

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 11th May, 2004

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.025

DISTRIBUTION OF 2002/2003
GOVERNMENT REVENUE

Mr. Speaker: Mr. Obwocha is not yet back? The Question is deferred!

(Question deferred)

Question No.142

EFFECT OF MARRIAGES BETWEEN
YOUNG MEN AND ELDERLY WOMEN

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

- (a) whether he is aware that due to poverty in the country, young men in their twenties are marrying women aged over 70 years; and,
- (b) whether he could assure the House that the trend will not adversely affect the social fabric of the society.

Mr. Speaker: The Minister for Planning and National Development is not in? We shall come back to this Question later!

Question No.077

COMPLETION OF MASALANI BRIDGE

Mr. Y. Haji asked the Minister for Roads, Public Works and Housing:-

- (a) whether he is aware that Masalani Bridge has taken one year longer to complete;
- (b) what the causes of this delay are; and,
- (c) when it is expected to be completed.

Mr. Speaker: The Minister for Roads, Public Works and Housing is not in? We shall come back to this Question later on!

*Question No.085*NUMBER OF 2003 KCPE CANDIDATES
IN KERUGOYA/KUTUS

Mr. M. Kariuki, on behalf of **Mr. Karaba**, asked the Minister for Education, Science and Technology:-

(a) whether he could give the total number of KCPE candidates from Kerugoya/Kutus for the year 2003;

(b) how many of them enrolled in school and sat KCPE examinations after the introduction of the free primary education policy; and,

(c) what urgent measures he is taking to ensure that such students in part "a" above who come from very poor families will not fail to join Form One for their secondary education due to lack of school fees.

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Speaker, Sir, I beg to reply.

(a) Kerugoya/Kutus Constituency falls under Kirinyaga District. The Kenya National Examinations Council only has information of KCPE candidates per district and not per constituency. In Kirinyaga District, 11,260 candidates sat for the KCPE in 2003.

(b) In Kirinyaga District, there was an increase of 337 candidates.

(c) The Government, through my Ministry, has put the following measures to ensure that the students mentioned in part "b" above, join Form One for their secondary education.

(i) Provision of bursary fund to assist needy bright students from poor socio-economic backgrounds. Already, Kshs1 million has been disbursed to each constituency.

(ii) The Ministry also gives grants to secondary schools for implementation of uniform fees guidelines in all public secondary schools.

Mr. M. Kariuki: Mr. Speaker, Sir, I wish to thank the Minister for his answer.

Kenya is a signatory to the UN Convention on the Rights of Children, and this House has enacted the Children Act. Section 7 of that Act guarantees rights to free education to a child; up to the age of 18 years. Given the large number of students who drop out at Standard Eight, what plans does the Minister have to actualise the spirit of the legislation on the rights of children to ensure that they get education until they are 18 years old?

Prof. Saitoti: Mr. Speaker, Sir, let me first of all make it quite clear that, indeed, the Government has implemented the policy of free primary education. This was started in January 2003. This is supposed to be in fulfilment of the provision which is important in the Children Act, also towards the fulfilment of the goals of education for all and, of course, universal education. Therefore, we know that we do not have enough secondary schools today, to be able to accommodate all the school-leavers at Standard Eight.

My Ministry has already put into motion plans to ensure that, by the year 2007, 70 per cent of those who qualify to go to secondary schools will be absorbed, and we are also in the process of ensuring that the facilities in the youth polytechnics are going to be properly rehabilitated and equipped to ensure that at least those who cannot proceed are properly trained to be able to get jobs.

Mr. Twaha: Mr. Speaker, Sir, in the past, at the constituency level, we have been building clinics and then they remain idle because there is lack of nurses and other staff. Now, with the Constituency Development Fund, I am putting the Minister on notice that I intend to put up a secondary school in every location. Could the Minister assure this House that there will be enough teachers to man those schools?

Prof. Saitoti: Mr. Speaker, Sir, first of all, I am very happy to know that the hon. Member is going to complement Government efforts in putting up a number of secondary schools.

I believe that when the Budget for the next financial year is read here, you will see that we will indeed, have factored in money to ensure that more teachers can be employed.

Mr. M. Kariuki: Mr. Speaker, Sir, given that the bursary funds can only be accessed by those who have already reported in Form One, and that the poor children who do not have the money cannot possibly report in Form One, does the Minister have a plan where the poor children who cannot even register in Form One can access bursaries before they register?

Prof. Saitoti: Mr. Speaker, Sir, the intent of the Constituency Bursary Fund is to ensure that those who are in the committees will allocate these bursaries to the needy children, first of all, beginning with the orphans.

Mr. Speaker, Sir, I would like to inform the House that this second term, indeed, at a meeting at the hon. Member's *Kamukunji* last week, I gave instructions for the second tranche of bursary funds to be dispatched to all the constituencies. It is my hope, therefore, that hon. Members will ensure that the children who are poor are not going to be left out of schools.

Mr. Speaker: Next Question!

Question No.117

DISAPPEARANCE OF MR. MUNYWOKI MAKAU

Mr. Speaker: Mr. M. Maitha is not yet in? We shall come back to his Question later! Next Question!

Question No.120

ENFORCEMENT OF ZEBRA-CROSSING
TRAFFIC REGULATION

Mr. Mukiri asked the Minister for Transport and Communications:-

- (a) whether he is aware that most motorists in this country do not give way to pedestrians at zebra-crossings; and,
- (b) what he is doing to enforce this important traffic regulation.

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

(a) I am aware that some motorists, at times flout the zebra-crossing Traffic Rule.

(b) The police constantly carry out normal operations to enforce the traffic regulations on roads including the zebra-crossing points. Motorists who do not give way to pedestrians, as required by traffic rules, are normally arrested and charged. However, my Ministry has launched a Road Safety Awareness Campaign; deliberately aimed at addressing the following problems:-

- (i)General disregard for traffic rules.
- (ii)Negative attitude exhibited towards pedestrians and commuters by drivers and conductors.
- (iii)Lack of road safety marks and signs on our roads.
- (iv)Lax enforcement of traffic rules.

This awareness campaign is expected to bring about an improved driving culture on our roads. The law enforcement officers will also be required to strictly enforce traffic rules, including

those at zebra-crossing points.

Mr. Mukiri: Mr. Speaker, Sir, I disagree with the Assistant Minister on what he has said; that motorists do give way to pedestrians at zebra crossings. I also do not think that public awareness campaigns would be enough for this important section of the Traffic Act to be followed.

Could the Assistant Minister explain how many people have been charged for flouting this traffic rule in the last one year? He has said that traffic policemen have been arresting those who have been found breaking the rule.

Mr. Ligale: Mr. Speaker, Sir, I may not have the exact figure of how many people have been charged. However, the police know that they should take appropriate action against anyone who flouts that rule.

Mr. Poghiso: Mr. Speaker, Sir, I am not sure if we should have asked this Question to this particular Assistant Minister.

Mr. Speaker: That point was going on in my mind. You are right! The police are not under him. Anyway, go ahead with your question.

Mr. Poghiso: Mr. Speaker, Sir, let me ask the question. The Assistant Minister has said that he knows that the police frequently arrest those who break the rule. He, however, cannot tell us how many people have been prosecuted. That raises a question. Should we really continue asking him questions, or should we address the Question to the right Minister, so as to get a proper answer?

Mr. Speaker: What do you think, Mr. Mukiri?

Mr. Mukiri: Mr. Speaker, Sir, the answer I have received from the Assistant Minister is not adequate.

Mr. Speaker: What is the Assistant Minister's reaction?

Mr. Ligale: Mr. Speaker, Sir, there are several aspects of this Question. One aspect relates to educating people on traffic rules and ensuring that they adhere to them. That relates to my Ministry. We educate our public to try and obey the rules. The enforcement part of the rules falls under the purview of the Kenya Police and, therefore, under the Office of the President.

Mr. Speaker: Who would be in charge of instilling good conduct in people on our roads? Which Ministry would be responsible?

Mr. Ligale: Mr. Speaker, Sir, that falls squarely on our laps. We have been endeavouring, in the recent past, to see if the Traffic Act can be enforced.

Mr. Speaker: What should I do now? What do you suggest, Mr. Mukiri? I am in a dilemma here. The Assistant Minister is in charge of good driving, good manners and other issues. He is, however, not in charge of enforcing the rules, Mr. Mukiri, would you like us to proceed?

Mr. Mukiri: Mr. Speaker, Sir, we are talking about the same Government. As the Assistant Minister has explained, there are complementary roles. Could we defer the Question to enable him consult with his colleagues and then come back with a comprehensive answer?

Mr. Speaker: I think you are right. Mr. Ligale, I suggest that you get in touch with your colleague, who is in charge of traffic police, and who should be the enforcement arm of your policies. Talk about good manners on our roads, and then come back with an answer. Do you need one or two weeks?

Mr. Ligale: Mr. Speaker, Sir, we talk. In fact, we have an inter-Ministerial Committee that has been looking at these issues. Although I do not have the exact figures relating to the number of people who have been charged for flouting this rule, we have a Ministerial Committee that has been looking at the Traffic Act, and ensuring that the rules are enforced. I will, therefore, consult where necessary.

Mr. Speaker: Do you require one week?

Mr. Ligale: Mr. Speaker, Sir, I need about a week.

Mr. Speaker: All right. We will expect an answer next week on Thursday.

(Question deferred)

Mr. Boit: Mr. Speaker, Sir, I would also like the Assistant Minister to come up with an explanation regarding the increasing number of pedestrians walking to town and other places in the morning and evening. I am talking of pedestrians walking on two legs!

Mr. Speaker: Mr. Boit, are you suggesting that Kenyans should be walking on one leg? Your issue is different, and you may put a Question on it.

Next Question, Mr. Wambora!

Question No.113

COLLECTION/ALLOCATION OF
COFFEE CESS MONEY

Mr. Wambora asked the Minister for Agriculture:-

- (a) whether he could inform the House how much coffee cess money has been collected by the Coffee Board of Kenya (CBK) and KPCU from 1999 to date; and,
- (b) how much of the amount collected has been released for road maintenance, to which districts, and how much is yet to be released.

The Assistant Minister for Agriculture (Mr. J. Nyagah): Mr. Speaker, Sir, I beg to reply.

(a) The Coffee Board of Kenya collected a total of Kshs346,974,914.90 as coffee cess from 1st October, 1998 to 1st July, 2002, when it relinquished the function of marketing to the Kenya Planters Cooperative Union (KPCU). The KPCU has since collected coffee cess money amounting to Kshs60,488,479.85.

(b) A total of Kshs315,662,363.05 has so far been released to 20 District Coffee Roads and Infrastructure Committees. Action is being taken to ensure that the Kshs31,312,551.85 currently held by the CBK, and Kshs60,488,479.85 held by the KPCU is released to the respective District Coffee, Roads and Infrastructure Committees and county councils.

Mr. Wambora: Mr. Speaker, Sir, as I said last time, I come from a tea and coffee growing area. Roads in tea-growing zones are in a very bad state and need maintenance. Roads in coffee zones are in a deplorable state. Now, the Assistant Minister is telling us that the Coffee Board of Kenya has disbursed Kshs315 million. That is a colossal sum of money, but there is nothing to show for it on the ground.

Mr. Speaker, Sir, I want to ask the Assistant Minister to really tell us the truth as to where this money has gone to because it has not been utilised on the roads. Embu District did not receive the Kshs11 million shown. Where did the money go to?

Mr. J. Nyagah: Mr. Speaker, Sir, the money went to District Coffee Roads and Infrastructure Committees, which were made up of the following people. I am sure that the MPs from the concerned areas are aware of this. The chairman was always the chief district coffee delegate, who was elected by the local farmers from those areas. The other members of those committees included the district coffee delegates, the union general manager, three farmers representatives, the Coffee Board of Kenya area manager, District Rural Access Roads Engineer, District Agricultural Officer and District Co-operative Officer. Those were the members of the committees that received the money from the Coffee Board of Kenya.

