

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 2nd May, 2000

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

DISTINGUISHED GUESTS IN THE SPEAKER'S ROW

Mr. Speaker: Members, before I go to Order No.6, I would like to make the following Communication:

It is with great pleasure that I welcome our distinguished guests from the Parliament of the Federal Republic of Germany who are seated in the Speaker's Row. The delegation is led by Mr. Carl-Dieter Spranger; Deputy Chairman of the Foreign Affairs Committee of the German Bundestag.

He is accompanied by Mr. Joachim Tappe MdB, Chairman of the Germany-African Parliamentary Group, Mrs. Erika Reinhardt, MdB, Member of the Committee of Foreign Affairs of the German Bundestag; and His Excellency Jurgen Weerth, Ambassador to Kenya.

The delegation arrived in the country on Friday, 28th April, 2000, and will be with us until tomorrow, Wednesday, 3rd May, 2000. We wish them a very enjoyable and fruitful stay in our country.

(Applause)

I also wish to welcome the delegation of the Ugandan Members of Parliamentary Sports Club who have been touring Kenya since 26th April, 2000, to play several football matches against our Bunge Football Club and to visit various projects in Western Kenya, Mombasa and Nairobi.

They are the following:

The Hon. Mrs. Mary Nsangi Kakembo, MP; Minister of State in Charge of Gender. She is the leader of the delegation.
The Hon. Wanjusi Wasieba, M.P.
The Hon. I. Timothy Mutesasira, M.P.
The Hon. Wagidoso Madibo, M.P.
The Hon. Clement Kandole, M.P.
The Hon. (Dr.) Apollo Karubag, M.P.
The Hon. Charles Egou, M.P.
The Hon. Selaiman Sembajja, M.P.

The Hon. Ali Gabe, M.P.
The Hon. Aston Kajara, M.P.
The Hon. Adome Lokwi, M.P.
The Hon. Katwiremu Yerokamu, M.P.
The Hon. Reagan Okumu, M.P.
The Hon. Kabakumba Abwoli, M.P.
The Hon. Christine Mwebesa, M.P.
The Hon. Kakoba Onyango, M.P.
The Hon. Seth Wambede, M.P.
The Hon. Patrick Nabutaala, M.P.
The Hon. Ofory Rugethe, M.P.
The Hon. Akika Othieno, M.P.
The Hon. Robert Kakooza, M.P.; and,

The Hon. David Kamusalo, M.P.
Thank you.

(Applause)

ORAL ANSWERS TO QUESTIONS

Question No.126

NUMBER OF CITY RESIDENTS KILLED BY GANGSTERS

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

(a) whether he could inform the House how many people have been killed by gangsters in Nairobi during the last one year; and,

(b) how many gangsters have been killed in Nairobi by security personnel within the same period.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I would like to request that I be allowed to answer this Question tomorrow. I got certain details which were not complete and I am doing some thorough investigation.

Mr. Speaker: What is your reaction, Mr. Mwenje?

Mr. Mwenje: Mr. Speaker, Sir, that is very interesting! This Question was among the first Questions that I sent immediately Parliament was opened. It has taken all this long to be brought before this House. I do not see the reason why the Minister should now come and tell us that he is still not ready. He has not given even the answer that he thinks is not right and it has not been passed over to me.

Mr. Speaker: Very well. What do you want me to do now, Mr. Mwenje?

Mr. Mwenje: Mr. Speaker, Sir, first of all, could the Minister tell us what answer he has so that--

(Loud consultations)

Mr. Speaker: Order! I consider it is best that we have an answer rather than take our time on preliminaries which will not help us in any way. But, Mr. Minister, you must be mindful of the fact that, you are duty-bound to come to this House promptly and answer Questions.

I will defer the Question to tomorrow afternoon.

(Question deferred)

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to be continuously following the President to the detriment of answering Questions?

Mr. Speaker: Order! Order, hon. Gatabaki! Who would you wish rather he followed, anyway?

Next Question, Dr. Kulundu!

Question No.102

SUB-DIVISION OF NAVAKHOLO DIVISION

Dr. Kulundu asked the Minister of State, Office of the President, why the Government has not subdivided Navakholo Division into five locations, Lurambi Division into six locations and Kakamega Municipality into four locations as recommended by the Kakamega District Development Committee (DDC)

Mr. Speaker, Sir, I have not received a written answer to this Question and that is why this Question was deferred last week.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, that is not correct. I think the Clerk should be able to respond to that because the answer was provided and I have got documentary evidence to show that it was accepted here in Parliament, but there was a problem of numbering which was to be corrected by the Clerk's office.

Mr. Oloo-Aringo: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Minister to demand that the Clerk responds, when he knows very well that Clerks do not respond to Questions in this House?

Mr. Speaker: Mr. Oloo-Aringo, I think you are right. He should have asked Mr. Speaker to explain. I now wish to explain that indeed, he did forward the answer to this Question. I do not know why it was not given to the hon. Member in good time. Nevertheless, we wish to apologise to Dr. Kulundu for not sending the answers to him in good time.

Mr. Oloo-Aringo: On a point of order, Mr. Speaker, Sir. Would you make a ruling that we receive answers ahead of time? It has become a habit that we do not receive answers at all!

Mr. Speaker: Order, Col. Kiluta! Mr. Oloo-Aringo, you know my reaction, attitude and position on this issue; that hon. Members are entitled to answers in good time. We will try to make sure that, that happens.

Mr. Muchiri: On a point of order, Mr. Speaker, Sir. You have said that hon. Members are entitled to answers in good time. When you say so, that means how many hours before Parliament starts its business?

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. The issue of answers not being received by hon. Members is a chronic problem which we have had from last year. Could we have a register which can be signed when answers are submitted to the office of the Clerk? The Ministers can then use that register as evidence that they have submitted answers.

Mr. Speaker: Order! Order, Dr. Ochuodho! I think we had better have a little trust for each other. We will do what has to be done, to ensure that hon. Members get answers in good time. I will direct the Clerk to ensure that answers are supplied to hon. Members before the Session begins. Will the Minister now answer the Question?

(Applause)

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

In the sub-division of Navakholo, Lurambi and Kakamega Municipality, divisions have not been created because it is not administratively feasible to create these sub-divisions now. This is because our budget cannot allow this kind of exercise to start today.

Dr. Kulundu: Mr. Speaker, Sir, the answer that the Assistant Minister has just read is at variance with the written answer that I have here which reads as follows: "The sub-divisions were not considered necessary because of the distance and the costs involved." Sub-divisions into districts, divisions, locations and sub-locations should be based on population.

These three divisions have a population of nearly 335,000.

Mr. Speaker: Order, Dr. Kulundu! It is Question Time. So, put your question to the Assistant Minister.

Dr. Kulundu: Mr. Speaker, Sir, I want the Assistant Minister to tell us what this prohibitive cost is, that would be involved in sub-dividing these divisions into locations and sub-locations as set out in this Question? What would be the cost of carrying out this project?

Mr. Samoei: Mr. Speaker, Sir, first and foremost, I would like to inform the hon. Member that the answer I have given is not at variance at all with what he has. When I said it is not administratively feasible, I put all considerations including costs in place. As it stands today, it is not feasible to carry out this exercise and the budget for our Ministry will not allow for the creation of these locations as requested by the hon. Member. The hon. Member has said that population should be the determining factor when it comes to creating locations and divisions. This will be a consideration in the future. For now, we take into consideration other issues including distances and sizes of the locations.

Mr. Sifuna: Mr. Speaker, Sir, the Assistant Minister has said that because of financial problems, they cannot create these divisions and locations. Since the recommendation of the sub-division was done by the Kakamega DDC could the Assistant Minister assure this House that during the next financial year, he is going to include a budget for that exercise so that we can give him money in this House to run those divisions and locations?

