of their qualifications as it appears in this Bill, but also to achieve some kind of regional representation and I would plead with the Minister to look into that. The primary objective is to ensure that those who are directors of the bank should be people who are knowledgeable and experienced in monetary matters. But I think there should be a basis for allowing some kind of regional representation, taking care of the fact that, the Central Bank now has branches in Mombasa, Kisumu and in Eldoret. I would also suggest that the Governor of the Central Bank should also have qualifications and experience as required of the directors of the bank, that it is, not somebody who is merely a political appointee. He must be somebody who has got experience in the monetary or the financial sector and he is knowledgeable as is required of the directors.

Mr. Temporary Deputy Speaker, Sir, I think there will be nothing lost by ensuring that we have confirmation hearing for the governor and the directors of the bank in Parliament because the Central Bank is such an important institution that its functions are beyond the limited objectives of a political party or a Government and confirmation hearings in Parliament would do a great deal in ensuring that the office of the governor and the directors of the bank are people who have not only qualifications, but are people who are respected in the country and in the communities they come from.

Mr. Temporary Deputy Speaker, Sir, the other important area that I want to talk about is the issue of control to some extent of the Central Bank. It should be while being independent, be supervised by this Parliament, not in carrying out his daily activities, but Parliament should ensure that it meets its objectives as stated out in the Acts and that its financial operations are within the objectives of this Act. If you look at the present Central bank Act, the Controller and Auditor-General is not mandated, unless the Minister so requires, to audit Central Bank. Under Section 54 of the Central Bank Act, the bank is required annually to prepare reports which include its annual operations, its balance sheets and its profit and loss accounts. That report is only made available to the Minister. Under Section 56, the Minister may require the Controller and Auditor-General to audit the Central Bank in addition to any other audits that have taken place by private auditors contracted to the bank.

I believe that this House has a responsibility of auditing the Central Bank. In the old days, the Central Bank was audited by the crown agency in so far as the printing and supply of money was concerned. Since we did not have a mint, the Crown Agency were auditing the Central Bank to ensure that there is no malpractice in the issue and supply of currency.

Mr. Temporary Deputy Speaker, Sir, a few years ago, I understand that the Crown Agency ceased to be responsible for carrying out this audit. This happened coincidentally as a result of the move by the De La Rue to establish a mint here in Kenya. Previously, all our money was printed in the United Kingdom. I have my doubts as to whether or not between the process of importing the paper that is used in printing the money that is printed and the actual money gets to Central Bank, there are no malpractices. I think we need an open audit by the

Controller and Auditor-General to ensure that the volume of money which is received by the Central Bank from the mint has a bearing with the amount of paper which is made available to the mint because I believe---I do not have any direct evidence that somewhere down the pipeline, some people are getting money from the mint directly or indirectly because there is no actual open and transparent audit carried out by independent auditors to ensure that we are either oversupplied by paper money or somebody is not printing excess money for his own use and the bank is unaware of that process. So, that is not well covered in the present Bill.

Mr. Temporary Deputy Speaker, Sir, the Bill also states that:

"At intervals the Bank will make statements on monetary policies to the Minister and that statement shall be made available to an appropriate committee of the National Assembly".

Now, as far as I am concerned, neither in our Standing Orders or in the Constitution or in any other legislation is a committee established particularly to look and investigate into matters relating to monetary policy. I would ask the Minister to follow the example of Chapter 6 of the Laws of Kenya, the National Assembly Powers and Privileges Act, which establishes the Committee of Privileges so that, under the Central Bank Act, this committee should look into the affairs of the Central Bank globally, and not just only on the monetary policy. It should look at all the affairs of the Central Bank, and report to this House periodically like the other committees have been doing. Those are the Public Accounts Committee, Public Investments Committee and other committees. But the way it is stated in the Bill at present, I do not envisage a situation where indeed this Committee is going to work. I think its functions and its mandate should be clearly spelt out in this Bill and, subsequently, when they receive these periodical statements from the Central Bank, we should be able to have a report from that committee laid before the House for discussion and for comments.

Mr. Temporary Deputy Speaker, Sir, even the State Corporations Act does not apply to the Central Bank Act and many organisations that we know of, which are not making money or which are engaged in incidences or acts of corruption like the National Social Security Fund (NSSF), have been exempted from the State Corporations Act. So, I would urge the Minister, once again, that the Central Bank should be audited just like any other body or department or Ministry of Government and its affairs brought before this Parliament for discussion and scrutiny.

Mr. Temporary Deputy Speaker, Sir, other than the issue of monetary policy and fiscal policy, the Minister for Finance has a responsibility to ensure that we have growth in this country by pursuing the right fiscal or economic policies. Without that, however well the Central Bank does, I cannot see a situation where the Bank alone can contribute to the economic well-being of this country: That, we will cease to suffer from unemployment, poverty and all those other ills that face Kenyans on an everyday basis. One of the things that the Minister should ensure to help the Central Bank and other Government bodies to help this Government and this country achieve growth, is to fight against corruption.

Mr. Temporary Deputy Speaker, Sir, people in this country work very hard and make savings. I am thinking of an ordinary worker who goes to work everyday at 6 o'clock in the morning or wakes up at 4 o'clock in the morning to get to work at 7 o'clock and goes back to bed at about 10 o'clock because, probably, he has to walk on foot back to his place of residence. These ordinary Kenyans who work so hard to create wealth are the same people who make a lot of savings in this country which keep bodies like the NSSF running. Without the savings of ordinary workers in this country, organisations like the NSSF would not be in operation. But, we have a situation in this country where a few organisations or individuals, who are politically connected, can make speculative deals and end up with billions of money which is hard-earned or saved by the ordinary workers of this country and they use this money, not in promoting growth or in building the infrastructure of this country, but they simply bank this money. For example, if somebody borrows or manages to get Kshs1 billion from the NSSF and buys a semi-arid piece of land in Kajiado which is worth Kshs20 million or Kshs30 million at the price of Kshs1 billion, a lot of this money is not ploughed back to the economy. A lot of this money is taken away from this country. Whatever policies that we enunciate, we cannot be able to achieve the desired growth in this country with the above practices.

Mr. Temporary Deputy Speaker, Sir, sometimes I really sympathise with the Ministers who sit with us in this House, trying faithfully to answer questions and take part in the proceedings of this House and also attend to public duties in their offices on day-to-day basis. Some of these Ministers are very unfortunate indeed because in this country today, there is a "kitchen cabinet". This Cabinet that sits here in this House is not a Cabinet. It does not make any decisions and, indeed, on page 427, we are talking about a resolution of the House in relation to whether or not the Central Bank is carrying out its activities well. But, I want to say that the Cabinet in this country is not functioning. I am sure that in fact, it rarely meets. There is a "kitchen cabinet" which is running the affairs of this country. Instead of this Cabinet which is appointed ---

**The Minister of State, Office of the President** (Mr. Kalweo): On a point of order Mr. Temporary Deputy Speaker, Sir. We would like to have clarification from hon. Orenge about this "kitchen cabinet". Which

"kitchen cabinet" is this because it does not exist in the country?