Mr. Salat: Mr. Speaker, Sir, which districts received the money? Could the Assistant Minister actually table the names of the districts here and now, and how much they received?

Mr. J. Nyagah: Mr. Speaker, Sir, I am very happy to table the schedule. It is a very long list of 20 districts.

Mr. Speaker: Table the document!

Mr. J. Nyagah: It is a very long list. It contains all the 20 districts that grow coffee and tea.

Mr. Speaker: Just table it!

(Mr. J. Nyagah laid the document on the Table)

Mr. Munya: Mr. Speaker, Sir, I come from a coffee-growing district, and our roads are in a deplorable situation. I have never heard of those committees that the Assistant Minister is talking about, nor have I seen them on the roads. This is the tip of the iceberg and we would like this Question deferred so that the Assistant Minister can bring more details of the accounts that received this money and the members of those committees so that we can get to the bottom of this matter.

Mr. J. Nyagah: Mr. Speaker, Sir, the reason I read the list of the membership of the committees is because I was aware that new Members of Parliament might not be aware of their existence. In future, the balance of the money, which is about Kshs90 million, will go into the District Roads Committees (DRCs). This is because the DRCs now exist. I am talking of the previous situation, where the DRCs did not exist. I want to assure you that those committees did exist, and served the farmers. As to whether they stole money, that is the responsibility of the DRCs. Some of the roads that were done with that money are very small. Small sections of roads were murramed using Kshs200,000 or Kshs400,000. Maybe that is why the MPs are not familiar with what the committees have done in the past.

Mr. Speaker: I think that is sufficient information for you to go to your constituency and find out more about these committees.

Mr. Mwanicha: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to tell us about coffee committees distributing finances for roads and yet they do not exist? What are we being told here?

Mr. J. Nyagah: I think there is some confusion, Mr. Speaker, Sir. The Question talked about the past. I was describing the situation as it was before the present DRCs; as we know them. I am saying that the Kshs315 million was actually disbursed to the committees that I have mentioned. The only districts that did not receive any funds, because in those days they did not constitute the District Coffee Roads and Infrastructure Committees, were Kakamega, Baringo and Taita-Taveta. All the other districts constituted proper committees and received money.

Mr. Wambora: Mr. Speaker, Sir, we are talking about Kshs315 million distributed in 1999 to 2002. This is a colossal amount of money. Since we cannot see the results of such a huge sum of money, could the Assistant Minister undertake to report this "mini-Goldenberg" to the appropriate bodies in the Government so that it can be probed?

Mr. J. Nyagah: Mr. Speaker, Sir, I will be very happy to do many things, including asking MPs to also go and check this information because I have given them a schedule on each district. Could they check and find out if I have been misled? At the moment, it is my belief that I have not been misled by the Coffee Board of Kenya. Since the schedule is here, it would make sense for them to double-check and see if we have been misled. If we have been misled, we will be very happy to go into a lot of details of probing and arresting people.

Mr. Speaker: I think the House will be the better for it. I wish to revisit the role of

Departmental Committees. What do they do? In fact, to my utter surprise, and I am unable to know what to do with this, Committees think that all the monies set aside for their operations are supposed to be utilised in going abroad! This House must give directions as to what to do.

I think this is the proper work of committees. Money is set aside to enable them to investigate their mandates and bring reports to this House. What is happening today is that all the money set aside for committees is being used on tourism! It cannot be anything else! You do not have to go to Malaysia to know how coffee roads are constructed.

(Mr. Ogur consulted loudly)

Order, Mr. Ogur! I am sure the Kenyan people would join me in saying that you had better look into what ails our various economic sectors rather than go out of the country. So, please, Members of Departmental Committees, take your mandate seriously. The relevant Departmental Committee can visit the districts to investigate an issue like this one which involved Kshs300 million, and bring a report here.

Mr. Speaker: Next Question!

Question No.153

SUPPLY OF ELECTRICITY TO
SELF-HELP GROUPS IN BELGUT

Mr. Keter asked the Minister for Energy:-

- (a) whether he is aware that several self-help groups, namely; Kapchereren, Kiptenden, Kaptoboity, Meregure, Kiptaldai, Kapcherongony and Maraba applied for electricity between the period 1996 to 1999 and paid a total of Kshs3,432,400 and to date, no action has been taken; and,
- (b) what urgent measures he is taking to supply power to these applicants and the constituency.

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

(a) The following schemes have paid the indicated payments to the Kenya Power and Lighting Company Limited (KPLC). One, Kaptoboity paid Kshs475,000; Meregure, Kshs403,000; Kaptaldai, Kshs451,400; Kapcherongony, Kshs830,000 and Maraba, Kshs550,000.

With the exception of Kiptenden, whose records we could not trace with the information provided, all the others are being treated as commercial schemes and the beneficiaries are expected to pay for the whole of the projects' cost.

(b) It has been observed that most of the projects listed by the hon. Member are for supply of power to domestic households. However, due to resource constraints, the Ministry of Energy is currently considering subsidization of only those projects which entail supply of power to public facilities including trading centres, public schools and health centres in line with the Government strategy of wealth and employment creation.

Supply of power to public facilities in Belgut Constituency will be considered upon successful conclusion of the on-going discussions with a number of donors.

Mr. Keter: Mr. Speaker, Sir, Kapchereren, Kaptoboity, Meregure, Kiptaldai, Kapcherongony and Maraba are self-help groups. There are four hospitals, two secondary schools and 13 primary schools. These self-help groups have already paid the 5 per cent deposit under the Rural Electrification Programme (REP). The Assistant Minister says their application will be considered under commercial schemes when they pay the whole amount and yet, they paid the 5 per

cent deposit in 1995.

Mr. Kiunjuri: Mr. Speaker, Sir, the only areas where we have public utilities are Kapcherongony and Maraba. We will consider supplying them with electricity under the Spanish Phase III Programme. Through the REP, we only provide electricity grids. Therefore, if an individual wants to connect power to his house, he has to meet the cost.

Mr. Sambu: Mr. Speaker, Sir, it is a well known fact that, for a long time, the REP has been benefiting from other consumers. For every electricity bill, consumers pay a 5 per cent to the Ministry of Energy towards this programme. Where has this money been going to if it cannot be used to provide electricity to those people who have already paid the 5 per cent deposit?

Mr. Kiunjuri: Mr. Speaker, Sir, the 5 per cent that is contributed for REP goes to the actual extension of other power lines. For example, if we require power in Kariobangi and power lines are in Eastleigh, we use that 5 per cent to extend them to Kariobangi. I am sure hon. Members will agree with me that KPLC cannot pay for our domestic consumption. However, we are really subsidizing our rates to make sure that trading centres, hospitals and schools get power, so that domestic consumers can connect power to their houses from there.

Mr. Midiwo: Mr. Speaker, Sir, the issue in question is not an isolated incident to the hon. Member's constituency. There are many constituencies where monies were collected for this purpose. We understand that this money may not be enough to provide electricity. The Assistant Minister says it is not their responsibility to account for this money. Could the Government consider issuing a policy statement asking whoever is holding that money to refund it, so that we do not keep on asking this question everyday?

Mr. Kiunjuri: Mr. Speaker, Sir, the Ministry has never denied that it collected money from the people. We have even asked hon. Members to come to our office and go through the list of the monies collected. We are even willing to refund this money to those people whom we cannot provide power to. It is true that monies were collected, but services were not provided. That cannot make the Ministry disagree with hon. Members of Parliament. Mr. Midiwo, who is my good friend, knows this very well.

Hon. Members: Which friend?

(Laughter)

Mr. Speaker: Order, Members! Mr. Keter, it seems you are not interested in asking your last question.

Mr. Poghisio: Mr. Speaker, Sir, could you, please, protect me from these friends?

Mr. Speaker: Order, Members! Let us listen to Mr. Poghisio!

Mr. Poghisio: Mr. Speaker, Sir, the issue that I need to raise relates to what the Assistant Minister has just said regarding the Spanish Phase III Programme. It is my understanding that there is a programme called Spanish Phase I, II, and III. Does this programme cover certain districts or is it a project that is designed to help areas that do not have electricity like Kacheliba Constituency? Specifically, I would like the Assistant Minister to take this opportunity to explain to us all about Spanish Phase I, II, III or IV. Could he take Spanish Phase III to Kacheliba Constituency so that our people get electricity?

Mr. Kiunjuri: Mr. Speaker, Sir, I do not know what hon. Members define as good friends.

This Government will consider all areas irrespective of their political party representation. I want to assure hon. Members that once we get money from donors we will use it to supply electricity to places like Kacheliba which has never seen electricity before.

Mr. Speaker: Very well. That marks the end of that Question.

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

Mr. Speaker: Order, Mr. Keter! You gave your opportunity to Mr. Poghiso. You will not negotiate with the Chair. Will you relax? The Question by Mr. Kimeto is deferred.

Question No.115

HIPPOPOTAMUS ATTACK ON
MS. CHEPKIRUI KOSGE

(Question deferred)
Question No.059

MEASURES TO PROTECT WORKERS
FROM AGRO-CHEMICAL POISONING

Mr. Mwanicha asked the Minister for Labour and Human Resource Development what steps he is taking to safeguard the health of workers in horticultural and floricultural farms against agro-chemical poisoning.

The Minister for Labour and Human Resource Development (Mr. Mwakwere): Mr. Speaker, Sir, I beg to reply.

The Department of Occupational Health and Safety Service (OHSS) in my Ministry is charged with the responsibility of safe-guarding the health of workers in industrial, agricultural and all working places. This includes the health and safety of workers in the horticultural and floricultural farms against agro-chemical poisoning or poor working conditions.

At the moment, my Ministry is undertaking the following in the horticultural and floricultural farms, against any form of agro-chemical poisoning or poor working conditions:-

(i) Regular monitoring of the health of workers handling chemicals, especially chemical sprayers and those working in agro-chemical stores.

(ii) Enhancing the training of both the employers and employees on the safe use of chemicals, including safe handling and disposal of chemical waste.

(iii) Carrying out regular and systematic inspection and follow up on health and safety standards in flower farms, to ensure adequate personal protective appliances are provided and maintained for use by all workers likely to be exposed to agro-chemical poisoning.

(iv) Prosecuting those horticultural and floricultural farms which do not comply with the safety and health requirements under the Factories and Other Places of Work Act, Cap. 514, Laws of Kenya.

Mr. Speaker: Whose Question was this? Mr. Mwanicha, we are repeating this Question because it was deferred. So, could we get the new aspects of it, rather than repeating what we did two weeks ago?

Mr. Mwanicha: Mr. Speaker, Sir, we had stopped at a point where I called the reply a textbook answer! I had asked the Minister to give the House the number of flower and horticultural farms that have been taken to court as a result of that abuse. Last weekend, I accompanied Bunge Football Club to one of the flower farms and I had a chance to tour some of the flower farms out there. The situation is bad! Mothers who go into those flower farms before the harvest period have lesions on their faces and bodies. They keep on scratching themselves! They are waiting for the Minister to take action against those farms. What exactly are you doing? Could you tell the House,

please?

Mr. Mwakwere: Mr. Speaker, Sir, I would like to, first and foremost, tell the hon. Member that, this is a multi-sectoral Question, and the intervention does not rest squarely on the shoulders of the Ministry of Labour and Human Resource Development.

However, I will give him a few details. First, we have prosecuted farms that have not complied with the labour laws relating to safety at work. We have so far, that is from 2001 to 2003, prosecuted seven farms. The other aspect that you wanted to know, relating to the emission of gases, solid waste and liquid waste in factories, are issues that go beyond the Ministry of Labour and Human Resource Development. I am referring to what affects people working in those conditions. However, I would like to add that solid, liquid and gaseous wastes are treated before they are released to the land, air or even water. But beyond that level, it is for the Ministry of Environment, Natural Resources and Wildlife to monitor the effects thereafter. But I am ready to give specific details if the hon. Member could ask for specific information. Otherwise, just observing what you observed when you went for football, does not help me to give a satisfactory answer.