Mr. Samoei: Mr. Speaker, Sir, as much as I would like to give a guarantee, I am afraid that I will not be able to do that. Besides the creation of the locations requested by the hon. Member, we do have other considerations from other areas in the country. I will not be specific on the assurance as requested by the hon. Member.

Dr. Kulundu: Mr. Speaker, Sir, since he has evaded my question on how much it would cost to create these locations, let the Assistant Minister tell us the justification that was there in the creation of Ijara District recently?

Mr. Samoei: Mr. Speaker, Sir, our considerations are based on merit and every case comes with its own merit. Unfortunately, the hon. Member does not realise the difference between creating a district in North-Eastern Province and a creating a sub-location in Kakamega District.

Mr. Speaker: Next Question, Mr. Katuku!

Question No.006

REINSTATEMENT OF MR. MULINGE KOMBO

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

(a) whether he could explain why a police officer, a Mr. Albanas Mulinge Kombo, Force No.53425 P.C., has not yet been reinstated to the Force after he was acquitted on 26th October, 1993, in Criminal Case No.2724 of 1992 in Mombasa; and,

(b) why the Police Co-operative Society refused to release the officer's shares despite many requests which he has made.

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

(a) The ex-police constable was dismissed from the Force with effect from 17th June, 1994, for being absent from duty between 25th March, 1992 and 15th April, 1992 without permission. He was informed of his right to appeal against this dismissal within seven days but he failed to do so.

(b) The Kenya Police Co-operative Society is ready to release the ex-officer's shares subject to his availing a written letter for withdrawal from the Co-operative Society, a copy of his last payslip and a copy of his national identity card. The amount payable to him will be minus all the outstanding loans that he owes.

Mr. Katuku: The answer given by the Assistant Minister is very unsatisfactory. This officer was charged in court in Criminal Case No.2724 of 1992 and he won the case. So, it was not the issue of absenteeism. Could the Assistant Minister be honest and tell us why this officer was dismissed and yet he won the case which made him to be suspended?

Mr. Samoei: Mr. Speaker, Sir, I admit that Mr. Kombo was indeed, acquitted. However, the Commissioner of Police, pursuant to powers conferred on him by the Police Force Standing Order took departmental action against the former police officer, taking into consideration that Mr. Albanas Mulinge Kombo had six previous convictions following orderly proceedings. These are departmental disciplinary actions taken by the Police Force. I believe that the Commissioner of Police exercised his due powers and dismissed Mr. Kombo. Contrary to what the hon. Member has said that, Police Sacco has refused to release the dues of Mr. Kombo, I have told him that, if the former police officer complies with the Sacco regulations; he will be paid his money.

Mr. Ndilinge: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister telling the House that one is assumed guilty before he or she is proved guilty by a court of law? This police officer was charged before a court of law for a certain offence and thereafter, he was acquitted. Therefore, it is clear that he was found innocent. Is it in order for the Assistant Minister to say that it was in order for the constable to be dismissed when he was found innocent by a court of law? Can he order for his reinstatement?

Mr. Samoei: Mr. Speaker, Sir, I am afraid that Mr. Kombo will not be reinstated in the Police Force, because I believe the action taken by the Commissioner of Police was justified.

Mr. Angwenyi: Mr. Speaker, Sir, this country is governed by the rule of law, which is executed by our courts. The court found this constable innocent. Is the Government taking over the functions of the courts to dismiss this constable, instead of reinstating him? Could the Assistant Minister order for the reinstatement of this constable and pay him his dues since the time he was dismissed?

Mr. Samoei: Mr. Speaker, Sir, I do not think the Commissioner of Police has any intention of taking over the powers of the courts; neither do I. However, the Code of Regulations of the Police Force does empower the Commissioner of Police to take action, especially on somebody like Mr. Kombo, who has six previous convictions. This was taken into account when this action was taken.

Mr. Michuki: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister, in what is obviously a disciplinary action to introduce the word "conviction"? Do the police have an extra-judicial court? Is it in order that he should confuse these issues? Could he explain what he means?

Mr. Speaker: What is a better term, Mr. Michuki?

Mr. Michuki: Disciplinary action was taken against Mr. Kombo, but he was not convicted. It is the courts that convict. So, is it in order that he should refer to disciplinary action as conviction?

Mr. Samoei: Mr. Speaker, Sir, I am afraid hon. Michuki has not worked with the Police Force. In the Police Force, charges against police officers on the basis of the Police Force Standing Orders, are taken to be convictions by the Police Force as a court. But it is not a conviction by the courts.

Mrs. Ngilu: Thank you, Mr. Speaker, Sir. Would it then be in order for the Commissioner of Police just to have dismissed Mr. Kombo from the Force, especially when they had tried him six times and eventually, after taking him to court, he was acquitted? Did they not use that as an excuse to dismiss Mr. Kombo from the Force?

Mr. Samoei: Mr. Speaker, Sir, the six previous convictions were not at all taken to court. These were convictions done by the Police Force as an internal disciplinary measure. To the best of my knowledge, the action taken by the Commissioner of Police was well within the Code of Regulations of the Police Force.

Mr. Speaker: Next Question, Mr. Obwocha!

Question No.022

EXECUTION OF WORLD BANK/IMF
AID CONDITIONALITIES

Mr. Obwocha asked the Minister for Finance:-

- (a) if he could list and outline the foreign aid conditions attached to donor funding to Kenya by the International Monetary Fund (IMF) and the World Bank; and,
- (b) which of the above conditions have been fulfilled by the Government, which ones have not been fulfilled and why.

Mr. Speaker, Sir, I have just received the answer five minutes ago. This is a very important Question and we need more time.

The Minister for Finance (Mr. Okemo): Mr. Speaker, Sir, I beg to reply.

(a) Hon. Members are aware of our continuing dialogue with the IMF. Our discussions are very advanced on re-establishment of a new IMF program under the Poverty Reduction and Growth Facility (PRGF). The IMF has suggested a number of actions which could help us to create the conditions for high and sustainable economic growth and poverty reduction. These suggestions, which the hon. Member is referring to as conditions, can be divided into four broad categories: one, preparation of a poverty reduction strategy Paper; two, measures to improve governance; third, acceleration of structural reforms in key areas; fourth, maintaining macroeconomic stability.

Under the Poverty Reduction Strategy Paper (PRSP), the Enhanced Structural Adjustment Facility (ESAF) has now been replaced with Poverty Reduction and Growth Facility (PRGF). For this reason, in order for us to access this facility, it is imperative to have in place an effective poverty reduction strategy. The development of the strategy paper will take about one year. It will require a very broad consultative process from the districts, up to the national level involving all stakeholders. In view of the time needed for its preparation, the Government agreed with the IMF that an Interim Poverty Reduction Strategy Paper be prepared before a request for an arrangement under the Poverty Reduction Growth Facility could be submitted to the IMF Board. This has been done and it involved a broad consultative process at the national level.

On governance measures, wide ranging measures have been suggested for implementation. These include measures aimed at enhancing accountability and transparency; strengthening oversight/control bodies by increasing their resources, independence, jurisdiction and competence; strengthening budget planning and execution; changing incentive mechanisms faced by potential participants in corruption, including establishment of a code of ethics for public officers and enforcing the existing code of regulations; and removing rent-seeking opportunities, including complete review of all waivers and exemptions from import duty and taxes.

Under structural reforms, we are broadening the scope of structural reforms in the areas of privatisation, budgetary control, rationalization of Government functions and the elimination of market distortion.

Under maintaining macroeconomic stability, a number of recommendations were made, including public sector expenditure management, an appropriate fiscal strategy, maintaining a fiscal discipline, reducing Government budget deficit and working towards the budget surplus, following an appropriate monetary policy and ensuring a manageable balance of payments position.