**Mr. Orenge:** Mr. Temporary Deputy Speaker, Sir, obviously hon. Kalweo will not know about this "kitchen cabinet" because he is not in it.

*(Laughter)*

**An hon. Member:** He is in the "dining hall" cabinet.

**Mr. Orenge:** He is in "the dining hall cabinet" as I am made to understand. What I am saying is very serious. Even when it comes to appointing Ministers, it is not this Cabinet that gives the President advice. It is the "kitchen cabinet" that gives the President advice.

**The Assistant Minister for Lands and Settlement** (Mr. Sumbeiywo): On a point of order Mr. Temporary Deputy Speaker, Sir. I think the allegation hon. Orenge is making is a very serious one.

**An hon. Member:** Raise your point of order!

**The Assistant Minister for Lands and Settlement** (Mr. Sumbeiywo): I am going to raise my point of order since I know how to raise one. Is it in order for hon. Orenge to mislead this House by saying that there is a "kitchen cabinet" which is appointing Ministers and other appointees in relation to the Central Bank (Amendment) Bill which we are discussing now?

**The Assistant Minister for Education** (Mrs. Ndeti): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Orenge has made a categorical statement about a "kitchen cabinet". Can he substantiate and tell us the Members of this cabinet, when they last had their "kitchen cabinet" meeting and where they met?

**Mr. Orenge:** Mr. Temporary Deputy Speaker, Sir, the hon. Member used to be a very good friend of mine and having been a very good friend of mine, people who tend to be my friends never become friends of this "kitchen cabinet", that is why she was never appointed a Minister.

But, Mr. Temporary Deputy Speaker, Sir, I am going to substantiate and I am not scared of substantiating. But what I am saying is that, the affairs of this country are being run by a kitchen cabinet. That is why they can even bring a Sessional Paper No.2 in this House and you find the Leader of Government Business worked up, the former Minister for Energy worked up and you think that they are in control and suddenly, they find orders that Sessional Paper No.2 should not be on the Order Paper, because the "kitchen cabinet" has made that decision.

**The Vice-President and Minister for Planning and National Development** (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no doubt that this hon. Member here appears to have distinguished himself in making wild statements and allegations, attacking hon. Members and that is not what we are here for. He is supposed to be a lawyer and we expect more out of him.

Mr. Temporary Deputy Speaker, Sir, a point of order has been raised here. Can he substantiate this so-called "kitchen cabinet?" We do not have a "kitchen cabinet" at all.

**Mr. Orenge:** Mr. Temporary Deputy Speaker, Sir, I can assure hon. Prof. Saitoti that he is not a Member of this "kitchen cabinet". That is why he does not know who the Members of this "kitchen cabinet" are, and I will let him know in a short while.

**The Vice-President and Minister for Planning and National Development** (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not think that the hon. Member who has made a misplaced statement should be allowed to continue without substantiating. We have made a demand; would you help us that he substantiates? We do not have a "kitchen cabinet."

**Mr. Munyasia:** On a point of order, Mr. Temporary Deputy Speaker, Sir. This House is concerned about the truth. The hon. Orenge has said specifically here, that this Cabinet hardly meets nowadays and we have the Leader of Government Business here. Why does he not disapprove hon. Orenge on how often they meet if you are not part of the "kitchen cabinet?"

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Orenge, you know what you have been challenged on.

**Mr. Orenge:** Yes, I am doing that. I have been in this House before. It was difficult during Kenyatta days and the early Moi days, to see a Minister of the Government on a Thursday morning, because the Cabinet used to meet very regularly. This Thursday, instead of having a Cabinet meeting, they went to join traditional dancers to meet the President.

**The Assistant Minister for Finance** (Mr. Koech): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the hon. Member has made a categorical statement, that there is a "kitchen cabinet" and he has been asked to substantiate. Why has he been allowed to continue to digress? If he cannot substantiate, why can he not be



kicked out of the House?

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Orengo, you have been challenged by your colleagues to substantiate your allegations.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, do you want me to substantiate? Do you want me to name the "kitchen cabinet?" I have a very good responsibility of naming the "kitchen cabinet!" I shall proceed to name that cabinet that---

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Orengo!

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, this "kitchen cabinet" consists of six persons.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Orengo! I have just been alerted that you are about to flout the Standing Orders of this House. That is, Standing Orders No.72 and probably 73. I will only order you to stop that talk of "kitchen cabinet". We only know that the Cabinet of this country is appointed in accordance with the provisions of Section 16 of the Constitution of the Republic of Kenya.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, you are interpreting the Constitution which is not the Speaker's duty. Two days ago, you were not here, we brought an issue and we wanted guidance on Section 16.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Orengo! I have not in any way interpreted the Constitution, that is the role of courts. I simply said that the Cabinet is appointed in accordance with Section 16 of the Constitution and that is not an interpretation.

**Mr. Orengo:** Our view is that they were appointed contrary to Section 16. That in fact, they are not properly constituted.

**An hon. Member:** Then go to court!

**Mr. Orengo:** No, I do not want to go to court, because I know it is an exercise in futility. That is my own personal decision which I can make. But I am saying and we have argued in this House very forcefully, that Section 16 of the Constitution has not been complied with by this Government or by the President in the creation of Ministries and therefore, the Ministers as they sit---

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Orengo! You know that if the Constitution is breached, only the High Court can sort out that! Do you not?

**Mr. Orengo:** But that is not correct, Mr. Temporary Deputy Speaker, Sir.

**The Assistant Minister for Finance** (Mr. Koech): On a point of order, Mr. Temporary Deputy Speaker, Sir. Now that you have stated very well that the Cabinet has been appointed according to the Section of the Constitution you have mentioned, is it not in order that hon. Orengo withdraws what he has said, that there exists a "kitchen cabinet?" That is out of order and illegal.

**Prof. Anyang'-Nyong'o:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Koech to rise on a point of order to challenge the Speaker's ruling? The Speaker's ruling was that, hon. Orengo could not go on with the substantiation because it is contrary to Section 16 of the Constitution.

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Orengo, I have ordered you to stop this "kitchen cabinet" business and go to any other matter.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I am saying that in accordance with Clause 4(c)(i), the Minister for Finance can actually countermand decisions or policies established by the Central Bank. My argument is that in many cases, either the Cabinet as we know it does not meet or decisions which should be made in the Cabinet are made by a "kitchen cabinet" and are carried out by Ministers who are in this Government, knowing very well that they are not Cabinet decisions, but are decisions which have been forced on them by a "kitchen cabinet" and that "kitchen cabinet" is the one controlling the affairs of this nation. If I am allowed to continue to substantiate who the Members of this "kitchen cabinet", I will.