Mr. Nyachae: On a point of order, Mr. Speaker, Sir. The last remark by Mr. Mwanicha was so general and very damaging to the horticultural industry, which is the biggest foreign exchange earner for this country. Our competitors internationally are watching and that is going to be in the Press. Could he be specific and give us the names of the companies whose chemicals were being mishandled and harming the workers? That is a statement which could ruin the whole industry, and we have put in millions and millions of shillings.

Mr. Speaker: Mr. Mwanicha, do you have anything to say to that?

Mr. Mwanicha: I went to three flower farms. I saw those workers myself. I can take the Minister there. I have no problem.

An hon. Member: Which one?

Mr. Mwanicha: Mr. Speaker, Sir, I was in Oserian Farm. That is one of the farms. I can take you to that lady.

Mr. Speaker: Mr. Wekesa! Sorry! I had given Mr. Wamwere. I will come back to you.

Mr. Wamwere: Mr. Speaker, Sir, I do not know whether the Minister will admit it, but the truth of the matter is that the Minister has been getting wrong information from his officers and, in turn, he is using that information to mislead this House in his answers. Last week, I had a Question in this House where the Minister assured the House that a person called Joyce Wairimu Chege had been paid her maternity leave, her annual leave for three years and a certificate of service.

Mr. Speaker: What does it have to do with the Question?

Mr. Wamwere: Mr. Speaker, Sir, that is a flower farm, very much like the ones we are discussing.

Mr. Speaker: Order, Mr. Wamwere! It does not follow. Payments of dues and keeping the workplace clean are two totally different issues. Could you concentrate on this particular one?

Mr. Wamwere: Mr. Speaker, Sir, I was questioning the Minister on whether he is aware that some of the information he is getting from his officers is actually not correct. He is using that incorrect information to mislead the House with the answers that he is giving us! I do not know whether there is anything the Minister could do to make sure that his officer give him correct information, than what he has been bringing to this House so far?

Mr. Mwakwere: Mr. Speaker, Sir, I would like to inform this House that Oserian is one of the best managed flower farms in this country, and probably one of the best in the world. I am ready to accompany the hon. Member to any flower farm or industry in this country to ascertain his claims. Secondly, there is one point that I have not mentioned about Mr. Wamwere's intervention. Mr. Wamwere knows very well that those unwarranted interventions in the flower farms have made

some flower farms to relocate to neighbouring countries, or even to some other districts. That is very scary! We should take note that horticulture is one of the most important economic activities in this country. We should really be very careful not to issue threats and cause alarm to investors. But I am ready to accompany any member to any farm to ascertain any misdeeds or malpractices in those farms.

Mr. Speaker: Order! Sorry, we cannot go on like this for ever. I will give the last question to Dr. Wekesa and that is it!

Mr. Mwanicha: Mr. Speaker, Sir, I have to ask the last question!

Mr. Speaker: Order! There is no rule that says you must ask the last question. Will you, please, relax?

Dr. Wekesa: Mr. Speaker, Sir, I am sure the Minister is aware that in terms of production, Kenya is second in the world as far as horticulture is concerned. Since it is such a big economic and foreign exchange earner, could the Minister consider deploying some of his extension officers to go round the farms educating flower growers and workers about the dangers of chemicals? I would like to inform the House that we have trained 937 people in those flower farms over the last one year. Others have also been trained in the safe handling of chemicals. So, what is being requested is actually being done effectively.

Mr. Mwanicha: On a point of order, Mr. Speaker, Sir. The reason why the Question was deferred was for the Minister to name the seven companies. He has not named them. Could he, please, name them? Is he in order not to name them?

Mr. Speaker: Why are you agitated?

(Laughter)

Mr. Mwanicha: I have not got the answer.

Mr. Speaker: Why are you agitated? He has the list and he can table it here.

Mr. Mwakwere: Mr. Speaker, Sir, I have the list and I hereby table it.

*(Mr. Mwakwere laid the document
on the Table)*

COMMUNICATION FROM THE CHAIR

DEFERMENT OF ORDINARY QUESTIONS

Mr. Speaker: Hon. Members, you can see where we are and we should be finishing Questions in the next ten minutes, yet we still have a long list of ordinary Questions. We have not even touched Questions by Private Notice.

I will, therefore, defer all the ordinary Questions beginning with Question No.142 to tomorrow afternoon, Question No. 077 by hon. Haji to tomorrow afternoon as well, Question No.117 by Mr. Maitha to Thursday afternoon. We will now go to Questions by Private Notice.

Question No.142

EFFECTS OF MARRIAGES BETWEEN
YOUNG MEN AND ELDERLY WOMEN

Mr. Speaker: I will defer this Question to tomorrow afternoon.

(Question deferred)

Question No.077

COMPLETION OF MASALANI BRIDGE

Mr. Speaker: I will defer this Question to tomorrow afternoon.

(Question deferred)

Question No.117

DISAPPEARANCE OF
MR. MUNYWOKI MAKAU

Mr. Speaker: I will defer this Question to Thursday afternoon.

(Question deferred)

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

Mr. Speaker: I deferred your Question a long time ago. You were not there and, in fact, I should have dropped it.

Mr. Obwocha: Mr. Speaker, Sir, it is Question No.025; you did not say it clearly.

Mr. Speaker: Very well.

Mr. Ndile: Jambo la nidhamu, Bw. Spika.

Mr. Speaker: What is it?

Mr. Ndile: Bw. Spika, umesema Swali langu liahirishwe ilhali Waziri yuko hapa na hili Swali limekaa siku nyingi bila kujibiwa.

Mr. Speaker: Order! Order, Mr. Ndile! Heshimu amri ya Spika. Nimeshatoa amri tayari.

QUESTIONS BY PRIVATE NOTICE

HARASSMENT OF MOSOP
RESIDENTS BY POLICE

(Mr. Sambu) to ask the Minister of State, Office of the President:-

(a) Is the Minister aware that armed police officers from Kabiyet Police Post travel daily through Mosop Constituency harassing and arresting innocent people?

(b) Is he further aware that the arrested people are only released after payment of bribes?

(c) If the answers to (a) and (b) are in the affirmative, what action is the Minister taking against the officers involved?

Mr. Sambu: Mr. Speaker, Sir, I seek your indulgence to have this Question deferred because, as I undertook to bring sworn affidavits, I have not got the two ladies to sign the affidavits.

Mr. Speaker: When do you want it?

Mr. Sambu: Sometime next week, Mr. Speaker, Sir.

Mr. Speaker: All right. Any objection from the Minister?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, I have no objection.

Mr. Speaker: Very well. I will defer it to next Wednesday afternoon.

(Question deferred)

SUSPENSION OF JUDGES

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

(a) Is the Minister satisfied that Sections 62, 77 and 104 of the Constitution were complied with when the suspended judges were removed from the payroll, evicted from Government houses and required to surrender all Government property?

(b) Does he consider the above measures a suspension from duty pending the decision of the Tribunals appointed by the President or a dismissal?

(c) What meaning does the Minister subscribe to the provisions for Tenure of Judges as provided in the Constitution?

Mr. Speaker: Order! Order, Members! This Question was actually deferred. Mr. Githae, what was it that we wanted you to come back to the House about?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Speaker, Sir, the Question was actually answered but the Deputy Speaker deferred it.

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

(a) Mr. Speaker, Sir, new information that has been received shows that this matter is now *sub judice* and, therefore, against Standing Orders. Hon. Justice Joseph Vitalis Odera Juma has gone to the High Court under Miscellaneous Civil Application No.512 of 2004, seeking orders to be paid salary and allowances and also an interpretation of Sections 62, 77 and 104 of the Constitution, which is the same subject matter of this Parliamentary Question. Hon. Justice Tom Mbaluto has also gone to the High Court under Miscellaneous Civil Application No.509 of 2004 seeking similar orders.

(b) In view of the above, this matter is, therefore, *sub judice*.

(c) In view of the above, this matter is now *sub judice*.

I wish to take this opportunity to lay the complaints---

(Loud Consultations)

Mr. Speaker: Order! Can I follow this? Order, Members! At the end of the day, you want the Chair to arbitrate. If I cannot follow, how do I arbitrate? Now, please, let me listen.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Speaker, Sir, I wish to take this opportunity to lay on the Table of the House the two complaints that the two judges have filed against the Chief Justice, the Permanent Secretary and Secretary to the Cabinet and Head of Civil Service, the Permanent Secretary, Treasury, the Chief Court Administrator and Senior Principal Personnel Officer of the High Court.

Mr. Speaker, Sir, if I may just read the first paragraph of the orders that they are seeking so that this House can see that what the hon. Member is asking is actually the same matter and issues that the judges want interpreted. The first order they are seeking reads:-

"To bring into this honourable court and to quash the unconstitutional, illegal and void decision of the respondent, the Registrar of the High Court of Kenya contained in and communicated to the applicant by the letter dated 27th October 2004, Ref. No.

Confidential/PJ No.21103 informing the applicant, hon. Mr. Justice Joseph Vitalis Odero Juma about Kenya Gazette Notices Nos. 280 and 282 dated 15th October, 2003 which was among other things, to have announced the applicant's suspension from exercising the functions of his office and which told the applicant that, "following the suspension, your salary and allowances have been stopped with effect from 15th "October, 2003 and required the applicant to surrender all Government property in his possession as stipulated by 31st October, 2003 and to vacate the Chambers with immediate effect."

*(Mr. Kenyatta was applauded
as he entered the Chamber)*

These orders that the judges are asking are similar to the Question that the hon. Member is asking.

Mr. Speaker: Very well. Mr. Kajwang, have you seen those claims? Would you like to table them, Mr. Githae? Order! Mr. Githae, are you tabling those documents for the benefit of the Chair or are you taking them away?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): No, I would like to table them, Mr. Speaker, Sir.

Mr. Speaker: Very well. If you take them away, then you will be alone!

*(Mr. Githae laid the documents
on the Table)*

Mr. Kajwang: Mr. Speaker, Sir, you remember that, when this Question first came before the House, you ruled that judges are not ordinary citizens of this country, that they hold constitutional offices and that, it is the Constitution which governs their salaries or terms of service. You ruled further that, if the Government were to suspend them, they would remain with those terms until a Tribunal determines otherwise. That is why you deferred this Question so that there should be a letter reversing the letter of the Registrar of the High Court which purported to take away, or which, in fact, took away the housing, cars and other allowances of the judges. Then, my colleague, Mr. Githae, last week said that this matter was *sub judice*. The Deputy Speaker, who was sitting in the Chair told him that, in fact, we do not want to hear of *sub judice*. He asked him whether he had reversed the letter.

(Applause)

It is very administrative. You do not need a court to determine whether a suspended judge, under this Section, should get his salary. So, I am asking, has he now reversed the letter of the Registrar of the High Court and are the judges now getting their salaries, because he said they were actually being paid? Could he lay that letter on the Table?

Mr. Speaker: Order, all of you! I want an orderly way of finishing this. You know, hon. Kajwang, you will recall that at the time when this matter first came and I was sitting in the Chair, the Assistant Minister never pleaded *sub judice* at that time, probably because either he was unaware of the existence of the cases or they were not there at that time. I understand, from the brief I now gather from you and the brief I got from the Deputy Speaker, that the question of *sub judice* first came to the notice of the Chair when it was raised on Thursday last week by the Assistant Minister. Today, he has filed the plaint by the hon. Members and we know the rules. I was asking

you, Mr. Kajwang, whether you have had sight of the plaintiff's file to see whether, as a matter of fact, the issues you are raising and those being raised by the judges in court are the same or different. Have you had a look at the plaintiff?

Mr. Kajwang: Mr. Speaker, Sir, I have not had a look at the plaintiff but I have heard him read it. I suppose that they are almost the same questions. However, remember, my Lord, that---

(Laughter)

Mr. Speaker: No, problem!

Mr. Kajwang: Thank you, Mr. Speaker, Sir. I almost assumed that I was now before the court addressing the Lordships. However, you will remember that there are several judges who were suspended. In fact, there were 20 or so judges who were suspended. If only two go to court, does it, therefore, become Constitutional to withdraw the benefits of others? That is the interpretation I want this House to come to. If Justice Mbaluto and Justice Juma have gone to court, what happens to Justice Anganyanya, Justice Nambuye and Justice Waki?