(b) The Government has undertaken important steps in implementing the governance issues. Most of them are the ones we have already committed ourselves to implementing. Progress in this area includes: strengthening the Government procurement regulations, constitution of a public procurement board, enhancement of the capacity of the Controller and Auditor-General through the recruitment of more staff; enhancing the budgetary provisions for the oversight/control bodies like the Kenya Anti-Corruption Authority (KACA), and the Controller and Auditor-General. Implementation of various aspects of the Kwach Report on the Reform of the Judiciary. We have undertaken a review of the Budget planning, implementation and control, with a view to identifying the weaknesses. We have ensured that Ministries and Departments submit their expenditure commitments to the Treasury promptly. We are also preparing a draft code of ethics for judges and magistrates, and undertaking the review of the Public Service Code of Regulations.

Mr. Speaker: Mr. Minister, how long is that reply? I appreciate the fact of you not saying everything, but you can help me; how long will it take?

Mr. Wamae: On a point of order, Mr. Speaker, Sir. In view of the importance of this matter, could you allow

the Minister to go through his reply fully?

Mr. Speaker: Order! If it is the wish of the House that I allow the Minister to present his full reply, and you to question him, and then when the Question Time ends I defer the other Questions, that is fine with me. Proceed, Mr. Minister!

The Minister for Finance (Mr. Okemo): Mr. Speaker, Sir, the reason for presenting this detailed reply is that I want to be as comprehensive as possible to avoid very many supplementary questions.

Hon. Members will note that some of the suggested actions require the amendments of various Acts of Parliament. This could not be done overnight. Time is required to identify the relevant Sections of the Acts to be amended, and this will soon be presented to this House. The Government is dealing with all these issues in the medium-term expenditure framework in the Interim Poverty Reduction Strategy Paper (IPRSP) and in the Draft Fiscal Strategy Paper (DFSP). All these policy changes and initiatives will be reflected in this year's Budget, and will be articulated in detail, in my Budget Speech.

Mr. Obwocha: Mr. Speaker, Sir, you appreciate that this is a very important matter for this country, because we want to move this country's economy from "intensive care unit" to "high dependency unit". In his reply, the Minister touched a number of issues. I would like to ask him one question: He has talked about measures enhancing transparency and accountability, but he has only mentioned the establishment of the Kenya Anti-Corruption Authority (KACA). Could he tell this House any other measures the Government has taken to enhance transparency and accountability? In fact, in his reply, the Minister also said that he would like to improve the ethics of public officers. When is the Government bringing the relevant amendments to this House, so that all public officers can be vetted by Parliament?

Mr. Okemo: Mr. Speaker, Sir, when I talked about transparency and accountability and mentioned KACA, I also mentioned the Controller and Auditor-General. The two are actually the accountability bodies we are talking about. However, there are specific measures we have taken in improving accountability and transparency particularly in the field of procurement. We have a Central Tender Board, as you are aware. We also have an appeals board to which, if you are dissatisfied with the decisions of the Central Tender Board, you can go a step further. KACA has been allocated more resources, to enable it to be more effective. Also, the Office of the Controller and Auditor-General has been given more resources; they have employed more personnel, and are right now working towards bringing up to date their reports, so that the Public Investments Committee (PIC) and the Public Accounts Committee (PAC) can actually be meaningful in their recommendations.

Mr. Michuki: Mr. Speaker, Sir, given that the continuing discussions between the Government on one hand, and the International Monetary Fund (IMF) and the World Bank on the other, originate from the problems of the Government and the solutions the two institutions offer, could the Minister confirm or deny that the IMF and the World Bank do not impose conditions, and that they only insist on the implementation of what the Government has undertaken to do?

Mr. Okemo: Mr. Speaker, Sir, I think I will slightly alter what hon. Michuki has said - whether the suggestions are generated by the Government or imposed on the Government by the IMF and the World Bank. Actually, these suggestions are a product of both the Government on one hand, and the IMF and the World Bank on the other. The two institutions generate suggestions, and we say whether it is possible to adopt them or not. We engage the two institutions in dialogue, and we agree. So, whatever I have mentioned as actions being taken by the Government are a result of negotiations and discussions between the Government on one side and the IMF and the World Bank on the other.

Mr. Maundu: Mr. Speaker, Sir, in a number of years, we have been cheated into difficult circumstances by either the Government or the IMF and the World Bank. There has been conditionalities on either side. For the resumption of aid to this country by the two Bretton Woods Institutions this time round, what conditionalities has the Government accepted to effect? Secondly, does the Minister think that those conditionalities are within the Government's capacity to effect?

Mr. Okemo: Mr. Speaker, Sir, the long and detailed answer that I presented to this House gives those conditions. I think we are able to fulfil all those conditions; that is why we have them on our matrix of actions to be taken.

Mr. Speaker: Let us have one question from Mr. Raila. Then, I will take another from Mrs. Ngilu before asking the hon. Questioner to ask his final question.

Mr. Raila: Mr. Speaker, Sir, several years back the Bretton Woods institutions introduced an "animal" called "Structural Adjustment Programmes (SAPS)", which caused havoc and suffering to very many of our people. These SAPS were the standard recipe worldwide. Those institutions have now come up with a new "animal", called "Poverty Reduction Strategy (PRS)". Is the Minister satisfied that we are not being taken again on a wild goose chase, which is going to again end up in the suffering of our people? Does he think that this strategy is going to be different from the

SAPS?

Mr. Okemo: Mr. Speaker, Sir, I think the description of the SAPS as a "monster" is quite accurate. However, the PRS is not a monster, because the emphasis is on two things - rapid economic growth, and the addressing of the poverty issues; all this will generate growth. I therefore I think the PRS is good for all emerging economies. I believe that if we put into place the measures that we are working out now, we should be putting this country's economy on the path of rapid economic growth.

Mr. Speaker: Let us have a question from Mrs. Ngilu.

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

Mr. Speaker: Order! Order! Mr. Ndicho, I suppose you want to "short-circuit" Mrs. Ngilu. There is no way I will allow that to happen. Proceed, Mrs. Ngilu!

Mr. Ndicho: I have an important point of order to raise, Mr. Speaker, Sir.

Mr. Speaker: What is it?

Mr. Ndicho: Mr. Speaker, Sir, is the Minister in order to take this House and nation on a circus when we know that last week the President announced at Jomo Kenyatta International Airport (JKIA) that, because he was dissatisfied with the performance of the Minister and the team he had appointed to negotiate with the IMF and the World Bank on aid resumption to this country, he would take over those negotiations? What the Minister has given us---

Mr. Speaker: Order, Mr. Ndicho! That is not a point of order; it is a point of argument. Proceed, Mrs. Ngilu!

Mr. Ndicho: Mr. Speaker, Sir, the President has already taken over the negotiations!

(Laughter)

Mrs. Ngilu: Mr. Speaker, Sir, the Minister has told the House that arrangements to put things in order are at an advanced stage, and we appreciate that. However, I would like him to tell this House what he has done to involve not only his "Dream Team" but also the people he has mentioned, in the Poverty Reduction Strategy. This is because I think that more than anybody else, the programme concerns the grassroots people.

Mr. Okemo: Mr. Speaker, Sir, again, as I was giving my long answer, I did mention that to prepare the Poverty Reduction Strategy Paper, we would require at least one year. What we have done so far is to prepare an Interim Poverty Reduction Strategy Paper as a "vehicle" for negotiations to get to an International Monetary Fund (IMF) programme, but the final Poverty Reduction Strategy Paper will be a product of a consultative process right from the local level to the national level. So, consultations with the relevant stakeholders, who include the poor people, will be undertaken before the final paper is actually prepared.

Mr. Obwocha: Mr. Speaker, Sir, you heard what the Minister said about the Controller and Auditor-General. Many officers leave the office of the Controller and Auditor-General because they are victimised after discovering misappropriations, for example, Mr. Njoroge's deputy, who was transferred recently. Could the Minister confirm to this House and to Kenyans in general that the Government will bring an amendment to the existing Act to give tenure of office to the top officers, who assist the Controller and Auditor-General, and bring the issue of vetting of public officers to this House?