**The Temporary Deputy Speaker** (Mr. Wetangula): You cannot, you will be flouting the rules.

**Mr. Orengo:** Which rules, Mr. Temporary Deputy Speaker, Sir? I beg to be informed.

**The Temporary Deputy Speaker** (Mr. Wetangula): I read them to you, hon. Orengo, and you know them.

**Mr. Orengo:** No, no, I will not be flouting any Standing Orders.

**The Temporary Deputy Speaker** (Mr. Wetangula): I will not allow you to do that. You will be flouting the rules.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, that is an admission of guilt. Because I am sure that if you are prepared---

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Orengo! The Chair has no guilt whatsoever, it only applies the rules and you have to comply with the rules.

**Mr. Orengo:** Which is the rule, Mr. Temporary Deputy Speaker, Sir?

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Orengo! I told you that you will be flouting Standing Orders and I read them out to you.

**Mr. Orengo:** Which one, Mr. Temporary Deputy Speaker, Sir? It is not there.

**The Temporary Deputy Speaker** (Mr. Wetangula): It is out of order to continue arguing with the Chair the way you are doing.

**Mr. Orengo:** But, Mr. Temporary Deputy Speaker, Sir, I just want to be educated, if I am not educated. But I know that I am within my means and you should respect me a bit, because I am senior to you in this House and at the bar.

**The Vice-President and Minister for Planning and National Development** (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. The decorum that has been practised in this House, I think is such that when the Speaker makes a ruling, we normally abide by it. But I think what we are witnessing now is a sustained argument between hon. Orengo and the Chair. We seek your guidance on this matter, because it does appear like the decorum which has been practised all through in this House appears really to be very much in jeopardy.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I have read Standing Orders No.72 and 73. I am a lawyer and a man of fair experience in this House. If I know that I am breaching the Standing Orders of this House, I will be the last person to flout the Standing Orders.

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): Order! Order, hon. Orengo! It is public knowledge, hon. Orengo, that you are a lawyer and my senior. That, everybody knows! But I have told you that, if you go on with what you are trying to do, you are breaching Standing Orders No.72 and 73. The Chair is not asking you to assist in interpreting its understanding of those Standing Orders. I have told you, you are breaching them and if you go on to breach them, I will then take appropriate action on you.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I think that the Standing Order has been mis-read---

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): Order, hon. Orengo! My understanding is that you have run out of material on this Bill. If you have not, then debate the Bill. There is nothing to do with "kitchen cabinet" in this Bill.

**Mr. Orengo:** But, Mr. Temporary Deputy Speaker, Sir, if you were here when I started my contribution, I said that I am worried about Clause 2.4C(2). That, if this Bill intends to guarantee the independence, or some degree of independence to the Central Bank of Kenya, what I am saying is that Clause 2.4C(2), if you read it, is nugatory to the objective of this Bill on three accounts. My first argument was that, if the Minister is issuing a directive countermanding the decisions of the Central Bank of Kenya (CBK) as he is bound to do under Clause 2.4C(2) on page 427 of this Bill, then there is an ultimate sentence of Clause 2.4C(2) which states: "That, the Bank shall adopt and implement the monetary policies so directed notwithstanding any other provision of this Act". So, my point was that, instead of the word "notwithstanding", we should have the word "subject", so that it should read that "The Bank shall, upon receipt of a directive under this section, adopt and implement the monetary policy so directed, subject to any other provision of this Act". That was my first argument, because, if it is left the way it is, then the rest of the Act will be inoperative, the way I read that clause.

My second point, Mr. Temporary Speaker, Sir, was about exceptional circumstances. What are "exceptional circumstances"? It should be defined.

My third point, which you are trying to drive me away from, is the question of the Cabinet. I am arguing that, like in many things that we have witnessed in this country, where institutions which have been created by this Parliament or by the law are required to make decisions, it is not those institutions that make the decisions. I am just hoping that when the Minister directs the CBK to seek a decision in accordance with this clause, that it shall be the Cabinet taking the decision. But I am trying to plead with the Minister not to follow his predecessor who was the Minister for Finance, that he should not be led by a "kitchen cabinet", he should be led by the Cabinet. This is the point I am trying to make, because there is a "kitchen cabinet" in this country.

**The Minister for Finance** (Mr. Mudavadi): On a point of order, Mr. Temporary Deputy Speaker, Sir. In this Bill, we are talking of the Cabinet, and there is only one Cabinet. There is no "kitchen Cabinet". We are not aware of any "kitchen cabinet" and this is why we brought this Bill in this House, to make it open that we are talking of one Cabinet.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I have no quarrel with the hon. Minister, because he has really tried. But I am trying to tell him that in the past, things have not happened that way. That is why there is a case in court where nearly the whole of Treasury, including two Permanent Secretaries, because they did not follow the decisions of the Cabinet. They followed the decisions of the "kitchen cabinet", and now the same Government is---

**The Minister of State, Office of the President** (Mr. Kalweo): On a point of order, Mr. Temporary Deputy Speaker, Sir. I wonder how long hon. Orengo will continue with his "kitchen cabinet". I demand that either hon. Orengo withdraws his allegation, or substantiates them. Substantiation means that he should tell us who are the members of this "kitchen cabinet", where they meet and so on, otherwise he is out of order.

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): Order, Mr. Orengo! I have ruled that any attempt to substantiate such an allegation is flouting the rules of this House! I have ordered hon. Orengo to stop talking about the so-called "kitchen cabinet". We know that the Cabinet is appointed in accordance with Sections 16 and 17 of the Constitution of this country, which give details of what the Cabinet should be. There is no talk of the "kitchen cabinet" in the Constitution.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I can tell you this, you cannot shut my mouth. If I am flouting any Standing Order, I should be told specifically which Standing Order I am flouting. But what I am saying as a matter of argument and a matter of---

**The Assistant Minister for Research, Technical Training and Technology** (Mr. Kagwima): On a point of order, Mr. Temporary Deputy Speaker, Sir. As you rightly observed a few minutes ago, we have been debating on this Bill for a long time and hon. Members have run short of material. May I call upon the Mover to reply?

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): If, Hon. Orengo, you have run out of material, there are so many of your colleagues who want to talk on this Bill. You have spent 30 minutes talking about a non-existent "kitchen cabinet".

**Mr. Orengo:** But it is there, Mr. Temporary Deputy Speaker, Sir. I want to say that when Kshs.5.6 billion money leaves the CBK and goes to Kenya Commercial Bank it is deposited in accounts in the Kenya Commercial Bank: The whole Government system does not know where this money has gone to and it is not prepared to disclose to Parliament where this money has gone to. The conclusions I am making are very justified. I am not saying that there is no *de jure* Cabinet in this country, but I am saying *de facto*, there is a kitchen Cabinet. This "kitchen Cabinet" is carrying out the assignment---

**The Vice-President and Minister for Planning and National Development** (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. You have ruled several times and advised hon. Orengo not to refer to the matter of a "kitchen cabinet", but he continues to refer to it. We know how members of the Cabinet are appointed and sworn into office, but we have never heard of a "kitchen cabinet". You have clearly referred to the appropriate section of the Constitution under which the Cabinet is appointed. You have advised hon. Orengo to stop referring to that matter, but he continues to disobey you. Is he not violating your ruling on this matter?