(Applause)

Mr. Speaker: Sometimes you make simple things complicated.

An hon. Member: You are just ----

Mr. Speaker: Yes, I am! Sometimes we make simple things very difficult! This is because last time the Minister had, as a matter of fact, reversed the decision---

(Mr. Ndile stood up in his place)

Order! Mr. Ndile, what is the matter with you?

Mr. Ndile: Bw. Spika, umemsikia mwenzangu vile amekuita, badala ya kukuita Bw. Spika? Anataka kujikumbusha vile alivyokuwa! Nimesikia kuwa ametolewa kwa orodha ya mawakili. Kwa nini sasa hivi anajaribu kuitana majina hayo? Ama ni kujikumbusha tu?

Mr. Speaker: Order, Mr. Ndile! You stand sternly warned by the Chair! Most of the times, you are becoming too petty. You must take this House very seriously!

Order, hon. Members! What I was saying is that we make simple things to snowball into mountains. In fact, the Minister at that time had said that by Tuesday last week, and I think it is in the HANSARD, they had directed the Registrar to reverse that decision.

Hon. Members: Yes!

Mr. Speaker: It is, in fact, in the HANSARD! The only issue that should have come by last week was the letter which they had said---

Dr. Godana: Written!

Mr. Speaker: Order! Do not misdirect me, Dr. Godana, and do not become a heckler! I would like to ask you, Mr. Assistant Minister, whether, in view of what you said last Thursday, which is contained in the HANSARD, you think that what you said then was sufficient enough to prejudice your case? Is there anything new that will make it any better or worse than what you said last Thursday?

Mr. Githae: Mr. Speaker, Sir, the HANSARD will bear me out. I never said that we are going to give instructions for the circular to be withdrawn. What I said, and we can confirm it from the HANSARD, is that the intention to suspend judges was never intended to cause any pecuniary embarrassment to them. It had been expected that, within a month, the Tribunals would have been able to complete their work and make their recommendations. What we are now saying is that, by

the time we discussed those issues, this House, Mr. Kajwang and I were not aware that the judges had gone to court. The things they are asking are the same ones that Mr. Kajwang is asking about. Therefore, I am saying that, in view of the doctrine of separation of powers that we have in this House, I think we would be treading on dangerous ground if we started discussing issues that are in court.

Mr. Speaker: Very well! I have the plaintiffs' file on the Table of the House.

Mr. Angwenyi: Before you make a decision---

Mr. Speaker: Order! I will go and peruse it!

Order, Mr. Angwenyi! You are not going to tell the Speaker how to go about making his rulings!

(Mr. Angwenyi stood up in his place)

Order! Could you sit down? It is my business to make the rulings the way I think they are right!

I will peruse the pleadings brought before the House. I will look at the proceedings of this House in the HANSARD and will soon come back to the House with a ruling; possibly within the next one week.

We will defer this Question for the time being.

(Question deferred)

Next Question by Mr. Bahari.

(Mr. Bifwoli stood up in his place)

Have I skipped your Question?

Mr. Bifwoli: He has jumped me!

Mr. Speaker: Order, Mr. Bahari! Mr. Bifwoli is suggesting that I have jumped him!

(Laughter)

Sorry, I have neither jumped you nor jumped your Question. I have only skipped it. I, therefore, come back to Mr. Bifwoli's Question.

ILLEGAL SEIZURE OF MALABA-
MALAKISI GINNERY

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

(a) Is the Minister aware that AFRICOT Company that illegally seized Malaba-Malakisi Ginnery belonging to a farmers co-operative union, has not complied with the order to return it to its rightful owners?

(b) What action is the Minister taking to ensure that the Ginnery is handed back to Malaba-Malakisi Farmers Co-operative Union?

(c) When will the Co-operative Bank of Kenya waive interest on a loan borrowed by the Co-operative Union as promised by the Minister?

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth):

Mr. Speaker, Sir, I beg to reply.

(a) I am aware.

(b) There is a suit which has been filed in court arising from part "a" and it is coming up for hearing tomorrow.

(c) It is true that, indeed, the Union owes the Co-operative Bank of Kenya. However, the Bank has said that we could discuss the matter purely on merit after the matter has been settled by the court.

Mr. Bifwoli: Mr. Speaker, Sir, you realise that when the Assistant Minister was in Bungoma and ordered AFRICOT out of Malaba-Malakisi Ginnery, farmers had a lot of faith in the NARC Government and they planted a lot of cotton. Where are they going to take the cotton they planted?

Mr. Kenneth: Mr. Speaker, Sir, when we visited the Co-operative Union, we realised that the lease was not valid. We considered it irregular and consequently directed that, that lease be revoked. However, AFRICOT went to court and they got an injunction and it is going to be heard tomorrow. Before that is done, it will not be possible for us to allow the Co-operative Union to get back the ginnery.

Mr. Bifwoli: On a point of order, Mr. Speaker, Sir. The Assistant Minister has not answered my question. He told farmers that AFRICOT was going to move out of Malaba-Malakisi and people planted a lot of cotton which they now have at home. Where are they going to take it?

Mr. Speaker: Mr. Kenneth, where are those farmers from Malaba-Malakisi and elsewhere going to take the cotton that they already have in their hands?

Mr. Kenneth: Mr. Speaker, Sir, the whole of last week we were discussing in this same House on how to market our cotton in better ways. In this particular case, the Ministry has tried. We have even gone to the ground and tried to throw AFRICOT out. It is on the basis of that, that they have filed an injunction and we are hoping that this matter will be settled tomorrow. However, the Union will still require working capital to ensure that they buy cotton. We want to help them once the case is determined.

Mr. Speaker: Mr. Bifwoli, last question!

Mr. Bifwoli: Mr. Speaker, Sir, the Malaba-Malakisi Co-operative Union borrowed some money. On the answer to part "c", the principal amount and the interest accrued amounts to Kshs38 million. I want the Assistant Minister to tell us how much the principal loan was.

Mr. Kenneth: Mr. Speaker, Sir, I do not have the actual figure. However, I will check and report back to the House. On (c), I said that the Co-operative Bank of Kenya is willing to listen to the particular society once the suite is determined.

Mr. Speaker: Very well! Next Question, Mr. Bahari!

RESETTLEMENT OF NCC DEMOLITION VICTIMS

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

(a) How many families have been rendered homeless as a result of the recent demolition of homes in Nairobi by the City Council?

(b) What measures does the Minister have in place to ensure that the affected families are given alternative settlement?

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

(a) Recently, the Nairobi City Council (NCC) demolished 240 structures at Kaloleni, one in Langata, eight in Kasarani Division and two in Dagoretti.

(b) The question of their resettlement does not arise as they were not tenants of the Council and the structures were illegal. However, due to public outcry following the demolitions that were being undertaken by the Ministries of Roads, Public Works and Housing, Local Government and Energy, the foreign embassies in Nairobi complained to the Government. A sub-committee has been established by the concerned Ministries, and we will sit next week to look for ways of resettling these people.

Mr. Bahari: Mr. Speaker, Sir, it is quite clear that the Minister is acting because the embassies have complained. You will notice that even in his answer, he has avoided the use of the word "home". The structures he has referred to were homes of people. It is this attitude that is a problem. There are many poor people in this country, particularly in Nairobi, who are homeless. Could he tell us how far they have gone with their negotiations with the foreign embassies to ensure that our people, and particularly the poor, are not treated as slaves?

Mr. K. Maitha: Mr. Speaker, Sir, I am happy with the concern raised by the hon. Member. On the demolitions that were carried out by the NCC, I would like to inform him that the NCC has housing estates which are rented out to tenants. For instance, residents in Kaloleni Estate pay a monthly rent of Kshs600 to the Council. However, the Council tenants alienated the City Council land in the estates and put up extensions, which they rent out to outsiders at Kshs2,500 per room per month. It is on the basis of this that when the Nairobi Town Clerk got some money to paint the NCC estates, he decided to demolish those structures. **Mr. M. Kariuki:** Mr. Speaker, Sir, the issue is not whether the structures were illegal or not, but rather the treatment to which the NCC subjected our people in the course of the demolitions. The Constitution of Kenya grants the citizens one of the fundamental rights - not to be subjected to inhuman and degrading treatment. It is degrading and inhuman for the Government to evict people from their premises without giving them notice and alternative accommodation. They are forced to sleep out in the cold with their families. What is the Government doing to ensure that in future demolitions, alternative accommodation is provided for and that the demolitions are carried out in accordance with the spirit of the Constitution?

Mr. K. Maitha: Mr. Speaker, Sir, the hon. Member is a lawyer. He knows the meaning of an illegal structure. An illegal structure is one built on somebody's land. The demolished structures were extensions put up in the estates, which are owned by the NCC.

I have already said that the NCC---

Mr. M. Kariuki: On a point of order, Mr. Speaker, Sir. I hope the Minister has the capacity to understand my question.

(Applause)

Mr. Speaker: Order! Order! Mr. M. Kariuki, are you doubting the capacity of the Minister to answer your question?

Mr. M. Kariuki: Mr. Speaker, Sir, with respect, I have not addressed the issue of demolition. I am concerned about the treatment to which the NCC subjected the citizens of this country. Whether the structures are illegal or not, the Government has a duty to ensure that our people are treated in a humane manner and not in a degrading manner. That is the issue I am addressing and not whether the structures are illegal or who owns them.

Mr. K. Maitha: Mr. Speaker, Sir, before I answer that question, could the hon. Member withdraw the word he has used? When I was appointed a Minister, His Excellency the President knew that I was capable of doing the job.

Could he apologise?

(Loud consultations)

Mr. Speaker: Order! Order! Every Member of this House is honourable and capable. The basic rule in parliamentary proceedings is that no hon. Member is allowed to impute improper motive on another hon. Member, or even to doubt the integrity, capacity, or otherwise, of another hon. Member. If I allow this to happen, the floodgates will be opened for name-calling, insults and a lot of other terrible things. So, Mr. M. Kariuki, I am afraid, you have to apologise.

Mr. M. Kariuki: Mr. Speaker, Sir, I did not intend in any way to underrate the intelligence of the Minister. I said "I hope against hope".

(Applause)

If that is found to be offensive, I did not intend in any way to offend the Minister. In accordance with your direction, I would happily withdraw. I hope that the Minister will now address the question. He appreciates that I am a lawyer. Therefore, he should take time to listen to my questions.

Mr. Speaker: Order, Mr. M. Kariuki! You have withdrawn, but you have not apologised. You must apologise.

Mr. M. Kariuki: Mr. Speaker, Sir, I humbly apologise.

Mr. Speaker: Very well! There should be a generous applause for the hon. Member for withdrawing that remark!

(Laughter)

Mr. K. Maitha: Mr. Speaker, Sir, I have already assured the House that the Government, together with other stakeholders, has constituted a sub-committee, and that we are addressing the issue. This issue does not only concern my Ministry. It also concerns the Ministries of Roads, Public Works and Housing, Energy.

Mr. Salat: Mr. Speaker, Sir, I am concerned about the way the Ministry has treated Kenyans, who are now out there in the cold. About one-and-a-half years ago, my colleagues in the Government, who were then in the Opposition, called Kenyans to Uhuru Park and told them: "*Yote yawezekana*". However, today, Kenyans are sleeping in the cold. What alternative accommodation has the Minister given to those Kenyans since their structures were demolished?

Mr. K. Maitha: Mr. Speaker, Sir, as I said, the Government will sit next week. We will tell this country the alternative measure we have taken to settle these people.

Mr. Bahari: Mr. Speaker, Sir, in view of the fact that this demolition of houses or the so-called "structures" has become a culture of Nairobi City Council (NCC) and other councils in this country, could the Minister issue a directive to all local authorities to ensure that if there have to be any such demolitions, they are done in accordance with the law?