Mr. Okemo: Mr. Speaker, Sir, again, in my long answer, I did mention that one of the measures that we took to improve accountability and transparency, in so far as the Controller and Auditor-General is concerned, was to allocate them more resources and give them independence of jurisdiction. That will be covered by appropriate legislation in the near future to make the Controller and Auditor-General's office independent.

Mr. Speaker: Let us move on to the next Question.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Let it be a point of order, Dr. Ochuodho. If it is not, I will deal with you.

Dr. Ochuodho: Mr. Speaker, Sir, in replying to hon. Ngilu's question, the Minister did say that we require about one year to have the Act in place, while at the same time, the Minister is on record to have told Kenyans that he expects resumption of aid by June or July this year. On what basis was--- Where is the reconciliation?

Mr. Speaker: Dr. Ochuodho, you asked a supplementary question. Sit down!

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

Mr. Speaker: Order! Dr. Ochuodho and Mr. Gatabaki, you seem to think that unless you have contributed to a Question, it has not been contributed to; that you must at any stage get into a Question through hook or crook. It should not be like that!

(Applause)

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. The Minister has been talking about resumption of aid to Kenya by the IMF, and the Government says that it is committed to eradicating corruption---

Mr. Speaker: What is your point of order?

Mr. Gatabaki: Is the Minister not misleading this House when he talks about eradication of poverty when he knows that yesterday, the Government announced appointment of Mr. Muindi, the former Managing Trustee of the National Social Security Fund (NSSF), who had been barred by the Public Investments Committee (PIC) from holding public office?

(Applause)

Mr. Speaker: Order! You can see what I said. Let us move on to the next Question.

Mr. Wanjala: It was a good point of order!

Question No.013

INSTALLATION OF NDHIWA STD FACILITY

Mr. Ojode asked the Minister for Information, Transport and Communications when Ndhwa Subscriber Trunk Dialling (STD) facility will be installed.

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

Telkom Kenya Limited is aware that the demand for telephone services in the area is very high and the area has been programmed to be considered under the Rural Automation Programme for Multi-Access Radio in the period 2001 to 2005. This is the period during which this programme will be implemented. Ndhwa has been programmed to receive STD facilities as one of the first beneficiaries in the year 2001.

Mr. Ojode: Mr. Speaker, Sir, while I do appreciate the answer given by the Minister, this is not the first time I have asked this Question. Could the Minister tell the House why the money which

[**Mr. Ojode**]

was allocated for the STD facilities for Ndhwa was diverted in 1998/99 financial year?

Mr. Mudavadi: Mr. Speaker, Sir, I would like to state that I am not aware that any money had been diverted earlier on. However, I undertake to ensure that the commitment I am making here will be followed in accordance with the schedule.

Mr. Speaker: Next question.

Mr. Ojode: I have no question, Mr. Speaker, Sir.

(Laughter)

Mr. Speaker: Thank you, Mr. Ojode. It is very rare for you not to have a question.

Question No.117

REHABILITATION OF KINYONGA DAM

Mr. Wambua asked the Minister for Water Development when Kinyonga Dam, which is an important source of water for residents of Kinyaata Location, Katangi Division, will be rehabilitated.

The Assistant Minister for Environment and Natural Resources (Mr. Kofa): Mr. Speaker, Sir, I beg to reply.

Kinyonga Dam is programmed for implementation under Medium Term Expenditure Framework (MTEF) starting next financial year.

Mr. Wambua: Mr. Speaker, Sir, I think the Assistant Minister is not serious on this matter. Could he tell this House the amount of money that has been set aside for this project and when the work will begin? This is because the phrase "next financial year" has been used since Independence and, yet, this is the only dam that can supply water in

Katangi Division, which consists of four locations. Could he tell the House the amount of money that has been set aside for this project and when the project will commence?

Mr. Kofa: Mr. Speaker, Sir, this programme started in early 1980 and by then it was supposed to cost Kshs21,539,265. Today, the cost of implementation is estimated at Kshs100 million. As I have said, it will start in the next financial year.

Mr. Katuku: Mr. Speaker, Sir, you will realise that this is not the only dam that has been silted. Most of the dams which were constructed by the Colonial Government, that is way back in early 1950s, have not been rehabilitated at all. This applies to dams which are in my constituency. In view of the fact that the Government seems not to have money to rehabilitate these dams, could it provide tractors to Ukambani so that we can fuel them to de-silt these dams? Could he consider providing a tractor to Machakos, Kitui, Mwingi and all the districts with dams which were constructed by the Colonial Government?

Mr. Kofa: Mr. Speaker, Sir, we shall consider that proposal and see what can be done.

Question No.146

CONSTRUCTION OF BRIDGE
ACROSS YALA RIVER

Mr. Oloo-Aringo asked the Minister for Rural Development:-

(a) why the construction work on the bridge across Yala River in Yala Swamp Farm stopped after the Minister had officially launched the project at Kadenge in South Central Alego where he also addressed a public baraza; and,

(b) what steps the Government will take to ensure that the rain-fed rice development project for Nyanza and Western Provinces succeed, in view of the Minister's assurance to Parliament on 8th July, 1998.

The Minister for Rural Development (Mr. Mohamed): Mr. Speaker, Sir, I would like to request the hon. Member to give me more time because I am not satisfied with the answer I have. I need to be given more time to answer this Question later in the week.

Mr. Oloo-Aringo: I readily comply because I know the Minister wants to dig into the root cause of this Question. I want to thank him in advance because I know he is very thorough in his investigations.

Mr. Speaker: How long do you need Mr. Mohamed?

The Minister for Rural Development (Mr. Mohamed): Up to next week, on Tuesday, Mr. Speaker, Sir.

Mr. Speaker: The Question is deferred until Tuesday next week. All is well that ends well.

(Question deferred)

Question No.129

MAINTENANCE OF ROADS IN MIGORI

Mr. Achola asked the Minister for Roads and Public Works:-

(a) if he could table a schedule of all the roads in Migori District that were supposed to be maintained using funds from the Fuel Maintenance Levy during 1998/99 and 1999/2000; and,

(b) which of the above roads have actually been maintained and at what cost.

Mr. Achola: Mr. Speaker, Sir, unfortunately, I have not received a written answer.

The Assistant Minister for Roads and Public Works (Mr. Criticos): Mr. Speaker, Sir, unfortunately, we have not given hon. Achola a written reply for the simple reason that we require more time in order to give a thorough answer. We require quite complex information and, therefore, we need more time until on Wednesday, next week.

Mr. Speaker: Is that acceptable to you, Mr. Achola?

Mr. Achola: I am quite agreeable to that request, Mr. Speaker, Sir.

Mr. Speaker: Very well. The Question is deferred until next week on Wednesday.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

ACTION AGAINST OFFICER COMMANDING GURAR POLICE POST

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

- (a) Is the Minister aware that the Officer Commanding Gurar Police Post ordered his askaris to cock their guns after a disagreement concerning his treatment of wananchi who have fled to the camp for security reasons?
- (b) Is he further aware that this happened in the presence of Wajir District Security team?
- (c) What appropriate action has the Minister taken against the officer?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I beg to reply.

- (a) The Officer Commanding Gurar Police Station was not actually present; it was the acting OCS---

(Loud consultations)

Mr. Speaker: Order, there! I may have to order the two of you to go to different Benches. Proceed.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, It is not true that the Acting OCS ordered the officers to cock their guns as alleged.

Arising from my reply in part "a" of the Question, parts "b" and "c" do not arise.

Dr. Ali: Mr. Speaker, Sir, I am surprised with the hon. Minister's answer. Can he tell me whether the members of District Security Committee (DSC) were in Gurar Police Post on 6th April?

Maj. Madoka: Mr. Speaker, Sir, I do not think I denied that. They were there on the 6th April.

Mr. Speaker: Dr. Ali, now the DSC members were there, what then?