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I am only demonstrating that this not a KANU Parliamentary Group Meeting: This is Parliament and hon. Saitoti cannot stop me from saying what I want to say. There is a law of nature and a law of higher laws; that when you are faced with an unjust law you are quite within your means to defy it. I have not been shown the Standing Order I am flouting and I am going to continue making my contribution to this Bill. Hon. Kibaki did demonstrate how, in 1992, and in the years prior to that year, the Central Bank of Kenya (CBK) system was used to completely interfere with the economy of this country against all technical advice and the advice of institutions created by this Parliament or the Government. That was only possible because there are people in this country who do things as if they are a law unto themselves.

I am saying that without these people, people like Mr. Alnoor Kassam, in whose affairs some people on the opposite side have been embroiled--- I am sure that is why they are very sensitive about these matters. If there was no "kitchen cabinet", people like Mr. Alnoor Kassam would not have messed up the economy of this country. If there was no "kitchen cabinet" in this country, people like Mr. Kamlesh Pattni would not have messed up the economy of this country. Ask any ordinary Minister---

**The Minister for Education** (Mr. Kamotho): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Orengo really in order to continue repeating this expression "kitchen cabinet", which is so imaginary and non-existent, even after your ruling?

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, in as much as I will continue to say that hon. Kamotho never won any election in 1992, I shall continue talking about this "kitchen cabinet" here and outside this House.

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Orengo, have you decided to defy the directive from the Chair?

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I am saying that my contribution is within the Standing Orders of this House.

**Mr. Achieng'-Oneko:** On a point of order, Mr. Temporary Deputy Speaker, Sir. With due respect to

your ruling, I have a feeling that probably the word "kitchen" is hurting too much. Can we not use some other word like "clique" or "caucus"?

**Mr. Muite:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise on a serious point of order to seek your guidance here because freedom of speech must be fully exercised in this House. Your ruling was meant to stop hon. Orengo from substantiating his claim, which he was ready to do. Are we to understand that your ruling is now extending, at the behest of "hon. arap Kamotho", to the fact that hon. Orengo cannot even use the words "kitchen cabinet"? He is not substantiating but is using the language! Are we to be told what language to use in this House?

**The Temporary Deputy Speaker (Mr. Wetangula):** Order, Mr. Muite! I do not even understand why you are speaking with so forcefully on a matter that does not exist. I have repeatedly directed hon. Orengo on the issue that he is labouring on so much, which has no relevance to the Bill. I ordered him not to substantiate the matter because that would have flouted the rules of the House, and you ought to know this. We are not going to interpret that ruling, neither are we going back to it. Hon. Orengo, if you do not comply with my ruling, then other appropriate measures will be taken against you.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I do not understand your ruling, but I will defer to hon. Achieng'-Onoko, who was a personal secretary to the late President Kenyatta and was in the Cabinet before hon. Saitoti, and use the words "informal cabinet". There is an informal cabinet or a clique or a caucus---If hon. Kamotho has another word which is better than these ones, I will proceed to use it. The worry of the hon. Member for Ugenya is that matters which should go to the Cabinet do not go there and get resolved. This clause will never work in so far as we still do not appreciate---

**The Temporary Deputy Speaker (Mr. Wetangula):** Mr. Orengo, now you are encroaching very severely on Standing Order 87: You are engaging in tedious repetition of yourself.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I know you will look for every Standing Order in this House to stop me from speaking, and I invite you to do so. However, I shall continue to speak because that is why I am here. The gentlemen across will listen to me, whether they like it or not. I am very happy about the Leader of Business because, when I am speaking he runs very fast from his office into the House so as to know what I am saying.

**Hon. Members:** Hear! Hear!

**The Vice-President and Minister for Planning and National Development (Prof. Saitoti):** On a point of information, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker (Mr. Wetangula):** Hon. Orengo, do you want any information?

**The Vice-President and Minister for Planning and National Development (Prof. Saitoti):** Why not, Mr. Temporary Deputy Speaker, Sir? I am sure hon. Orengo will love it. I have just stood up in order to inform him that the other day he made a statement and I just continued sitting down. Since I despised his statement I did not respond to it.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, in fact, hon. Saitoti did not sit on his chair: He sunk in it when I spoke. You will notice that whenever you say anything that goes deep down hon. Saitoti, he does not sit the way he is sitting now: He sinks into his chair. However, I am very happy about that piece of information.

I am sorry that this point is taking so long to make. All that I am telling the Minister for Finance is that, in exercise of the powers given to him by this clause, if we enact this Bill, he should ensure that we respect our institutions. If we respect our institutions, then a piece of legislation or intended piece of legislation like this one can have its full effect. If we do not respect our institutions then making these laws is of no consequence, whatsoever. This is all that I am pleading for and I was merely amplifying that I am making these points, because this Government does not make decisions on the basis of institutions which they should follow and which should guide them to make these decisions. I gave an example of the Sessional Paper No.2 which did not come to this House as something from the Government or a KANU Parliamentary Group; but it came here because of a clique which brought it before the House and wanted to carry the rest of the Members on the KANU side with them. Fortunately, they were so foolishly transparent, that now they have disappeared with the Sessional Paper No.2 of 1996 and I hope we shall never see it again. The Central Bank of Kenya---

**The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima):** On a point of order, Mr. Temporary Deputy Speaker, Sir. I think you heard hon. Orengo use the word "foolish". He said that "they were so foolishly transparent that they brought it the way it is." Is he in order to use the word foolish in reference to the KANU Members of Parliament?

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, we shall check in the HANSARD. I used the word "foolish" not in reference to the hon. Members on the KANU side, but to the clique who worked on that Sessional

Paper No.2 of 1996. That word is only unparliamentary in reference to a Member of Parliament. I cannot call you foolish but if I think a decision is foolish, I will say it is foolish and that is not unparliamentary.

**The Temporary Deputy Speaker** (Mr. Wetangula): It is Members of Parliament who brought that Sessional Paper. It was moved by hon. Sunkuli who is an hon. colleague of yours. So it is unparliamentary to use the word foolish in relation to your colleagues.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, you were away in Brussels when I was talking on this Sessional Paper. I did not say it came from the hon. Members from the KANU side, but from a clique. I did not say it came from hon. Kamotho. I cannot refer to an elected Member of Parliament as being foolish.

**The Assistant Minister for Education** (Mrs. Ndeti): On a point of order, Mr. Temporary Deputy Speaker, Sir. The Sessional Paper was decided upon by the Sessional Committee which is a Committee of this House. It does not belong to either KANU or the Opposition. Hon. Orengo should withdraw that statement and apologise to the House, because that word is unparliamentary.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I was referring to the origin. The Gracious Lady is not like them!