Mr. K. Maitha: Mr. Speaker, Sir, that has already been done. I still do assure this House that, that order has already been given.

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

Mr. Speaker: Sorry, we are past that! Hon. Members, it is now 4.00 p.m.!

Next Question by Mr. Wamwere!

EVICTON OF FARMERS FROM FORESTS

Mr. Wamwere: Bw. Spika, ninaomba kumuuliza Waziri wa Mazingira, Mali ya Asili na Uhifadhi wa Wanyama wa Pori Swali maalum lifuatalo.

(a) Je, Waziri ana habari ya kuwa maelfu ya wakulima ambao wamekuwa wakipanda

mimea ya vyakula kando na miti na ambao hawaishi tena katika maeneo ya misitu sasa wanakatazwa upanzi wa miti kwa hofu kwamba watapanda mimea ya vyakula?

(b) Je, Waziri anafahamu ya kwamba wakulima hao hawahusiki na uharibifu wa misitu, kitendo ambacho kilitekelezwa na viongozi wa kisiasa na maofisa wakuu Serikalini?

(c) Waziri anaelewa pia kuwa kutokana na kutimuliwa kutoka misitu kwa wakulima hao, zaidi ya miche milioni mbili haitapandwa msimu huu wa mvua katika sehemu za Dundori na Bahati?

(d) Kwa nini Waziri amepatia kandarasi ya kupanda na kuvuna miti makampuni ya kigeni ya Comply Timsales na Panpaper?

Mr. Speaker: Sorry, Mr. Wamwere. The House will recall that last week the Minister for Environment, Natural Resources and Wildlife was not feeling well. He called me this morning and said he is still indisposed. Hopefully, he will be around tomorrow. However, to be on the safe side, I think we will defer the Question to Thursday. I asked him where the Assistant Minister was and I was informed that Prof. Maathai is out of the country. Therefore, there was communication from the Minister.

So, could I defer the Question to Thursday, Mr. Wamwere?

Mr. Wamwere: Bw. Spika, unajua kwamba siwezi kubishana na uwezo wako. Lakini, ningeomba sana Waziri awe Bungeni siku hiyo kwa sababu watu wangu wanaumia sana na wanafikiria pengine Bunge hili haliwezi kuwasaidia.

Mr. Speaker: Tutajaribu kadiri ya uwezo wetu. Kwa kuwa Waziri na Msaidizi wake hawako hapa Bungeni leo, nitaliahirisha Swali hili hadi Alhamisi.

(Question deferred)

That is the end of Question Time. There were Ministers who wanted to make Ministerial Statements.

Proceed, Prof. Saitoti!

MINISTERIAL STATEMENTS

IRREGULAR PURCHASE OF TEXTBOOKS

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Speaker, Sir, I beg to make the following Ministerial Statement in response to Mr. Wambora's request. He requested me to make a Statement on the subject of the alleged loss of FPE Funds by schools in Embu District.

Mr. Speaker, Sir, I do have the following to state: The *East African Standard*, on 3rd May 2004, reported that ten schools in Embu District were cheated out of Kshs15 million by a bookseller. The facts are as follows: One, the six primary schools, namely; Macumo, Gichera, Kanduri, Kigaa, Gichiche and Muiruri ordered books from one bookseller, M/s Mwenendega Enterprises in January 2004. The orders were as follows: Macumo Primary School, Kshs135,000; Gichera Primary School, Kshs167,572; Kanduri Primary School, Kshs103,500; Kigaa Primary School, Kshs75,778; Gichiche Primary School, Kshs82,000; and, Muiruri Primary School, Kshs22,896. The total amount is Kshs586,746; which is not Kshs15 million as alleged by the *East African Standard* newspaper.

Secondly, in March 2004, through our district monitoring team, the above schools were found to have paid for instructional materials without having received the same, contrary to the laid down procurement procedure. The Ministry ordered the teachers to refund the money at once and a

total of Kshs586,746 was immediately paid back.

Mr. Speaker, Sir, in order to move very quickly, I would like to inform the House the following: First, no school has lost any money. Secondly, schools have received their supplies from different suppliers. Thirdly, delivery of supplies has been confirmed through physical checks of supplies bought and delivered to schools. Fourthly, all schools in Embu District and the region have been advised to blacklist the bookseller. Schools have also been instructed to strictly follow the laid-down procurement procedures and never to pay any suppliers in advance. It is also the policy that part-payment to suppliers is not allowed, thus a full payment is due only after receipt of the entire order of the materials.

Finally, the Ministry of Education, Science and Technology is committed to ensuring that the free primary education funds reach the child through the provision of textbooks and other instructional material.

Mr. Speaker: Order! Prof. Saitoti, you should know that it is against the rules of the House to refer to newspapers reports as a basis of your statement or argument. To that extent, the first part of your Statement is inadmissible and, therefore, struck out.

The Minister for Education, Science and Technology (Prof. Saitoti): On a point of information, Mr. Speaker, Sir. You may recall that, indeed, this statement really came out of the fact that Mr. Wambora, who is an honourable Member of this House, had actually wanted to know the status of those schools where the allegations had been made. So, it was for that reason that I had to adversely refer to the newspaper.

Mr. Speaker: You do not have to. It is against the rules of the House. Nevertheless, I think you have done your part. Let me have Mr. Wambora seek one or two clarifications.

Proceed, Mr. Wambora!

Mr. Wambora: Thank you, Mr. Speaker, Sir. I am very happy with the Minister's statement because he has now clarified that pupils from those schools will not miss classes. However, is the Government considering any legal action against the supplier of the books, M/s Mwenendega Enterprises, who is a con man? I am aware that the owner of this company is still in the country.

Mr. Speaker: Order, Mr. Wambora! When did you become a judge? You must withdraw that condemnation! The Chair will not sit and listen to hon. Members condemning other citizens or firms of this country unheard; in other words, turning yourselves into accusers, judges and executors. That is a recipe for dictatorship and anarchy. It will not reign here. So, will you, please, withdraw that? You are not an anarchist. Are you?

Mr. Wambora: Mr. Speaker, Sir, I am not an anarchist. Therefore, I wish to withdraw the word "con man". I want to say that this book supplier actually cheated the teachers out of their money.

Mr. Speaker: Order! Again, the word "cheating" is not allowed in the House.

(Laughter)

Mr. Wambora: Mr. Speaker, Sir, I withdraw that word too. What happened was that the teachers were induced to pay in advance. Indeed, I am aware that these teachers, who come from my constituency, had to sell their own goods so as to refund the money they had used from the Government. So, what action is being taken against the person who tricked the teachers into such an irregular action?

Mr. Speaker: Mr. Minister, do you have anything to say on what the hon. Member has raised?

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Speaker, Sir, as far as the Ministry is concerned, the headteachers were wrong for not following the guidelines

issued by my Ministry not to pay the money until the books had been supplied. The Ministry is dealing with that matter. Despite that, of course, we have decided to blacklist that particular bookseller until further notice.

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

Mr. Speaker: I am sorry, hon. Members! I have to be very brief on all the Ministerial Statements to be made now because I have many hon. Members who would like to seek Ministerial Statements. I promised the House that I will allow Ministers to make their Ministerial Statements and I intend to keep that promise.

Proceed, Mr. Michuki!

REHABILITATION OF AIR-NAVIGATION
SYSTEM AT JKIA

The Minister for Transport and Communications (Mr. Michuki): Thank you very much, Mr. Speaker, Sir. I rise to make a Ministerial Statement sought by the hon. Member for Belgut, Mr. Keter, concerning the status of aviation in Kenya. On 5th May, 2004, my Assistant Minister promised to issue a Ministerial Statement to this House on 6th May, this year in response to the concerns raised by the hon. Member over the safety of our airspace. The Ministry was prepared to issue the Statement but the hon. Member was not in the House. However, I wish to proceed as follows.

The present Instrument Landing System (ILS) and the Doppler VHF on the directional range distance/measuring equipment at the Jomo Kenyatta International Airport (JKIA) were supplied, installed and commissioned by a French company, M/s Sales ATM on 21st May, 1999 under the KANU Government. The commissioning and flight calibration of the ILS, whose objective was to confirm that the signal in space of the respective equipment met the stipulated standards, was carried out on 20th April, 2000. The Kenya Civil Aviation Authority (KCAA) is yet to award a tender for calibration services, although tenders have been invited from professional firms in Africa. The amount to be paid by the Authority for calibration of the equipment can only be confirmed after adjudication of the tender. The JKIA is adequately equipped to handle safe landing and take-off operations, even in the unlikely event that the primary landing facility - the ILS - is unserviceable. The terminal radar and Doppler VHF on directional range distance are the full back-up systems in the event of complete withdrawal of the ILS. The recent increase in the number of flights in and out of Kenya by British Airways from seven to ten; Emirates Airlines from one daily to two daily and also South African Airlines, is a clear testimony to the confidence the two major carriers have in the Kenyan airspace at the JKIA. Romania Air will also increase its weekly frequency by one more flight with effect from 1st July, this year. While this vote of confidence has been roundly given to our aviation system, we seem to have people in Kenya who doubt this ability. I have more information about the whole of this saga. People who have been denied licences because of a variety of reasons have constantly gone round, spreading information which is not correct; that, we are incapable of handling flights. This is not the case at all. Otherwise, we would not have all those international airlines landing at the JKIA. It is time, we, as Kenyans, had confidence in our institutions and the way we ought to operate.

In conclusion, I wish to assure not only the hon. Member for Belgut, but the whole House and the entire aviation industry, that the airspace in our airports are safe and secure for all types of operations. This has been confirmed by the Kenya Association of Aviation, whose members had a meeting with us three days ago.

Mr. Speaker: Mr. Keter, would you like to seek any clarification from the Minister?

Mr. Keter: Mr. Speaker, Sir, while I thank the Minister for making a comprehensive Ministerial Statement, my only question is about the calibration which was done in 2000. Why is it that since the year 2000, no calibration has been done?

The Minister for Transport and Communications (Mr. Michuki): Mr. Speaker, Sir, this is a complex issue. We do not have a contract for calibration services, but we are trying to have one. I am saying that, as and when calibration services are required, we hire them just like we would hire a contractor to maintain buildings at the airport or patch up any parts of the run away.

Mr. Angwenyi: But, Mr. Speaker, Sir---

(Laughter)

Mr. Speaker: You can see the reaction of your colleagues!
Proceed, Mr. Kosgey!

Mr. Kosgey: Thank you, Mr. Speaker, Sir. While I commend the Minister for the Ministerial Statement he has issued, and noting that there is a very big demand by airlines to fly in and out of Kenya--- While the Minister is waiting for the committee studying on the viability of Eldoret International Airport to complete its work, could he consider licensing small operators to fly from Nairobi to Eldoret International Airport?

The Minister for Transport and Communications (Mr. Michuki): Mr. Speaker, Sir, with due respect to my former Minister, because I used to be his Assistant Minister some years ago, I think that is a totally different question.

(Laughter)

Mr. Speaker: Very well! I think we have finished with that.
Mr. Konchella, I will come to you because Mr. Kajwang is already on his feet.

POINTS OF ORDER

INTERFERENCE WITH KISS FM'S SIGNAL

Mr. Kajwang: On a point of order, Mr. Speaker, Sir. I would like to seek a Ministerial Statement from the Minister for Transport and Communications on the circumstances under which the signals of a radio station, popularly known as "kiss FM" has been interfered with by certain individuals and thus, making the station to go off-air every now and again. Now that we know Citizen Radio was the offending party, could the Minister confirm, while answering this question, whether what Citizen Radio did was not economic sabotage, gangsterism in the business place, terrorism in the airwaves, thuggery in the information highway or invasion of private property, just like the Assistant Minister, Office of the President, Prof. Kibwana and his young man called Ndile, were trying to do in other people's land.

(Laughter)

The Minister for Transport and Communications (Mr. Michuki): Mr. Speaker, Sir, I wish to seek your indulgence to issue a Ministerial Statement on Tuesday, next week. If I may say, with your permission, the Member for Mbita Constituency appears to have already made up his mind as to how this matter should be handled. I hope he will accept that there are other facts, other than what he has.