Dr. Ali: Mr. Speaker, Sir, he had denied because he said that parts "b" and "c" of the Question do not arise. Now he has accepted that the DC and the whole security team were there. I do not care whether the OCS was acting or not, but there was an inspector there and he told me to get out of that compound and I told him that I would not do not. They then cocked their guns. The issue is that the OCS cocked his gun and ordered his askaris to arrest me, but they could not do anything because of the people who were in that camp. What action has the Minister taken against the said OCS or is he still denying this?

Hon. Members: Shame!

Maj. Madoka: Mr. Speaker, Sir, I will tell you the truth. The truth is ---

Mr. Maundu: On a point of order, Mr. Speaker, Sir. Now that the Minister has confirmed by his own words that he has been lying to the House, can he apologise and withdraw?

Mr. Speaker: Order! I understood the Minister to say: "I will tell you the truth." I hope the truth is always being told and will always be told.

(Loud consultations)

Order! If you do not want to hear this Minister, then why should we dwell on the Question? Mr. Minister, tell us the truth.

Maj. Madoka: Mr. Speaker, Sir, I am always telling the truth. The reason why I made that specific statement is because we have a lot of clan and tribal tension in that particular area. The hon. Member is an Ajuran and the acting OCS there was a Garreh. That is why he particularly did not want a Garreh there. We have transferred that police officer because he is a Garreh.

Dr. Ali: The OCS who was in Gurar was called Mr. Kiyo. That was the first time I went to that place and I met this other gentleman. I did not know whether he was even a Somali because he resembles a Luo.

(Laughter)

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

Dr. Ali: Mr. Speaker, Sir, I apologise for using the wrong language. What I meant was that he was a tall, huge guy with a bald head like hon. Ojode. The issue of tribe did not arise because we went with the DSC to solve a crisis.

We wanted to cool the tempers there, but when we went to Gurar three people were killed that same day and all the residents of the town were in the police station. When we went to the police station, the police started harassing the wananchi; pushing them with their guns. The Garreh and Ajurans were all in the camp. I told them to stop harassing the wananchi who had run away from bandits to come to the police. That is the time the OCS came in and started making noise---

Mr. Speaker: Order! You are now giving us stories.

Dr. Ali: No, I have to tell you because he is giving us answers based on something else. Please allow me.

Mr. Speaker: Order! I understand these things. I know how painful it is to witness inter-clan wars. It is terrible! I am giving you the opportunity to put the questions to the Minister. Please, just cool down and ask all the relevant questions.

Dr. Ali: Thank you, Mr. Speaker, Sir. I had no idea who the OCS was at that particular time. The issue of transferring the OCS who cocked his gun in front of the DSC is not enough. The Minister said that he will tell the truth now. He is not telling the truth by saying the OCS is a Garreh and I am an Ajuran. Can he tell us what action he is going to take because that one is not solving the problem?

Maj. Madoka: Mr. Speaker, Sir, I think the action we have taken is the most appropriate.

Mr. Oloo-Aringo: Mr. Speaker, Sir, this is a recurrent behaviour of police officers throughout Kenya, not necessarily confined here. I gave an example last week of how I was personally harassed at the police station and the police officer actually cocked his gun in my presence too. What step is the Minister going to take in order to bring to this country a people-oriented police rather than these gangsters in police stations?

Maj. Madoka: Mr. Speaker, Sir, I do not think it is fair to refer to the policemen as "gangsters".

Mr. Speaker: Quite frankly, Mr. Oloo-Aringo, how many policemen do we have in this country? We have thousands of them. Do you think you are right that all of them are gangsters?

Mr. Oloo-Aringo: The issue is that we have a lot of "gangsters" in uniform and very many of them are in police stations. Many of us get threatened when we have to do our duties as Members of Parliament. Some of them have been proven to be robbers and have been taken to court.

Maj. Madoka: Mr. Speaker, Sir, I do not think there is anything for me to respond to there. I do not know what his question was.

Col. Kiluta: Mr. Speaker, Sir, the evidence you have been given here is very clear that an offence was committed. Cocking a gun at an innocent person is an offence. A transfer is not a punishment. What disciplinary action has the Minister taken against this policeman?

Maj. Madoka: Mr. Speaker, Sir, the DSC members told me that there was no cocking of the gun.

Dr. Ali: On a point of order, Mr. Speaker, Sir. I am saying that the inspector and his askaris cocked their guns and the Minister says that did not happen. Does it mean that I am telling untruths?

Maj. Madoka: Mr. Speaker, Sir, I am stating what has come from the field.

Mr. Munyao: On a point of order, Mr. Speaker, Sir. I would like to address the Chair. Normally, replies to Questions to the Office of the President are prepared by DCs and other Provincial Administration officers. Therefore, the Minister did not go to the ground to verify what happened. However, he only stands here to read a written reply, while the hon. Member is telling this House that he was there and gives evidence of what happened. What are we going to do about this incidence?

Mr. Speaker, Sir, the Minister ought to apologise to the House and conduct further investigations, because he does not have any more evidence, other than the written reply he is reading here.

Mr. Speaker: Mr. Munyao, how would you like me to respond now?

Mr. Munyao: Mr. Speaker, Sir, I would suggest that you defer this Question, so that the Minister can go back and bring a better answer to this House.

Mr. Speaker: Order! It is very easy to send a problem to somebody else. You see, what you are asking me to do---

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

Mr. Speaker: Order! You are too close to me and you are always making trouble here. So, very soon I am going to "name you". By the way, it is serious. Take me seriously. I think since we opened this Parliament, you have continuously distracted the Chair from dealing with its proceedings and I will take very firm action. That should be taken as a final and stern warning.

Mr. Munyao, you are saying, maybe correctly or wrongly, that the officers who gave the Minister answers are, probably, the same officers who have created the problem in the first place. That may very well be the case. You are saying that they should not be giving the Minister the answer and you want me to tell him to get another source. Which source are you talking about?

Mr. Munyao: Mr. Speaker, Sir, all I am asking is for the Chair to take an alternative way of getting information. This is because the hon. Member is here and he has given the right information. Why can the Minister not get an hon. Member of Parliament to go and verify information on the ground, other than the Provincial Administration--

Mr. Speaker: Order! Mr. Minister, I think the question of inter-clan--- In fact, it is a misnomer; it is not inter-clan. It is inter-tribal wars being waged in the whole of Northern Kenya. It is a very serious issue. I think it should not even be taken so lightly, particularly when the life of an hon. Member of this House, and lives of hundreds of other Kenyans are under threat. I think a little more attention in detail is necessary. I see no harm in the Minister being a little more inquisitive, to the officers who gave him the answer. This is because, in my view, it is not just enough that the hon. Member is an Ajuran and the OCS is Garreh. In fact, you should have told those officers to tell you what relevance have the tribes of an MP and that of the OCS got to do with the maintenance of law and order.

(Applause)

So, I do not know whether you want to revisit this issue. Really, it is up to you, because the Chair lives in Kenya, particularly towards North of Kenya, where there are a lot of problems. Probably, you would like to look into this issue, a lot more with a "microscope". What is your reaction?

Maj. Madoka: Mr. Speaker, Sir, I would like to object to the insinuation that we do not do our work thoroughly. I did a lot of work---

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

Mr. Speaker: Order! Order! The Minister has a right to say his bit. You cannot sit there, accuse him and you expect him to keep quiet and also call the Chair to assist you in that conspiracy. Proceed, Mr. Minister.

Maj. Madoka: Mr. Speaker, Sir, I have gone into the details of this case, as I always do with all other cases. It is true in certain cases I may be misled, but I do my work thoroughly. I certainly do not feel that hon. Members are justified in saying that we do not do our work thoroughly. In this particular case, if they so wish, I will still go back. But I tried to get information from different sources and not just the police.

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

Mr. Speaker: Order, all of you! Mr. Minister, I am not inclined to make an order, but I am just soliciting your own attitude to it. Would you like us to proceed or you want me to give my opinion? Really, it is up to you. I am not making an order.