**The Assistant Minister for Education** (Mrs. Ndeti): On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Orengo is becoming personal to each hon. Member who rises on a point of order! That Paper was presented to this House by a Parliamentary Committee and it is still No.10 on the Order Paper. He has called the hon. Members of this House foolish. That is what he means. If there was a clique behind that Sessional Paper, we are not aware. We know what comes to the Floor of the House and we handle that.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I can say a defection is foolish but I cannot say an hon. Member is foolish. I cannot say that. But I can say a defection is foolish and you cannot take that away from me.

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! Order, hon. Members! I am satisfied that hon. Orengo has sufficiently flouted Standing Order No.87 and I therefore, take away the opportunity from him and give it to any hon. Member who wants to contribute.

**Prof. Anyang'-Nyong'o:** Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to take over from where hon. Orengo has left. To put my hon. friends on the KANU side at ease, I will begin on a note of congratulations to them for bringing this Bill to the House, after it had been withdrawn from this House in 1995, as a result of the contributions of the Opposition. The Opposition side of the House did make it known to the Government that the Opposition was interested in strengthening the Central Bank and ensuring its independence. That Bill which was originally brought to the House did not do this. The one that has now been brought to the House has attempted to do this. But nonetheless, it has failed in its intentions. This, indeed, was the point which hon. Orengo, was trying to make. He was trying to emphasize that Section 2(4)(c) renders the Central Bank of Kenya Amendment Bill, a nullity. I think that point is important and it should not be put under the carpet, due to the fear of the ruling party, that they are being reminded that they are not building the institution of Government or the Cabinet and that, other incidental matters that interest a clique therein, is subverting this. But nonetheless, my congratulations go to the point that is raised in Section 2 (4)(b) where the Minister for Finance in amending this Bill says that there is now a new Section in the Bill on monetary policy statements. That is a good addition to the Bill. I would like to read the addition because it is important for record purposes. It states as follows:

"The Bank shall at intervals of not more than six months, submit to the Minister monetary policy statements for the next 12 months which shall:

- (a) Specify the policies and the means by which the bank intends to achieve the policy targets.

- (b) State the reasons for adopting such policies and means.

- (c) Contain a review and assessment of the progress of the implementation by the bank of monetary policy, during the period to which the preceding policy statements relate."

That is very good. But when you come to sub-section 2, serious questions arise which I would like to raise to the Government. Sub-section 2 says:

"The Minister shall lay every statement submitted under sub-section 1, before the appropriate Committee of the National Assembly, not later than the end of subsequent session of Parliament after the statement is so submitted."

That, read together with Sub-section 4 which says:

"In Sub-section 2, the expression appropriate Committee, means the Committee of the National

Assembly appointed to investigate and inquire into the matters relating to the monetary policy."

Sub-section 4 no longer talks about an appropriate Committee but states what that appropriate Committee is. This is a little bit dangerous, because the Act establishing the Central Bank is trying to tell the National Assembly which is the appropriate Committee. According to the Act, that Committee is only to concern itself with appointments, investigations and inquiry. That makes the Committee a kind of an inquisition. I think that Committee should be viewed in wider terms than just inquisition. If it is not viewed like that, Parliament will be forced to put in its Standing Orders, a Committee which will do what the Act says. This is not what Parliament intends to do. Parliament, for example, has a Budget and an Estimates Committee which should guide the Government in terms of how the Budget is prepared and that Committee should find out whether that Budget is prepared in terms of the monetary and fiscal policies. It is not just an inquisition. Therefore, I would like to remind the Government that, before they think of the appropriate Committee that is going to deal with monetary and fiscal affairs as related to the Central Bank, they should think of the budgetary process. At the moment, the budget process in our Government is inadequate, and we cannot think of monetary and fiscal policies without thinking of the budgetary process. For example, in this House, every so often, we receive budgets already prepared and we are expected to debate them. That budget has not been examined before hand by a Budget and Estimates Committee of Parliament so that a Parliamentary Committee, together with the appropriate Ministry, could in actual fact present a budget which that Committee can defend in this House or make questions about. In other systems, for example, the United States of America, the Committee of the Budget of the Senate or the House of Representatives, is an extremely important Committee. There is a long period of discussion and negotiation with the Executive Branch of Government before a budget is submitted to the House. In our practice, a budget is brought into this House like a bomb shell. During the days when we had "illiberal" policies, one can understand the bomb shell, that the Government wants to surprise the country with how many prices have been reduced, how many have been raised and so on. But we have entered the age of liberalisation, where budgetary policies are much more important than price control. So, a budget is no longer a bomb shell brought to the House, where everybody is filling their petrol tank the day before the Budget because they do not know whether the petrol prices will rise. Indeed, if we are interested, therefore, in policy, rather than controls, any amendment to the Central Bank Act, which seeks to enhance policy making in the fiscal and monetary sectors, must also at the same time, be conscious of enhancing the policy process in making the Budget.

*(The Vice-President and Minister for  
Planning and National Development  
Prof. Saitoti, walked out of the House)*

**Mr. Karan:** On a point of order, Mr. Speaker, Sir. The discussion going on is very important and it would only be necessary for the Leader of Government Business to be in the House.

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Wetangula): Is there any rule that requires him to be continuously here? The Minister for Finance is here.

**Mr. Karan:** Mr. Temporary Deputy Speaker, Sir, I had not seen him.

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I must sympathise with the Member of Parliament for Nyando because the Leader of Government of Business was extremely active when my friend, hon. Orengo, was speaking on matters that he considered important. Now that I am talking about matters of policy, which relate to planning, and he is the Minister in charge of planning, he does not even listen. Instead of "sinking" on his chair, he is "sinking", going outside. I think the Vice-President and Minister for Planning and National Development should take this House more seriously, and should, indeed, be a Leader of Government Business. He should be a Leader of Government Business, not an interjector or a heckler. Really, his performance before he left was much more heckling than participating in the debates of this House.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, having said that, I want to elaborate on this issue of budget policy, monetary and fiscal policy. Sometime ago, I made an observation in this House that if the budget is going to make sense, the Government should make a distinction between development and recurrent expenditures. When we are allocating funds to Government Ministries, the Government should make a clear distinction and should be

conscious of how much money is going for development expenditure and how much money is going for recurrent expenditure.

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

*[The Deputy Speaker took the Chair]*

Mr. Deputy Speaker, Sir, there are certain Government Ministries which are what I call "capital development" Ministries. There are other Ministries which are essentially "service" Ministries. The "service" Ministries begin with the Office of the President. The Office of the President is purely a service Ministry. It is wrong to have all kinds of substantial Ministries stuffed into the Office of the President. Why do I say that the Office of the President is a service Ministry? The Office of the President is meant to over-see the working and functioning of all Government Ministries.