Mr. Speaker: Well, as we wait for that, Mr. Minister, are you suggesting, quite frankly,

because I think you are sending a very dangerous message, that although the hon. Member has made up his mind and you will probably come with a different version, that it would be okay for the *Daily Nation Newspapers* to jam the production processes of the *East African Standard* or any other newspaper? You know, you could be telling those people to jam each other even tomorrow or tonight!

(Applause)

The Minister for Transport and Communications (Mr. Michuki): Mr. Speaker, Sir, I am not suggesting anything of that kind. As I sit here, there are meetings going on. I cannot foretell what they will conclude on that matter. So, I am saying that, facts will be gathered and a Statement will be made on Tuesday, with your permission!

Mr. Speaker: Well, that was a safer way to say it! So, we will let it rest there. Do you want to give the Statement on Tuesday?

The Minister for Transport and Communications (Mr. Michuki): Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well, Tuesday then! Mr. Angwenyi, please, proceed!

PLEDGES BY DEVELOPMENT PARTNERS

Mr. Angwenyi: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Finance regarding the pledges made in the year 2003 by our development partners to support our Budget to the tune of over Kshs300 billion. I would like the Minister to inform this House the main conditionalities set by those donors and agreed upon by our Government. I would further like to know how much of those pledges have been actually availed and accessed by the Kenyan Government.

Mr. Speaker, Sir, I would also like to ask the Minister to inform the House the reasons why some of those pledges and disbursements have not been availed.

Finally, I would like the Minister to tell this House the impact of non-fulfilment of those pledges to our economy and what steps he is taking in that regard.

Mr. Speaker: Mr. Minister? He is not there! Anybody who would like to respond on behalf of the Minister?

Prof. Anyang'-Nyong'o, please, proceed!

The Minister for Planning and National Development (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, we shall definitely communicate the concern of the hon. Member to the Minister for Finance.

Mr. Speaker: Very well! I think everybody is now happy. We are very late in getting into business. Now, it is time to go to business---

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

Mr. Speaker: What is it?

Mr. Bifwoli: Mr. Speaker, Sir, I sought a Ministerial Statement from the Ministry of Health and this morning, the Assistant Minister told me he has it.

Mr. Speaker: The Assistant Minister also told me he was ready! I called him but he did not rise up.

Mr. Bifwoli: Mr. Speaker, Sir, could you call upon him to read it?

(Laughter)

Mr. Speaker: The Speaker does not act in vain!

Mr. Bifwoli: If he is not ready, when will he read it?

Mr. Speaker: Order! You do not harass the Chair! Do you? Mr. Konchella, when are you ready? We are late now and I think we must go to business. Mr. Konchella, could you do that tomorrow morning?

The Assistant Minister for Health (Mr. Konchella): Yes, Mr. Speaker, Sir.

Mr. Speaker: Mr. Bifwoli and Mr. Konchella, please, be here tomorrow morning. Next Order!

BILLS

Second Reading

THE CO-OPERATIVE SOCIETIES (AMENDMENT) BILL

*(The Minister for Co-operative Development
and Marketing on 5.5.2004)*

*(Resumption of Debate interrupted
on 6.5.2004)*

Mr. Speaker: Was anybody on the Floor? No, Dr. Mwiria had concluded. Anybody interested in contributing?

Prof. Kibwana, please, proceed!

The Assistant Minister, Office of the President (Prof. Kibwana): Thank you, Mr. Speaker, Sir, for granting me an opportunity to contribute on the Co-operative Societies (Amendment) Bill, 2004.

I wish to start by congratulating the Ministry of Co-operative Development and Marketing and, especially, the Minister. That is because since he took over that Ministry, he has been discharging his duties in a very exemplary way and, in many respects, he has assisted our country in terms of reviving the co-operative movement.

Secondly, having very carefully scrutinised the amendments that are put before this House for deliberation, it is clear to me that they are going to assist the legal framework that provides for our co-operative movement. As a result, these amendments require to be supported. I think their fruition is going to be a major landmark in strengthening the co-operative movement which, so far, is doing very well on the ground in many parts of our country.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, before I discuss the substantive amendment, I think it is in order to pin-point - and that is something that my colleagues who have spoken before me have ably done and so I will not go into a lot of details - that the co-operative movement was supported by the *harambee* movement, in terms of culture, and it was very critical towards the economic empowerment of this country and, particularly, of the poor. But, over time, the co-operative

movement was dealt a very serious blow by the introduction of corruption. The movement was made a site for people, particularly the leadership, to take money from the co-operators. As a result, over time, the movement was seriously weakened. I think one of the important aspects of this Bill is to make sure that the leadership of the co-operative movement do not have a free hand to indulge in corruption, thus weakening the co-operatives. It is a fact that, if the co-operative movement is strong, it will be a very important sector in terms of creating the many jobs that the NARC Government promised.

So, I think it is very important for our country to take the co-operative movement very seriously. We should look into all the aspects that weaken it. We should weed out corruption, mismanagement and other factors that weaken it. That is because the stronger it becomes the more able our economy will become. I think in terms of reviving the economy, one of the critical areas that must be looked into is the co-operative movement. That is why I started by saying that we are very happy because the Ministry has been one of the most critical Ministries in terms of strengthening that important sector.

Mr. Temporary Deputy Speaker, Sir, when we look at the Bill and one starts with the new definition of an apex society, we have the Kenya National Federation of Co-operatives Limited being the apex society. This has to be looked at carefully because my understanding is that, this is a company because it is limited and if the apex body of the co-operative movement is a limited company, although a federation of co-operatives, some problems could arise in terms of the management, since a limited company has a different way of management as opposed to a federation of co-operatives. Therefore, that needs to be clarified so that really, it is not a limited company where there could be people who are directors who manage that company and do so in such a way as to defeat the purpose of an apex society of the co-operative movement which seeks to harmonise all the activities of co-operative societies. I do not know whether the language of Section 2(A) in terms of defining apex societies, is a language which anticipates a company which is limited by guarantee or it is a private company. I think it is important for the Minister to clarify that particular aspect, so that down the road, you do not have a private company which acts as an apex society for the co-operative movement.

Mr. Temporary Deputy Speaker, Sir, also in terms of the new definition of a "Commissioner", the Commissioner is defined in the proposed Bill as:-

"Commissioner means the Commissioner for Co-operative Development appointed under section 3 and includes any person on whom any or all of the powers of the Commissioner have been conferred in accordance with this Act".

This means that you could have the substantive Commissioner and then you have also somebody else being vested with the powers of the Commissioner in accordance with this Act, so that you have two or more people who are discharging the functions of a Commissioner and there could be a problem there where several people are doing the same job and if the second person, the one who is not substantive, does not defer to the one who is substantive, then you could have a clash in terms of these two persons.

Indeed, when one also looks at the proposed Sub-section 3(4), it reads:-

"The Minister may, by notice in the Gazette and without prejudice to the powers of the Commissioner to exercise or perform such powers or duties, delegate any of the powers or duties conferred or imposed on the Commissioner by or under this Act, to any public officer".

This means that there is also another category of the delegated power, regarding what the Commissioner does by the Minister under the proposed new Section (3)(4) and also in terms of the definition of the Commissioner. So, one is saying that it is important to harmonise the undertaking of the Commissioner's power, so that there is no conflict and ill will between a Commissioner and a Minister and different persons who are asked to be Commissioners. I think later on, as this Bill is processed, that is an important area to be looked at, given that the Commissioner has a very pivotal

role in terms of the re-organisation of the co-operative movement according to this new proposed Bill.

Mr. Temporary Deputy Speaker, Sir, I think looking at this proposed law, for me, one of the very critical aspects that we are invited to examine as a House, is in Section 11 which deals with the substantive Section 24(A) and Section 25. This relates to a very clear provision which asks co-operative societies to have estimates so that in advance of a budget year, a co-operative society is able to propose through and to its membership, what would be done in terms of financial commitment so that co-operative societies do not act in an *ad hoc* way, so that they plan about what they do as matters arise. However, here under the new law, they are being asked to actually have a budget and estimates so that it is clear what they will do and how they will commit to their finances. As I said earlier, one of the most serious problems in co-operative societies, particularly where you have a membership which is not very literate, the leadership takes advantage and so, when this Bill expects that there are going to be proper estimates, that is a very beginning point in terms of financial management, and that is what the new Section 24(A) seeks to achieve.

However, more critically, I think when one looks at Section 11 of the Bill and therefore, the proposed Section 25 of the substantive Act, it is again clear that there are very elaborate provisions relating to proper books of accounts and how co-operative societies henceforth, are going to be very transparent and ensure that they have the books of accounts and their accounts are kept and audited in such a way that it will be more difficult for co-operative societies to fleece the co-operators. I think these are very important provisions in terms of giving life to co-operative societies and ensuring that henceforth, the financial, accounting and budgetary systems of co-operative societies are going to be strengthened and this is a very important part of this proposed Bill.

Mr. Temporary Deputy Speaker, Sir, again, when one looks at Section 13 of this Bill with Section 27 of the substantive Act and the new proposed Section 28, there is an endeavour to democratise co-operative societies more in terms of the proposed Section 27, creating a better framework for meetings, so that co-operators own co-operative societies. Co-operators are able to take decisions that are going to assist in the running of co-operative societies so that again, it is not an issue of the few people who are leaders, running the co-operative societies and merely telling the rank and file what decisions have been made.

I think Section 27 which says that co-operative societies are going to meet and so on, so that the affairs of co-operative societies are largely run by the entire membership, is a very important innovation to strengthen what was there before.

Of course, Clause 14 which talks about membership and powers of committees of co-operative societies seeks to ensure that those who become officials of co-operative societies are elected properly. It will also ensure that there are rules on how to lead the co-operators so that again we do not hear of cases where some people stay in office forever by imposing themselves upon the co-operators. Such people use co-operative societies to enrich themselves through primitive accumulations. The new rules are seeking to bring sound financial management, effective leadership in the co-operative societies to ensure that the rank and file co-operators become owners and party to the running of co-operative societies. They are very positive.

Mr. Temporary Deputy Speaker, Sir, some of my colleagues discussed Clause 18 of this Bill which deals with the substantive Section 35 of the Act that we need to amend. There is no requirement that compels employers who collect money from employees on behalf of the SACCO to remit that money within a period of seven days failure to which they would be subjected to a fine through payment of interest. I think that this is a positive proposal because it is going to fix a period within which employers will have to remit the money they have collected from their employees to co-operative societies. Failure to do this, the employer will be surcharged. It is common knowledge that many employers, particularly, public employers collect money from their employees which is destined for co-operative societies, but they take a long time to remit that money. Usually the co-operator is unable to get a loan because the money is still with the employers. Perhaps, when we

shall be proposing new amendments, it might be a good idea to ensure that the longer the money remains unpaid, the more fine it would attract. We need to have levels of fining culprits depending on how long the employers do not remit the money they have collected from their employees who are co-operators.

Strictly speaking, if that money is not remitted to the co-operative societies, employees are essentially denied their dues. It is actually another way of holding an employee's emoluments.

Mr. Temporary Deputy Speaker, another aspect that has been mentioned here by my colleagues is covered under Clause 60(a) of the Act which the new Clause 28 is seeking to amend. It says that there will be routine inspection into the affairs of the co-operative societies so that the commissioner will have powers to inspect ailing co-operative societies. This is a strong provision which will give the commissioner a lot of leeway to correct the problems facing our co-operative societies in a timely manner. Actually, it will ensure that co-operative societies do not continue to ail until they collapse.

There is one aspect which I deem very important and could be strengthened in this new amendment. Since Independence, many co-operative societies have collapsed. Unfortunately, most of them were made to collapse by public officials. The time has come for us to audit all the co-operative societies which collapsed as a result of wrong acts by certain people. These co-operative societies were used for primitive accumulation of wealth by a particular section of the elite. We need to make it possible for people who are co-operators to access the audit reports. The commissioner ought to be asked to institute an inquiry into such co-operative societies even if they are dormant or have ceased to operate. For as long as they were once registered and money was used illegally, then they should be probed and the commissioner of co-operative societies should address those matters. There are very many co-operative societies of that kind and we need to send a strong message that co-operative societies are not going to be used to enrich a few individuals and eventually collapse. Previously, officials of co-operative societies thought that they could steal and loot the co-operative societies with impunity.