Maj. Madoka: Mr. Speaker, Sir, I am saying if it is the wish of the House, you can defer the Question, so that I will come back here and give more information.

Dr. Ali: Mr. Speaker, Sir, thank you for what you have said. I did not have any improper motive for asking the Question. Could the Minister apologise because he has made the whole thing tribal, because I had complained of officers who cocked their guns? Now that he has brought the issue of tribes, could he apologise to me, as an hon. Member of Parliament, because I have the right to state my point here?

Mr. Speaker: What is going on, Dr. Ali? What are you complaining about?

Dr. Ali: Mr. Speaker, Sir, the Minister has said that the whole issue is a clan conflict. That was not the issue. Could he apologise for saying that I had problems with Garreh because I am an Ajuran?

Maj. Madoka: Mr. Speaker, Sir, I do not think I have any apology to make.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. We are all hon. Members of Parliament. So, when an hon. Member says that something happened and the Minister feels he is lying to the House--

Mr. Speaker: Order!

Mr. Angwenyi: Mr. Speaker, Sir, if the Minister thinks that the hon. Member is not telling the truth while he insists that what he is saying is the truth, then I think it is incumbent upon you to appoint a Committee to look into the veracity of the information given by the hon. Member and by the hon. Minister. I do not think it is in order for the Minister---

Mr. Speaker: Order, Mr. Angwenyi! Do you think it is practical that every time any hon. Member here makes a statement that has been given by another, then I appoint a Committee to look into it?

Mr. Angwenyi: Mr. Speaker, Sir, the Chair should protect us because we are hon. Members of Parliament.

Mr. Speaker: Order! Mr. Angwenyi, if you want to ask the Minister a supplementary question, I will allow you to do so. But if you just want to malign the Minister, I will not allow you.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. The issue of hon. Members being threatened is a very serious one. The only person we have to turn to is the Chair. We are a bit perturbed when the Chair seems to be begging or persuading the Minister to do his work. Who then is going to protect us if, even the Chair has to plead rather

than direct the Minister?

Mr. Speaker: Order! Order! What you are asking, Dr. Ochuodho, and you have asked me for a long time and I have persistently refused, and which I will continue to persistently refuse to do, is for the Chair to take sides; either against the Government, the Opposition, Front Bench, or in favour of Back Bench. That I will not do! I do not run a Government. I do not vote or contribute. So, I only make you to have a fair-play here. I do not want to take sides.

Mr. Anyona: Mr. Speaker, Sir, that is a very important Question. I agree with what you said; that every time there is an issue, you cannot appoint a committee. However, that is one case that deserves being looked into more closely, maybe, by the Departmental Committee on Defence and Foreign Relations, so that a comprehensive report can be brought to the House and used as a basis for the future, to guide the House on the Ministers and Assistant Ministers.

Mr. Speaker: Mr. Minister!

Maj. Madoka: Mr. Speaker, Sir, all I want to say is that, in fact, the whole purpose of the meeting, which was called by the District Security Committee (DSC), was to address the question of tension between the Garreh and Ajuran.

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

Mr. Speaker: Order, hon. Members! Anyway, you had indicated that you would like to re-look at that issue, and I will give you two weeks.

(Applause)

Maj. Madoka: That is acceptable.

Mr. Speaker: So, the Question is deferred.

Dr. Ali: On a point of order, Mr. Speaker, Sir. Do I have the right to talk as an individual Member of this Parliament? This is because I still want the Minister to apologise on what he said about me, because he has imputed an improper motive on me. I did not know about the clan issue, neither did I know the OCS. I learnt about the tribe of the OCS two weeks later when I came back to the DC, and I represent all of them. Could he either say exactly what happened there, because there was no meeting there, or withdraw and apologise? We just went to the police station and talked to the police officers and then proceeded. Could he apologise for the improper motive he implied on me?

Mr. Speaker: Order! Let me, first of all, understand you properly. Do I understand that what you are objecting to is when the Minister said that the reason why the OCS cocked the gun, whatever that means - by the way I do not know what it means - is because the OCS is a Garreh and you are an Ajuran? Is that what you understand?

(Laughter)

Dr. Ali: Yes, Mr. Speaker, Sir. That is my complaint because "cocking" is preparing the gun to shoot. I had no problem with the OCS and the police officers. We just went there with the DSC team because the police officers were harassing the people who were there, who were from all clans. Therefore, I had no idea about those things that he is talking about at that particular time. So, since he is giving that as an answer here, he should apologise, and when we go there, he will possibly explain that, and bring it back.

Mr. Speaker: Is that a threat?

(Laughter)

Dr. Ali: Mr. Speaker, Sir, it is not a threat. I mean, in front of his DSC and all his officers. I have no police officers and so I cannot threaten him.

Mr. Speaker: Allright. Mr. Minister, what is your reaction to his objection?

Maj. Madoka: Mr. Speaker, Sir, I would suggest that we deal with the whole Question when I will be replying to it again.

Mr. Speaker: Are you happy, Dr. Ali?

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

Mr. Speaker: Order! You will not talk before Dr. Ali.

Dr. Ali: I am not happy, Mr. Speaker, Sir.

Mr. Speaker: Mr. Minister, you see, his only problem is the introduction of the tribal angle to his presence at the police station.

Maj. Madoka: Mr. Speaker, Sir, but I said that the whole meeting was because of the tribal clashes.

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

Mr. Speaker: Order, hon. Members! I think we are spending too much time on that issue. As far as I can

decipher, I think, in all fairness, Dr. Ali is properly aggrieved, because I do not think his tribal identification, which, unfortunately, all of us heard in this House, has anything to do with the behaviour, good or bad, of the police officers.

(Laughter)

It does not really matter whether the OCS is a Pokomo, or Dr. Ali is a Mongolian. Really, it should not matter. What should matter is that there is a Member of Parliament and an OCS, both of them legal entities in Kenya, and people should deal with them that way. I think that tribal connotation needs to be removed.

(Applause)

Hon. Members: Apologise!

Maj. Madoka: Mr. Speaker, Sir, if you wish that I withdraw it, will withdraw.

Mr. Speaker: Very well. That is the end to it. That Question is deferred for two weeks.

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

Mr. Speaker: Yes, what is it? I hope you do not bring a tribal angle to it again.

Mr. Michuki: Mr. Speaker, Sir, I was wondering whether it is really fair to defer this Question for two weeks, when we know that the Parliamentary Programme says that this Parliament is set to go on recess on the 11th of this month; in less than two weeks.

Mr. Speaker: That is correct. Indeed, there is a point there. I am asking Dr. Ali, because he is the one who wants the whole thing to come out: Would you prefer to have it before 11th of May, or later, after thorough investigations have been done?

Dr. Ali: Mr. Speaker, Sir, I want it before 11th of May, because that is not a big issue. He can go there and ask about it before 11th May.

Mr. Speaker: Mr. Minister, could we set the time?

Maj. Madoka: Mr. Speaker, Sir, on 10th May.

Mr. Speaker: Okay, the Question is deferred to 10th May, 2000.

(Question deferred)

(Mr. Maore) to ask the Minister for Roads and Public Works:-

(a) Could the Minister explain the circumstances that led to variations on the Lare-Mutuati Road contract from Kshs76 million to Kshs91 million, then to Kshs266 million - a difference of Kshs190 million?

(b) What disciplinary measures has the Minister taken on the District Works Officer who colluded with other officers to inflate the cost to Kshs30 million per kilometre instead of the original Kshs10 million per kilometre?

(c) What is the actual cost of the 9-kilometre stretch and the anticipated date of completion?

Mr. Speaker: Mr. Maore's Question is generally deferred.

(Question deferred)

Hon. Members: Dr. Kituyi's Question comes before Mr. Maore's Question!

Mr. Speaker: I am sorry. We have the Question of Dr. Kituyi which comes before.

ROBBERIES IN KAMUKUYWA MARKET

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

(a) Is the Minister aware that there has been a spate of systematic raids occurring in the neighbourhoods of Kamukuywa market and Kimilili town over the past fortnight?