The Office of the President is meant to be the policy-making office where each and every Ministry coagulates somewhere, not in terms of a clique, but in terms of a summit. This Government must make a distinction between a clique and a summit. A summit is necessary in Government and that is why we have a presidency. That summit should bring around its key policy-makers in all the Ministries to guide the Government as a whole, but if you take the Office of the President and stuff it with substantive Ministries, it is as if the presidency is only concerned with those Ministries and not others. This gives a very bad image of Government because if you have only about three Ministries in the Office of the President, it means that this is what the office is concerned about.

I am saying that we should distinguish in Government between capital development Ministries and service Ministries. For example, I would expect the Ministry of Commerce and Industry to be regarded as a capital development Ministry because you have to get a lot of money into that Ministry for capital investment. I would expect the same thing for the Ministries of Agriculture, Livestock Development and Marketing and Environment and Natural Resources. But when you go to the Ministries of Local Government, Culture and Social Services and Information and Broadcasting, you do not need to put in a lot of capital development expenditure because they are just service sector. When you come to our Budget and you find that the Ministry of Culture and Social Services or the Ministry of Information and Broadcasting has 80 per cent of the Budget as Development Expenditure and only 20 per cent in the Recurrent Expenditure, there is definitely something wrong. This is what is called monetary and fiscal policy. What you have in the Central Bank is the money that you are going to use to ensure that development goes on to ensure that services are financed.

Therefore, it is a little pretentious to think that the Central Bank is the body that is going to make policies in terms of monetary affair and that the Central Bank as a bank is a regulatory body. The Government must first and foremost make policies in conjunction with Parliament. Hon. Orenge was right by saying that the Government must propose monetary and fiscal policies, bring them to this House, they are debated and once they are approved, they are implemented. The Central Bank is a key institution in examining those policies, commenting on them and advising the Government. Because of that misunderstanding, you find that Section 2 of the bill reads as follows:-

"The principle object of the Bank shall be to formulate and implement monetary policy directed to achieving and maintaining stability in the general level of prices."

Then much later on, they realise that this is not what the Bank should be doing and they come back to the section that hon. Orenge was talking about. It is extremely vague and confusing. They have given the Bank that power under Section 2 but, later on, they smuggle in another section. Section 4C(2) states:-

"Where in exceptional circumstances and after consultation with the Bank, the Minister is of the opinion that the monetary policy adopted by the Bank is inconsistent with principle object of the Bank, the Minister may, upon resolution by Cabinet, direct the Bank in writing to adopt such monetary policy as the Minister may specify for a period of six months or for such shorter periods as the Minister may specify---"

In other words, the Minister knows better than the Bank. If the Minister knows better than the Bank what a monetary policy is, why do you begin your amendments by giving those powers to the Bank in the first place? I think this is common logic. What it signifies is that the Government is in itself not quite confident that the Bank should make this policy.

I have often said that if we are going to learn policies of Government on a six month basis, we shall never develop. You must have five, ten, 15 or 20 year vision of what you want to do. This is because monetary and fiscal policy is extremely important to investors. Capitalists want things which are predictable. They want to

know that what they are doing today will be done this time next year, and this time in three years time. That is why people invest. You do not invest, and six months later, somebody tells you: No! No! No! The policy has changed and now we are doing another thing! This is why you find that projects are not completed in this country.

Somebody comes here with US\$60 million; creates a road, puts infrastructure, begins hiring engineers, environmental scientists and others, and then he is told, the policy has now changed. He says: "What!" He is told: "Yes, it has changed!". Then he has to stop for six months, while they are discussing with the Government. For the six months, the stock exchange is undergoing fluctuations. When they resume the discussions, the international monetary situation has changed, and all figures are to be revised.

Mr. Deputy Speaker, Sir, hon. Kibaki has said this, and we have seen this happening in Nzoia Sugar Company, in the National Cereals and Produce Board (NCPB), and in the National Social Security Fund (NSSF). We have seen very many policies that affect capital investments that lead to the stagnation of projects, the escalation of prices, the variation of orders and others. In the final analysis, the person who suffers is the taxpayer.

I am saying that because one of the aims and objects of this Bill, as set out in the Memorandum of Objects and Reasons, says that:-

"Lastly, in order to control the expansion of money supply, the Bill restricts the amount of credit, which the Bank can lend to the Government. The Bill also contains several amendments which are consequential upon the re-defined objects of the Bank".

Mr. Deputy Speaker, Sir, that simply says that one of the functions of the Central Bank is to ensure that the Government does not borrow excessively, in the domestic market. For example, when the Government realises that it cannot pay its civil servants because there is no money, it can then go and borrow from local commercial banks, local securities, or sell Treasury Bills to raise more money, and then pay salaries to the civil servants. This Bill is saying that we are giving powers to the Central Bank, to limit the extent to which the Government can borrow locally. It is very good. We do not want the Government to borrow excessively locally, because of some of the reasons that hon. Kibaki gave.

But I am asking a second question: To what extent is the Bank going to limit the powers of the Government to borrow externally? Here, the Bank is in a very weak position. Indeed, I do not think the Bank can do that. This is because external borrowing is really governed by the industrialisation and the development policies of the Government. If the Government comes to this House and brings a Sessional Paper or a Bill that says: We are going to establish a third airport which will require 85 per cent external financing, and we want a loan from the Exim Bank of New York at three per cent interest rate, payable over 15 years, and this House approves such a project, there is nothing that the Central Bank can do about it. The Government will go ahead and do such a thing. What is even worse is that, if the Government goes ahead and starts such a project without reference to this House, and commits the nation to such external borrowing and such payments of the loan, both the Central Bank and this House is caught with our pants down.

Indeed, the major source of inflation in this nation, the major source of chaotic forms of development in this nation is the excessive external borrowing by this Government; external borrowing that goes to finance non-performing projects, projects that do not lead to the accumulation or growth of wealth in this nation. Such projects are monumental in the reports of all the PIC and PAC. Mr. Deputy Speaker, Sir, what I am trying to tell this Government is that a proper monetary and fiscal policy and it is demonstrated by ambivalence in this Bill, a proper monetary and fiscal policy will, first and foremost, depend on this Government itself rather than the Central Bank. A proper monetary and fiscal policy will depend on the kind of things hon. Member was saying, ensuring that the institutions of the Government and institutions of the public sector work properly in this country and they cannot work properly, unless and until, you have people committed to good governance in our nation.