Mr. Temporary Deputy Speaker, Sir, I have in mind, for example, a co-operative society in my constituency called Mukambita Co-operative Society. It raised money to buy land and, indeed, the money was kept by the then District Commissioner (DC) of Machakos. Apparently, the money got lost and the co-operators were told that they too had lost the land. To avoid this kind of situation, we must have provisions that will allow members to inquire where the money went to so that poor people are not left helpless in a situation where they cannot achieve what they wanted to do when they were forming the co-operative societies. Another example is the Nguu Co-operative Society. Indeed, 500 co-operators have never got the land up to today. The land was given away as a settlement scheme to other people. So, in the past, there was a lot of abuse of the co-operative movement.

Mr. Temporary Deputy Speaker, Sir, I think this is a very good opportunity for us to take stock of the co-operative societies which collapsed. We need to inquire and know why they failed and the people who made them to collapse to be dealt with within the law. That way, our people will have more confidence to invest in the co-operative movement once more. I am optimistic that it will be possible within the framework of this Bill, to look at the past and correct it. We will be able, then, to move into the future with a very robust co-operative movement. We shall have dealt with the issues that stop more and more people from joining the co-operative movement.

Mr. Temporary Deputy Speaker, Sir, I am very pleased with this Bill. It needs to be supported in a bipartisan manner by both sides of the House because it is one which will strengthen the co-operative movement as one very important sector in our economy. I really must say that the Ministry of Co-operative Development and Marketing is a leader in terms of the way it is beginning to revive the co-operative movement. It is my wish that this Bill is going to be passed to make the Co-operative movement even stronger so that they can revive a very important sector in our economy.

It will also be important if the law strengthens the co-operative movement and the Ministry of Co-operative Development and Marketing in particular so that they can also suggest in certain areas to certain people about the need to embark on certain co-operative societies. Because it is not always the case for our people to be educated uniformly on issues of the co-operative movement so that they may know the benefits that they are likely to reap from these co-operative societies. For example, there are areas in Makueni where the Ministry if it had a free hand in terms of proactively suggesting what areas can be developed through the co-operatives, for instance, they could suggest food processing. There are a lot of fruits in my constituency and I think the Ministry can actually go there and tell the people that this is an opportunity that they need to exploit.

The same applies to sand. In actual fact, if people of Makueni had been paid for all the sand that has come to build Nairobi, we would not be the second poorest district in Kenya. Indeed, we would probably be the richest district or somewhere near there. That is why I am making this plea that this law should also accommodate the possibility of the Ministry being proactive, so that it can go anywhere in the country and actually suggest the areas which need to be developed. This will also assist us in terms of the development of the co-operative societies.

Finally, the aspect of marketing is also an aspect which may not, necessarily, have been very clearly provided for within the new law, because when the new Ministry was created, marketing was like an aspect which was an afterthought. So, maybe even the law needs to reflect that aspect of marketing so that the twin objectives or the *raison d'être* of the Ministry is also strengthened, not only through the administrative mechanisms, but also through the legal framework.

Thank you very much, Mr. Temporary Deputy Speaker, Sir, for this opportunity, and I really beg to support this Bill.

Mr. Wambora: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to join my colleagues in supporting the Co-operative Societies (Amendment) Bill because this is a movement for the grassroots people. It is, indeed, a movement for the rural people, and it will really mobilize a lot of resources for the people.

I want to look at three strong features and two weaknesses of the co-operative societies, and then point the way forward. I will take a short time to do so. One of the main features of co-operative societies is the fact that they cater for the less fortunate. We are aware that significant institutions in both the public and the private sectors; the multinationals, the big financial institutions cater for the already wealthy people. But the co-operative societies do not, necessarily, cater for the wealthy, but for the less fortunate in the society. So, it is a welcome initiative of distributing the wealth of the nation.

The second feature of co-operative societies which makes me support this Amendment Bill is the fact that co-operative societies are a major vehicle of resource mobilization. Millions and billions of shillings have been mobilized through major savings and investments. You are, in fact, aware that savings are a necessary pre-requisite for investment. So, I see it as a major feature for which I support the Bill.

Thirdly, I see the co-operative societies as a vehicle for empowering the rural folks and people at the grassroots levels. There are two features of co-operative societies which I want to point out here. This is where we have to watch out and look for the way forward. One of them, of course, is poor management, which has been caused by two factors, namely; corrupt officials and unqualified supervisors. In fact, that is why I am supporting the curt measures which have been proposed in this Bill to deal with these corrupt people, so that the law takes care of them and the co-operative societies can benefit. Now, as for the unqualified supervisors, I can see a section in the Bill which is going to assist the members of the co-operative societies to actually improve in that field. That is Section 42, which talks about the Co-operative Development Fund. It reads as follows:-

"The objective and the purpose for which the Fund is established is the promotion of education, training, research, consultancy and other related activities in the co-

operative sector in Kenya."

Now, this is a good section because it will take care of those semi-literate supervisors who have been running down the co-operative societies. I would like to recommend to the Minister to add the following in that section:- In addition to promoting education, training, research, consultancy, let us also add the words "promoting marketing". This brings me to the weakest point in the co-operative societies, and that is, in spite of the hard work by the producers and the members of the co-operative societies we find, for example, that in the coffee sector, marketing has been very constrained through the coffee auction markets, which are very confined. We are saying that the mechanism of marketing the produce by the members of the co-operative societies should be strengthened and ways found and, in fact, also liberalized so that this weakest link in the co-operative societies can be strengthened to ensure that the members of the co-operative societies are not the ones getting a raw deal. Indeed, it is the dealers who are making three or even four times of what the farmers make, yet the produce is theirs.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support.

Mr. Mukiri: On a point of order, Mr. Temporary Deputy Speaker, Sir. Since the debate has been exhaustive, and pertinent areas have been covered, could I be in order to move that the Mover be now called upon to reply, in order to avoid repetitions in the debate?

(Applause)

The Temporary Deputy Speaker (Mr. Khamasi): Yes, having sat here and listened to the debate, I believe your application is worth considering and, therefore, I do order that the Mover be called now upon to reply.

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth): Thank you very much, Mr. Temporary Deputy Speaker, Sir. First of all, I would like to thank the House for the bipartisan approach with which we have debated this particular Bill.

The co-operative movement has tended to touch across every part of this nation. The interest with which Members went through this Bill; the issues that were raised and, in particular, looking at the analysis that was done by the hon. Members, I would like, on behalf of the Ministry to tell the House that we sincerely acknowledge all the positive points that were raised.

Mr. Temporary Deputy Speaker, Sir, as I said, when we wanted to publish this Bill, we went to all the provinces. We brought all the stakeholders together. Provincial hearings were conducted in all the provinces to enable the Ministry to have as many views as possible. I think the House has enriched further what we were told at the provincial hearings.

There has been a lot of suffering in the co-operative movement, especially after the last amendment of 1997, when the management committees of co-operative societies were given a free hand to decide the fate of their membership. In doing so, it was thought that the co-operative sector could do well in a liberalised environment. However, it has come out very clearly that co-operative societies are co-operative societies. A co-operative society is a group of people coming together and agreeing to co-operate and there can be no further liberalisation other than that. Wherever we went in the country, stakeholders were very clear that the non-existence of the Ministry was a big let down. They felt that the Ministry should have been there to supervise. Therefore, this Bill, as correctly put by hon. Members of this House, is trying to re-establish controls and mechanisms in which the co-operative movement could be better managed.

Mr. Temporary Deputy Speaker, Sir, there are a few issues which have been raised in this House by hon. Members. I am sure there will be more that we will probably follow up in the Committee Stage. Some of these issues relate to the Co-operative Development Fund. An hon. Member wanted the use of the Fund to be expanded to include bailing out the co-operative societies in problems. Our feeling in the Ministry is that using the Fund to bail out societies in problems might risk the sustenance of the Fund and the attainment of its objectives as we have highlighted on

page 115. As a Ministry, we would like to encourage the co-operators. We will request the Government to contribute to the Fund. However, this can easily be accommodated under Clause 90(A), Section (iii).

Mr. Temporary Deputy Speaker, Sir, one hon. Member raised the issue of the delegation of powers to any public officer in the Ministry. We have no objection to the extent that such a public officer shall be a technical officer in the Ministry. The Deputy Commissioner does not have to be specifically authorised by the Minister through a Gazette Notice to perform the duties of that particular office. We, therefore, would be willing to delete Cause 3.

Mr. Temporary Deputy Speaker, Sir, another issue was raised was with regard to the appointment of the members of the Co-operative Tribunal. It was a considered view of one hon. Member that we should have a member from an apex body like the Kenya National Federation of Co-operatives Union (KNFCU). However, our feeling is that the KNFC is an interested party, being a registered co-operative society, and there is, therefore, likely to be a dispute arising between the KNFCU and the co-operative society, which would be subject to that jurisdiction of the Tribunal. On the other hand, our suggestion about the Law Society of Kenya is that it may submit a list of its members from which the Minister can appoint.

Mr. Temporary Deputy Speaker, Sir, another issue that was raised was with regard to the membership and the powers of the committee. During the provincial hearings, it was felt that we needed a minimum level of education for a member serving in the management Committee. An hon. Member said that nobody should be barred from serving in the Committee and we have no objection to the variation. It is obvious that in certain communities, you might not get that level of education that might be the minimum. In our view, we were trying to have a properly constituted management committee attaining certain criteria of understanding. Therefore, we felt that we should have that clause whereby if we said that the minimum requirement should be "O" Level, we could easily go down to the Standard Eight, but have some level of education.

There were issues on the exemption provision in Clause 45. Some hon. Members felt that exemption should not be allowed. We felt that the provision was useful and important to manage unforeseen situations and technicalities of certain co-operative societies, but it is also to be exercised very sparingly. Indeed, it is provided that before exemption is granted, a notice of intention to do so must be published in the Gazette Notice for any objection within 30 days, such that if an exemption is to be given, the general membership would be made well aware of it 30 days in advance.

Mr. Temporary Deputy Speaker, Sir, Mrs. Tett spoke about gender. In the Bill, we do not have a provision for gender balance. We believe that this is a correct provision, but it is taken care of in the by-laws of individual co-operative societies. We are saying this because some of these societies could actually be relating to one part of the gender. Recently, we have had the Kipsigis Women Co-operative Society, which would not have any room for any man. Therefore, we felt that the gender balance, which we promote as a Ministry, would be adequately addressed in the by-laws. Hon. Members felt that we should offer extension services by seconding officers to the various co-operative societies. This is something we have always tried, but it should be appreciated that there are over 10,000 co-operative societies in this country and some are larger than others. If we were to second an officer to each co-operative society, it will mean recruiting another 9,500 co-operative officers to beef up the 500 officers that we probably have. This might not be economically viable.

However, Mr. Temporary Deputy Speaker, Sir, we have always assisted co-operative societies when the need arises. Recently, we seconded officers to the Ol Kalou Credit Co-operative Society and Mwea Rice Multi-Purpose Co-operative Society. We have always been part of the big co-operative societies whenever they are doing presentations. Another issue that arose was on the general meetings requisition, which is Clause 13 on page 97. An hon. Member said that the number requisitioning such a general meeting should be stipulated as 10 per cent of the total number of the members instead of being left to the Minister's rules. Whereas we might accept the 10 per cent, some of the very big co-operative societies have over 100,000 members. For example, it might not

be possible to ask a society, like the Harambee Co-operative, to have signatures of 10,000 members if they want to call a meeting. We would rather prescribe it in the Act without taking into account the different kinds of societies. In certain cases, it would appear wiser to leave it to the prescribed by-laws or the rules made under the Act. These by-laws are registered with us and we should monitor them.