(b) Is he further aware that in one of the robberies, local vigilantes injured one of the raiders who turned out to be a Mr. Mok, an Administration Police Officer, at the chief's centre in Kamukuywa?

(c) What urgent action is the Minister taking to arrest the situation before it gets out of hand?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that gangs of robbers attacked several people on the nights of 21st, 22nd and 23rd March, 2000,

where property was stolen and people injured.

(b) The allegation that one of the raiders was an AP officer, Mr. Simon Mok, is false because the officer was away, out of station, on the said night.

(c) Regular and administration police have intensified patrols and we have village vigilante groups, and I think the situation is under control. I would like to say that three suspects who were arrested were charged on the 31st March, 2000.

Dr. Kituyi: Mr. Speaker, Sir, when a Minister says that a police officer could not have been involved in a night robbery because he was not at his duty post that night is that not a rather confounding sense of logic? However, be that as it may, could the Minister tell us what he means by the situation being brought under control, when, since that period I am asking about, vigilantes have killed three persons involved in the night raids in homesteads, robberies have spread beyond Kamukuywa and Kimilili Town to other parts of Kimilili constituency, and, indeed, to other parts of Bungoma District such as Webuye and Kanduyi? Could the Minister tell us what makes him think things have gotten better when vigilantes are killing robbers; police officers have not arrested a single one, and when people arrested by wananchi are released by the police officers and robberies have spread to other areas?

Maj. Madoka: Mr. Speaker, Sir, I do appreciate that we have had incidents there and the police officers are constantly on patrol.

Mr. Kikuyu: Mr. Speaker, Sir, when the Minister was answering the Question during the first time, he said that the police officer, Mr. Mok, was not involved in this robbery because he was not at the station. Who was monitoring him at night? This is because the Minister has been misleading us. Every time he puts answers in a way in which we cannot understand. How can a police officer who is not in station guarantee him that he was staying in his house, when wananchi in Bungoma District are saying that he was out beating them and raiding their houses?

Maj. Madoka: Mr. Speaker, Sir, that particular officer had asked for permission, and we have evidence that he was at Kapenguria, which is his home. Also, there is no evidence that there were any injuries on that particular officer.

Mr. Nyagah: Mr. Speaker, Sir, insecurity seems to be on the rise every day. What is the Minister going to do with regard to the fact that 500 policemen are dying every month as a result of AIDS; Kiganjo Police Training College can only accommodate 1,000 police recruits, and that the Government is not ready to come up with other training facilities so that we have enough policemen to cater for security in this country?

Maj. Madoka: Mr. Speaker, Sir, it is true we are losing many officers as a result of AIDS, and we are doing our best to try and ensure that we reduce that. But, at the same time, Kiganjo can accommodate more than 1,000 police recruits. If we had the funds today, we would be able to have a crash-programme and train as many as 3,000 policemen.

Mr. Speaker: Next Order!

POINTS OF ORDER

FIGHTING IN ISIOLO

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. I have no doubt you must be concerned as much as I am, that 72 hours since the start of very brutal fighting on the outskirts of Isiolo Town, there has not been any collective statement of outrage by the legislators of Kenya.

I wish to request the Minister of State, in charge of internal security to give a comprehensive statement to this House explaining why, over the past two to three weeks, in spite of very intense and persistent pleas by elected leaders from around Isiolo on the pandora's box that was emerging; with competition over pasture and partial slaughters of families on the outskirts of Isiolo, between Borana and Somali communities; in spite of the presence of the 78th Battalion of the Kenya Armed Forces on the Northern Command on the outskirts of Isiolo; it has taken the massive slaughter that is going on in Isiolo before the Government starts jump-starting some action? Why was there no pre-emptive action and, what specific measures is the Government taking, not only to stop the on-going violence outside Isiolo, but to deal in the longer-term, with the now recurrent problems of conflict and very massive slaughter in the northern corridor?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I do appreciate we have certainly had a big problem in the Isiolo region. I will issue a comprehensive statement on Thursday. All I would like to say, at the moment, is that the figure of 70 people dead which was given by the newspapers is not correct. At the moment, the evidence we have indicates that it is eight who are dead. We suspect the number may slightly go up, but I will give the exact figure on Thursday.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. I accept the concern of the Minister, but it will not be fair

for him to start making a preliminary statement when it is known that the persons feeding him with that information are not visiting the theatre of the conflict.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, that is totally untrue. They are on site.

Dr. Ali: Mr. Speaker, Sir, if the Minister is saying that eight people are dead, and the newspapers have reported around 70 dead, does he not think it is serious enough for him to visit the site? Or will he just wait and speak from here? When is he going to visit Isiolo?

Mr. Speaker: Dr. Ali, are you serious?

Dr. Ali: I am serious!

Mr. Speaker: By the way, Maj. Madoka, remind me on Thursday so that I allot you time.

DISRUPTION OF MEETINGS BY POLICE

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. I stand on a point of order with regard to holding of meetings. Despite what the law requires, that in the event of holding a meeting, whether it is by farmers or politicians, one only needs to notify the police at least four days in advance, we still know that the police still go ahead and disrupt meetings.

I would like to call upon the Minister to make a statement, one, stating what the Government is doing to de-link the police force from the control of the Provincial Administration, which we believe is the reason for the breaking up of the meetings, because the police take their orders from the PCs and DCs instead of the Commissioner of Police.

Secondly, despite many directives from the Chair that the Minister tables the circular that he wrote, further to IPPG recommendations, telling the police that there is no longer need for a permit, the Minister continues not to present that circular to this House. I want to request that the Minister tables that report tomorrow because he has had enough time to bring forward the circular.

Finally, I would like to know from the Minister if, from their actions, the Government is renegeing on the IPPG recommendations.

Mr. Speaker: He will not answer the third question. If you want to put it by way of Question, proceed.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I will table the circular tomorrow.

NON-PROVISION OF A MINISTERIAL STATEMENT

Mr. Munyao: On a point of order, Mr. Speaker, Sir. Last week, the Minister in charge of internal security promised that, today, he would make a Ministerial Statement concerning insecurity in Machakos Town.

Mr. Speaker: The stability of Machakos Town!

Mr. Munyao: No, insecurity! Mr. Speaker, Sir, would I be in order to ask the Minister to honour his words and make the statement to the House this afternoon?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I will do it tomorrow.

Mr. Munyao: Tomorrow or today? Last week he had told us he would--

Mr. Speaker: Order, Mr. Munyao! You are an old Member! I think there are certain things hon. Members must do. First of all, you must obey the rules; you do not just walk to the microphone and do as you please without being given the chance. Secondly, by the way, it is unfair to infer that Maj. Madoka has not been honest to this House when, on the whole, as the Speaker, I think he has been doing very well.

CULTISM IN BUDALANGI

Mr. Wanjala: On a point of order, Mr. Speaker, Sir. I stand to seek a Ministerial Statement from the Minister of Home Affairs, Heritage and Sports.

There have been several people who have been found dead in Budalangi Constituency, which neighbours Uganda. There was one person who was found dismembered along the lake; another one at Bukoma Beach, and the other at Mulukoba Beach. It is suspected that there is religious cultism in Budalangi Division. We are told that there are certain religious cults infiltrating Budalangi from Uganda. The Minister should, therefore, investigate and possibly come up with the names of the people who are practising cultism and ban such religious sects in that area.

TABLING OF THE COMMISSION

ON EDUCATION REPORT

Mr. Wamae: On a point of order, Mr. Speaker, Sir. Two weeks ago, we requested the Minister for Education to table in this Parliament the Report on the Commission on Education by Dr. Koech. He promised to do so, but up to today, two weeks from then, he has not done so. Consequently, hon. Members of Parliament have not been able to debate this Report as the Government requested. Could he let us know when he is going to table that Report?

Mr. Speaker: Where is the Minister for Education?