One of the reasons why excessive external borrowing has messed up this country is: one, the Government never submitted itself properly to the law making in this House to give them a framework for doing these things which they will refer to the House every time they want to do it. We have so many examples; the latest being Eldoret International Airport and the Presidential Jet. Now, people have spoken about this and evidence has been given, the Government sits there as if these things do not matter. Let me ask the Government one question: How many public projects have been financed by external borrowing which are not performing? To what extent has non-performance of these projects led us to excessive external indebtedness? How are we at this moment financing and servicing the loan arrears and principal capital on that indebtedness? To what extent is the manner in which we are financing that external indebtedness ruining and stagnating economic growth in this country? If the Government can answer those questions, they will come up with a proper monetary and fiscal policy which will put us on a new pedestal of development and growth. In trying to answer those questions, they will definitely



involve themselves in dialogue with the Central Bank and together they will come up with answers which cannot simply be solved by an amendment of the Central Bank Bill Act. That is not enough and that is why I think in both Memorandum of Objects and Reasons, and in those two sections that I have read, this Amendment Bill fails miserably in trying to re-address the question of monetary and fiscal policy. That is one point I wanted to make.

Mr. Deputy Speaker, Sir, the second point I wanted to make is when the Government says:- One of the purposes of this amendment is to grant independence to the Central Bank to ensure that it discharges its responsibilities professionally and without fear or favour. How does the Bill intend to do that? The Bill intends to do that by attempting to give security of tenure to the Governor of the Central Bank and by attempting to appoint to the Board of Directors of Central Bank men and women of integrity and professional competence. Unfortunately, again the Bill does not succeed. Why do I say that the Bill does not succeed in that? Because in stipulating how the Governor of the Central Bank is appointed, it simply says that the Governor and the Deputy Governor of the Central Bank shall be appointed by the President and shall hold office for terms of four years each, but shall be eligible for re-appointment.

Mr. Deputy Speaker, Sir, it goes on to say:

"The Directors appointed under Paragraph D of Sub-section 1 shall be appointed by the President and shall hold office for terms of four years each, but shall be eligible for re-appointment, provided that no Government, Deputy Governor or Director shall hold office for two terms."

Mr. Deputy Speaker, Sir, what this means is that, the Bill is proposing a fixed term appointment for both the Governor, the Deputy Governor and the Board. "A fixed term appointment" is not equivalent to a security of tenure. All we want is a security of tenure, then it must be given by another law.

Hon. Orenge has proposed here very clearly that, other laws should be the Constitution. The Constitution should specify that the Governor of the Central Bank shall have the same security of tenure as the Controller and Auditor-General has because this Bill itself by specifying this gives no security of tenure. I say so because if the Governor knows that he is appointed by the President for four years and he or she is eligible for re-appointment for another four years, during his first four years, he or she will do everything possible not to displease the person who appointed him or her because he is also appointed at the pleasure of the President. Now, the "pleasure" of the President can turn into "displeasure" if the Governor during first term does something which the appointer disapproves of. You know how the appointer disapproves. The appointer may decide to go somewhere in a wedding and indicate by some gesture that the Governor is not towing the line and he can call you to a dinner and indicate it could be good if you resigned. Since the appointer is above the law, who is the Governor not to oblige? In this House we must be agnostic about these things; we must not play too much ignorance of the real world of real politics. So, what we are saying is that, if we are talking about security of tenure and if we really want independence of the Central Bank, let us be serious. Let us put them in the institutional framework which will send the right message to the appointed person. But if we are going around like this, and in the final analysis returning the power to where it is, we shall never take off.

In this country, one major syndrome is that of being indecisive. If you want to abolish PAC and PIC, and you are indecisive, then you want to bring in something at the last hour, knowing the institution which you should follow to do that, since we are people who are determined to ensure that the act of indecision does not win in this country, we shall not allow that. We threw out the amendment in 1995, because we said we wanted the independence of the Central Bank. Now you come here with half baked proposals. We are not going to accept this because we want independent heading of the Central Bank and we want the Governor to feel that he is independent by an institution that is properly set up.

Mr. Deputy Speaker, Sir, even if you did not want to make the proposal of independence or security of tenure in the Constitution, then what you could have done was to give the Governor a fixed term appointment of eight years. If that is done, then the person appointed in that position does not need to worry during his or her first term to please the appointer because we know what the political environment is.

Mr. Deputy Speaker, Sir, I would, therefore, propose that, that particular section of the amendment be looked at again by the Minister for Finance. The Minister for Finance should sit down with the people in the Central Bank and the real Cabinet, not the clique and say: "Ladies and gentlemen, what are our objectives?" When the Attorney-General is writing the Memorandum of Objects and Reasons and saying quite clearly, that the main purpose of this Bill is to re-define the objects of the bank under the Central Bank of Kenya Act Cap. 491 of the laws of Kenya in order to give the Central Bank more independence in controlling money supply which is the main source of inflation, what does he mean?

What do you mean? When the Attorney-General says that "We should give the Central Bank more independence in controlling money supply which is the main source of inflation", he is not correct. Money supply

is not the main source of inflation. Money supplied is a consequence of inflation; it is an expression of what inflation is. The main source of inflation is the inadequate, inappropriate, and sometimes the destructive so-called development policies of the Government. This is because I have demonstrated to you that if you decide to build an airport and borrow externally and you do not complete the project over four years and you want Kenyans to pay and you are not creating more wealth, then obviously you will cause inflation because you have to create money to pay for that debt for a project which is not performing. That is how inflation comes about. But you cannot say that "money supply is the main source of inflation". Let us be clear on what the cause and effect is. What is the cause of inflation? Is it the money supply? No! The Government, when it realises that it is not creating wealth, has to go and print money to pay civil servants because wealth is not being created which in turn creates the money. That is the source of inflation. But you do not say that money supply is the source of inflation. This Memorandum of Objects and Reasons is in itself defective. I would like the Minister for Finance to go and sit down with the Attorney-General and tell the House, and the nation, surely, if we want to control money supply, what role the Central Bank is going to play and what role the Kenyan Government is going to play in terms of policies for wealth creation in our nation. This is because, I think, in order to deal with inflation, what we need to deal with is how we create wealth in this nation. This is because were we to create wealth, the Government would have a source to tax us properly so that we will be able to pay and from our payment of our taxes, the Government will pay for its services. It will not need to print money to pay for those services. It will not need to create artificial sources of money by itself because you go and you say that Treasury Bills are earning 60 per cent interest rates. So, people rush and buy these Treasury Bills. And yet you have to pay for the 60 per cent interest. In fact, you do not have the money to pay for the 60 per cent so you go and print currency and the vicious circle continues.

Mr. Temporary Deputy Speaker, Sir, the Minister for Finance was right the other day when he said, for the first time very clearly, that this country has enough resources both in terms of material and human resources to create a lot of wealth for our development and we do not need to go begging in the capitals of the world. The Minister for Finance was very right. But if the Minister for Finance was right, to what extent is his own Government taking him seriously by beginning, for the first time, to make it possible for Kenyans to create wealth? Let us take this thing seriously. When hon. Orenge was saying that if a Ketan Somaia or a Pattni, you-name-it, can in fact, go to the Government and get a Local Purchase Order (LPO) or whatever-you-call it and run around the capitals of the world saying that "What do you want to sell to Kenya?" "Do you want to sell guns or spirits?" "Do you want sell all of them?" "I have a blank cheque here and all you need is to fill in what you want to sell and I will go back and you will supply it. By so doing then you are creating inflation right there in London. But, why is it that we are abusing this particular race of Kenyans? It is because of insecurity. We know that these people are insecure. We know that we do not want to give them full citizenship although we know that our Constitution recognises every individual Kenyan as a citizen. But we have created a gang out there who are made insecure and who can do anything on the face of the earth; anything corrupt to ruin this economy not because they want to do so, but because they are being used or misused. That creates inflation. Let us make members of the Asian community in this country who are Kenyans, true Kenyans. Let them be citizens like other citizens. But let them not be put in a situation of insecurity, so that some people in Government can use them for these kind of activities.