It was also felt that a notice for convening a general meeting be, at least, 21 instead of 15 days. Again, we have no problem with that clause. In fact, as we move to the Committee Stage, we feel that we need to put the upper limit and propose to amend the period not to exceed 30 days. That will cover what was in the Bill for 15 days and what we have proposed for 21 days.

Mr. Temporary Deputy Speaker, Sir, with regard to the settlement of disputes; Clause 37, where an hon. Member wanted the Tribunal to operate like a circuit court and move to all the provinces, especially to cover areas where the Tribunal benches are not yet established, we are agreeable to that. This came up during the provincial hearings where members felt that it was very costly to come all the way to Nairobi. As a Ministry, we feel that the Tribunal could be made mobile and move to areas where the benches are not established. We also felt that small disputes should be settled expediently without having to make certain societies go all the way to the Tribunal.

Mr. Temporary Deputy Speaker, Sir, the other issue is the power to deregister a co-operative society for non-performance by its management committee. I would like to say that, what our Ministry can only do, is that if a management committee of a co-operative society is not performing its duties properly, the Commissioner is empowered under Section 58, Sub-section 4(a) to dissolve it. He is only empowered to dissolve the management committee and not the society. I want to make that very clear. We can only deregister a society if it fails to file the required returns for three years consecutively. I think these are the laws of the land. In any case, should a commissioner give an intention to deregister that particular society because of failure to file the returns, then they still have time to appeal to the Minister, to say that, this particular intention is there, but we would like to appeal.

Mr. Temporary Deputy Speaker, Sir, one issue that was raised by Mr. Ligale---

QUORUM

Mr. Wario: On a point of order, Mr. Temporary Deputy Speaker, Sir. As much as we are in support and discussing a very crucial Bill, we are hardly ten hon. Members in the House. Am I in order to draw your attention to the fact that there is lack of quorum in the House?

The Temporary Deputy Speaker (Mr. Khamasi): Yes, it is true. It is a shame that we are less than ten hon. Members here, and yet we want to legislate a very important Bill. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! Now we have got a quorum! Mr. Kenneth, you may proceed!

The Assistant Minister for Co-operative Development and Marketing (Mr. Kenneth): Thank you, Mr. Temporary Deputy Speaker, Sir. There was an issue that was raised specifically relating to the SACCO societies. As a Ministry we had no objections. In fact, we have tried to solicit for as many views as possible, and we have held stakeholders' meetings on the SACCOs which we intend to continue holding, to specifically come up with the re-arrangement of contents that would be very specific to deal with the SACCO societies.

Mr. Temporary Deputy Speaker, Sir, one hon. Member raised the issue of a policy paper. This is important and it is something that we are addressing. We hope that once we have formulated and developed a policy paper, we should be able to bring it to this House.

Once again, I would like to take this opportunity as we move to the next stage, to assure

hon. Members that we shall continue to assist and to deal with issues of mismanagement in the co-operative sector, and that is why we have our own Ethics Commission which we are pursuing. We hope that once this Bill goes through, and with the other Government Bills, like the Public Officer Ethics Bill which is now in place, we should be able to bring order in the co-operative sector.

With those remarks, I beg to move.

(Question put and agreed to)

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

Second Reading

THE GOVERNMENT FINANCIAL MANAGEMENT BILL

*(The Minister for Finance
on 15.4.2004)*

*(Resumption of Debate interrupted
on 20.4.2004)*

Mr. M. Kariuki: Mr. Temporary Deputy Speaker, Sir, I was on Clause 18 of the Bill, the last time. I would like to observe that the powers of the Accounting Officer to discipline those working under him have to be revised. We know that the powers to discipline civil servants are vested in the Public Service Commission (PSC). Unless the Bill specifically delegates the powers to another office, the mandate to discipline civil servants remains exclusively in the hands of the PSC. Therefore, when Clause 18 talks of an Accounting Officer having the power to discipline, that does not override the provisions of the PSC Act. It is important that the Accounting Officers be senior to the persons whom they have to monitor, so as to assume disciplinary powers that are intended under this particular provision of this Bill.

I welcome the provisions of Clause 29(2), where the Treasury has to give specific authority to any Ministry or any arm of the Government in terms of where money should be invested. We are aware that in the past a lot of money has been lost, some of it from the National Social Security Fund (NSSF) and even the National Hospital Insurance Fund (NHIF). This is because we invested money in banks that have collapsed. We did not get proper advice from the Treasury. This provision is welcome to ensure the security of public money, so that it is invested only in banks identified by the Treasury and where authority has to be granted.

There are certain provisions that have to be looked at. I thought that this was an opportunity for the Minister to look at provisions that may be in conflict with the current provisions of the law. We are aware that even State corporations have had to go under. They have been put under receivership, have gone bankrupt, and yet the Minister has not come up with provisions that may guide the appointment of the receiver managers. We know that our Companies Act is inadequate in terms of laying out the criteria on which receiver managers should be appointed. We have not been told how the assets of the Kenya National Assurance Company (KNAC), that went under were accounted for. It is important for us to protect public assets. The provisions on the receiver managers should now be spelt out in terms of criteria, qualifications and how they account for the assets. This is something that the Minister should have envisaged when drafting this Bill.

Mr. Temporary Deputy Speaker, Sir, I know that the Minister proposes to bring here a Procurement Bill. However, that notwithstanding, given that most of public money is syphoned off

through overpricing of procurement, we are trying to get proper management for public funds through this Bill. It is important that one or two clauses address the role of Accounting Officers in terms of supervising procurement officers. The clauses should particularly focus on the issue of overpricing, which has made development costs swell. For example, where the cost of constructing a road is Kshs10 million, and then it turns out to be Kshs20 million because of overpricing, the Accounting Officer should be able to lift the veil and find out why the figure is so much. We are trying to improve the management of public funds. It is important to ensure that the loopholes that currently exist are sealed. I am happy with the provisions that say that commissions of inquiry will have their own Accounting Officers. This is unlike in the past where commissions of inquiry have been set up and have turned out to be money-guzzling ventures with no proper accounting. This Bill envisages a situation where there will be an Accounting Officer for every commission, who will have personal liability for failure to account or carry out his mandate.

Mr. Temporary Deputy Speaker, Sir, I think that we should have laid down in the Bill the criteria for appointment and qualifications for Accounting Officers under Clause 16. It is not enough to say there will be an Accounting Officer. What kind of background will this particular Accounting Officer have? What qualifications will he be required to have? What will be the criteria for appointing an Accounting Officer? I think that we need to amplify further Clause 16 of the Bill in terms of the qualifications and the basic background that will be important before the appointment. That will apply similarly to Clause 20 as far as the receiving officers are concerned.

I am concerned about the reference to an Investment Secretary. The term "Investment Secretary" is not in Interpretation Act, Cap. 2. This particular Bill does not seek to define who an Investment Secretary is. We know there is an administrative office or a docket called Investment Secretary, but that has not been defined in law. Now that we are passing a Management Bill it should define who an Investment Secretary is and what duties have to be carried out by an Investment Secretary. Mere reference in sweeping terms to an Investment Secretary under Clause 23 needs to be re-visited, so that there is clarity and a clear definition of the duties that go along with this particular office of an Investment Secretary.

This was also an opportune moment for the Minister for Finance to look at the provisions of the State Corporations Act. I have always held the view that in many ways the State Corporations Act has many aspects that are, in fact, unconstitutional. There are aspects of the State Corporations Act that create conflict, in terms of exercise of powers, between the Minister for Finance, the Ministers running particular Ministries, and even the role of the President in terms of appointment of chairmen of parastatals. I thought that we needed to have a second look at the State Corporations Act. One of the omissions in this Bill is that it failed to take into account certain provisions of the State Corporations Act. There has been reference to it, but no attempt to streamline it so that the exercise of the executive power between the Minister for Finance, the Ministers in charge of parent Ministries and the President are, in fact, streamlined.

I have in mind, for example, the Pyrethrum Board of Kenya Act. The power to appoint a chairman is, in fact, vested in the Minister. Under the State Corporations Act all chairmen of parastatals have to be appointed by the President. This is the kind of streamlining that I am talking about. The Minister for Finance is supposed to approve certain appointments under the State Corporations Act, yet we are creating these offices in every statute that we are making without reference to the State Corporations Act. I think the Minister has missed an opportunity that he should have made use of to improve accountability in the management of Government finances.

Mr. Temporary Deputy Speaker, Sir, I welcome the provisions of Clause 17 of the Bill, because it creates provisions for recovery of Government property. I see a situation where Clause 17(2)(g) envisages recovery of grabbed public land. I think that for the first time this is coming out. This is an important provision, because there will be an officer who will be in charge of the exercise of recovery of land. So, that is part of accountability. I welcome that particular provision. I imagine that if these provisions were in existence before, we would not have run into the danger we are in

now. We have set up commissions of inquiry to look into the issue of public land that has been taken away by certain individuals. I think that having an Accounting Officer responsible for preservation of Government property, including land, is very important. We have lost a lot of forest cover to people who have taken it over, even before the de-gazetement of a Government forest. With this particular empowerment, there will be greater accountability in terms of preserving public property.

The office of the Attorney-General requires to get some formal accountability. We know of lawyers who have been in practice, and who have had to sue the Attorney-General. However, in more than half of the cases, the Attorney-General never files a defence. You will find that in many *ex-parte* judgements against the Government, millions of shillings are lost because the Attorney-General does not defend some suits against the Government. It is common knowledge that, particularly in matters of accidents or those involving some large corporations, judgements have been entered against the State because the Attorney-General failed to put up his defence in time, or even to defend the suit.

There must be a way of controlling this haemorrhage of public funds. There must be a way of making the Attorney-General accountable. I would have liked more specific provisions in this particular Bill, that where, for example, a state counsel fails to file a defence in a case against the Government, there should be some personal liability on his part, or, at the very least, there must be an officer in the Attorney-General's office who ensures that he is aware when the Government has been sued, defences are filed timeously. Failure to do so, then somebody has to be accountable, because the Government is losing a lot of resources by paying compensation in frivolous cases, merely because the Attorney-General failed to enter an appearance and file a defence.

Mr. Temporary Deputy Speaker, Sir, I think it is time that we put a spotlight on the Attorney-General's Chambers to have a person who will be made accountable for failure to defend suits against the Government and, therefore, the consequent liability in terms of the damages that we have to pay in such cases. That should have come out more specifically in this particular Bill. Finally, we know that this country has really lost money. One only needs to look at the newspapers daily to find out about the kind of inquiries going on for example at the Goldenberg Inquiry, and the massive amount of money that has disappeared from the CBK and certain Ministries and nobody was really held accountable for this.

The appointment of an Accounting Officer is a timely idea, so that we can avoid the kind of losses that this country has suffered in the past in terms of public funds being withdrawn from accounts, or misappropriated and we are not in a position to pin down a particular individual for the loss we incur. It is really unfortunate.

I welcome the appointment of Accounting Officers. In appointing Accounting Officers, it is important to appreciate that while you can give them certain guarantees in exercise of their functions, there must be a way of picking some of the best. For example, the Governor of the Central Bank of Kenya enjoys tremendous independence under the law. He is supposed to be fortified against possible political manipulation.

Mr. Temporary Deputy Speaker, Sir, what we have seen from commissions of inquiry is that when you have the wrong person in an office like this one, the security of tenure that you give to that office will be meaningless unless that particular individual was, at the time of appointment, a person of integrity. That is why I am emphasising that there must be a criteria for appointing Accounting Officers.

QUORUM

Mr. Chepkitony: On a point of order, Mr. Temporary Deputy Speaker, Sir. We are discussing a very important matter, but, unfortunately, there is no quorum.

The Temporary Deputy Speaker (Mr. Khamasi): Yes, we do not have a quorum. Ring the

Division Bell.

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Order! Since we are unable to raise the necessary quorum, we must now adjourn.

It is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 12th May, 2004, at 9.00 a.m.

The House rose at 5.35 p.m.