Mr. Deputy Speaker, Sir, these are the issues we should discuss in this House. We should not be shy from discussing them. When we removed export compensation, foreign exchange and so on, which were ruining our economy, then we still create other avenues for rent seeking, then we are not going to do anything effective in trying to make our economy grow properly. We would like the Central Bank to have powers in regulating, and I emphasise this point.

**Dr. Lwali-Oyondi:** On a point of order, Mr. Deputy Speaker, Sir. Could the hon. Member on the Floor substantiate his implication that Kenyan-Asian citizens are not full citizens or secure?

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I said that, at least, in this House, let us discuss this issue agonistically. What I mean is that, let us be frank. Let us know that these things happen and in making policies, let us be conscious that they are the kind of things which have ruined our economy.

Mr. Deputy Speaker, Sir, for the last three or four years I have been in the Public Investments Committee, I have seen these things. I have read the reports of Public Accounts Committee and we have read newspapers. Why is it that the National Bank of Kenya had a fixed deposit accounts for the National Social Security Fund amounting to about Kshs2 billion and when the National Social Security Fund wanted that fixed deposit to be honoured, the National Bank of Kenya could not honour the money when it matured? Then, the National Bank of Kenya was then forced to negotiate with the National Social Security Fund to turn that fixed deposit fund into equity. This was very irregular. The National Bank of Kenya was put in that kind of situation because a guy called Somaia and his friends had decided to import taxis from England to bring here, and when they could not sell

them, they forced certain taxi drivers to buy them on loans given to them by the same National Bank of Kenya. And when those taxi drivers could not pay the loans, the National Bank of Kenya could not get the money back and thus, the bank was in a fix. It could not honour the fixed deposit account from NSSF. Now, NSSF has not earned the interest for which it put that fixed deposit in the National Bank of Kenya, and was forced to get equity from NBK when in the first place, their intention was not to buy equity in the National Bank of Kenya, but to put a fixed deposit account.

Now, Mr. Deputy Speaker, Sir, if you are forcing investors - because NSSF is an investor of workers money---If by this lousy so-called monitoring fiscal policy - they are not even policies - you are forcing an investor to do that kind of thing, who is going to have confidence in your economy? Which investor is going to have confidence in your economy? That is why I said, when you are talking about policies, we must talk about three, five, 10, 15 or 20 year visions. But this Government is running this economy as if it is a pastoral land where you take cows to graze here and when they finish the grass they move to another pasture.

Mr. Deputy Speaker, Sir, an economy is not a pastoral thing where you move camels and cows all over the place to where the water and grass is, they graze and they move on to another place. That is another pastoralist!

**Mr. Biwott:** On a point of order, Mr. Deputy Speaker, Sir. We would like to have some clarification from the hon. Member. How many cows does he possess and how many of them has he grazed the way he has described? Otherwise, he should not expose his ignorance about livestock and the pastoralists.

**Dr. Kituyi:** On a point of information, Mr. Deputy Speaker, Sir. I wish to inform hon. Prof. Anyang'-Nyong'o, that if hon. Biwott does not understand the meaning of "behaving in a nomadic nature in plundering the economy", he should look at persons who could use an opportunity like Turkwel Gorge Hydro-electric Project to steal money from the Government, then they move on. Next they are plundering the NSSF, and grabbing Yaya Centre! That is "a nomadic tendency in the management of our resources".

*(Applause)*

**Mr. Biwott:** On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Dr. Kituyi and his colleague in order to mislead this House by mixing "pastoral nomadism" with a perfect development programme exemplified by the Turkwel Gorge Hydro-electric Project which the PAC and the PIC have really looked into several times and found it to be a perfect project? I would like the hon. Member to a question on the Yaya Centre on the Table to show anywhere I have plundered anything from that project, because he will be ashamed completely by the truth. I would like to advise our colleagues on the other side of the House, to prepare their contributions properly, as hon. Members who are trying to challenge the Government, so that we can listen to facts and figures that are correct, instead of coming here to yap and talk about things which do not contain any truth in them---

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I appreciate what hon. Falana---

**Mr. Deputy Speaker:** Order! I will not accept any more points of order, because we are derailing the hon. Member who is on the Floor.

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I would not like to argue with hon. Biwott on this because---

**Mr. Falana:** On a point of order, Mr. Deputy Speaker, Sir. On many occasions hon. Members from the opposite side have stood up purposely to insult hon. Members on the Government side and comfortably get away with it. The statement made by hon. Dr. Kituyi pertaining to wholesale condemnation of all pastoralists just because the Head of State of this country comes from the pastoralist community---Let us not beat about the bush. We know what hon. Dr. Kituyi means and what he was heading to. I think enough is enough. I think we shall not any more sit or lie down taking what comes from the Opposition side!

**Mr. Deputy Speaker:** Order! Prof. Anyang'-Nyong'o, you have the Floor!

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I would like to make my point very clear. I used my word figuratively. I did not mean, in any way, to offend my dear friend hon. Falana in his own cultural practice. Secondly, hon. Biwott, made a point of order and I want to respond to it. Can I respond to that point of order and then you can put another one? Hon. Biwott, please---

**Mr. Biwott:** On a point of order, Mr. Deputy Speaker, Sir. The speaker on the Floor of the House used the word "pastoral" knowing exactly what he is doing, and we understand English as much as he understands. We are the pastoral people and we cannot accept any intimidation that attempts to insult our own community. If this House is to be honourable, then I think hon. Members here should display a bit of maturity and also show respect to others---

*(All hon. Members stood up)*

**Mr. Deputy Speaker:** Order! Order! Why are you standing?

**Hon. Members:** We are adjourning!

**An. hon. Member:** We are offended.

**Mr. Deputy Speaker:** Who told you? Well, I am on my feet and you should be seated.

#### ADJOURNMENT

**Mr. Deputy Speaker:** Order! Order! Well, I intended to say that whereas hon. Members are free to throw all kinds of analogies, or figurative explanations, I can understand why pastoral communities do not take kindly to that remark, but I suppose you could also respond by referring to "maize and beans people".

Hon. Members, it is now time for interruption of Business. Therefore, the House stands adjourned until Tuesday, 26th November, 1996, at 2.30 p.m.

*The House rose at 6.30 p.m.*