The Minister for Science and Technology (Mr. Kosgey): Mr. Speaker, Sir, I am not the Minister for Education. I am the Minister for Science and Technology. The Report will be tabled in due course.

Mr. Speaker: Order! I think the last time we were here, the Minister for Education was quite clear that they wanted hon. Members to read and debate this Report. Now, when is "due course"? I think, in all fairness, if Government is asking hon. Members and Kenyans to debate about this Report, they cannot debate something they have not seen.

The Minister for Science and Technology (Mr. Kosgey): Mr. Speaker, Sir, the Minister is away; he will be coming tomorrow.

Mr. Speaker: Very well! Next Order!

BILL*Second reading*

THE CENTRAL DEPOSITORIES BILL

(The Minister for Finance on 27.4.2000)

*(Resumption of Debate interrupted on
27.4.2000)*

Mr. Speaker: Was there anybody on the Floor? Yes, Mr. Kariuki, proceed!

Kariuki: Thank you very much, Mr. Speaker, Sir. I was saying that the Central Depository System (CDS) is very necessary and urgent for a growing economy, and that it is long overdue.

For it to succeed, there must be enough players in the market, particularly in terms of instruments and shares in stocks that are listed in the market. Currently, we do not have enough shares to rotate around the potential buyers that there are in this market. Therefore, there is a big challenge on the capital market development and the other players in the market to ensure that there are more companies that are listed in the market. More so, the Government should be more serious in its commitment to privatise various parastatals that are operating in this country. The fact that the Government has nothing to do with business except collecting taxes and ensuring that revenues are properly used to avail public utility and services points towards the fact that the Government should be moving out as much as possible from business-oriented enterprises.

Mr. Speaker, Sir, there has been a bit of slowness on the side of the Government to privatise corporations, and where corporations are privatised, there is also a very major problem in that the Government has not put in place a structure for ensuring that there is fair representation of the minority shareholders. We have companies, for example, Kenya Commercial Bank, National Bank of Kenya, Housing Finance Corporation of Kenya and others which have already traded on the market. The Government has sustained its participation on the Board. The Government should ensure that those minority shareholders who buy shares in those companies are represented by setting aside a number of seats on the Board, to be shared by the general public without the influence of the Government in the appointments of those directors.

The CDS, which should be controlling assets worth about Kshs120 billion, is so important that the structure should not only be thief-proof, but should also be manned by people of integrity and people that the public can trust. Unfortunately, the Bill does not, in any way, state the qualifications and requirements of the officers who will be managing these institutions. Besides stipulating who will be on the Board, it is important also to stipulate very clearly who will run this company as the Chief Executive, and more so, the information technology (IT) Manager. This is because this is a very key person in the running of this company.

In other countries, where they found that loophole and the glaring problem that could arise out of it, they have given the CDS services to the banks until such time when the institution will be strong enough to warrant its being ceded to a private sector. Now, we are starting it the other way round and, therefore, we must be more cautious here than anywhere else, so that this CDS is not misused. While doing so, it is important for us to put our national interests

first, by ensuring that the CDS is not used as a method of perpetuating foreign interests in this country. Kenyans deserve to own part of the stake, not only in this Corporation, but also in other Corporations running in this country. In so doing, therefore, we must ensure that although the International Finance Corporation (IFC) will be one of the partners in the ownership of FCS(?), it should be there on a transitional basis. Ultimately, it should sell off its ownership to local people, and should not sustain its holdings within this small Corporation.

The other aspect is that it must act as a training ground for the local people so that there can be more local people to own shares in the market. I do not think that the Nairobi Stock Exchange (NSE) or the Capital Market Authority (CMA) have done enough in terms of public education. There are only 500,000 people in this country owning shares whereas the potential is very high. That potential has not been fully exploited. Therefore, there is paramount need to ensure that Kenyans know about shares and stocks, and the need for them to invest other than consuming all their money, or putting it in deposit accounts.

Mr. Speaker, Sir, the other problem is the one relating to Clause 65, which states that the CMA will come up with the rules and regulations. There is a tendency in this House having a lot of supplementary rules and regulations. These rules sometimes end up becoming more powerful than the Act itself. That type of loophole should be sealed by ensuring that those rules and regulations are subjected to a Parliamentary Committee that relates to this particular industry. In this case, I guess this is the Finance and Planning Departmental Committee. It should be the one charged with the responsibility of looking at those draft rules and regulations before they are implemented by the Authority. This will make sure that there are checks and balances in ensuring that the Authority does not misuse its position in respect of creation of rules and regulations. This is important because if, for instance, the Authority will be charged with the responsibility of setting up fees, these fees must be commensurate with the output of this organ. In other words, therefore, the Parliamentary Select Committee will have to ensure that the fees are not excessive or arbitrary, and that they are negotiated with all the stakeholders in the industry. That is why I have said that there is need to have another body that can scrutinise the rules and regulations being made by the Authority.

It is also very important that the market expands towards an area which could help a lot of other people to participate. We are looking at the market in relation to the region, and noting that Kenya is in a very pivotal position as far as the capital market development is concerned. We were in the forefront of creating a stock market in Kenya, ahead of Tanzania and Uganda. But these two countries are moving very fast in the creation and establishment of their own capital markets. We are lagging behind because, in the last three years, there has been no single floatation worth mention. Very small offers have been made in the market. This is an indicator that the market has an excess demand for shares not coupled with supply. So, we have a very big challenge as a market, to ensure that we run in tandem with what is going on in the region. To do so, we must also connect ourselves to the region's network, so that the stock market here can also participate in other markets. This will enable Kenyans to have money to invest in London, New York, South East Asia and other places. This will be facilitated by the creation of the CDS, but the CDS does not create shares. It is important to know that this is just an electronic tool to facilitate efficiency, speed and accuracy in dealing with the various instruments which are listed in the market. Those instruments that are created should also come from reputable organisations. These should be organisations that are not there to loot or defraud members of the public.

Mr. Speaker, Sir, much as I have a lot of regard and respect for the CMA, I still believe that the onus of checking on these institutions before they are floated lies squarely with NSE. This is because NSE is the one that constitutes the major market players who are the stock brokers. In it, interested parties such as listed companies, and also the public, are represented. If at all there will be new issues coming up on the stock market, they should be vetted by the NSE first, before the CMA, and not vice-versa.

Currently, we have a situation whereby the CMA approves issues and then they are taken to NSE. This is wrong because the impression that we have is that it is the CMA which has scrutinised, monitored, endorsed and put its own stamp to show that the stock is good. The problem we have had is that some of the recent issues have left a lot to be desired. For example, the issues by M/s Firestone, the Tourist Promotion Services, Athi River Mining and the Kenya Airways have not set a very good record.

These institutions, some of which were owned by the Government, could have a tendency of interfering with the CMA. This is whereby the chief executive could get a call from State House or elsewhere, and he is told: "Approve that issue". He would do it under harassment and duress. So, it is important for us to insulate officers like those of CMA, so that they are not seen to be acting under the whims of others. That is why a private sector-oriented and self-regulatory body would be the best one to approve and monitor new issues that come into the market rather than the CMA. This is important because shareholders in this market and potential investors have a lot of faith in the Nairobi Stock Exchange (NSE), and they continue patronising the market. The moment that it is still the CMA that sets pace for the markets, I think we will be sending the wrong signals. That is why I say that we should be depending much more on the self-regulatory body in terms of supervision and scrutiny of the institutions. Generally, I think, there should be a way of phasing out the CMA, so that it plays more of a policy maker rather than a participator in terms of market scrutiny,

surveillance and that type of thing. This has been the case in other markets like New York, London and South East Asia. That is the type of practice there is. I think we should not re-invent the wheel. It has already been invented and, therefore, we should be copying the other systems, particularly the advanced ones, so that we are running in tandem with them.

Mr. Speaker, Sir, while talking about that, I would like to also mention some major disparities there are within the finance industry. For instance, the Government has not claimed or put in place a system of claiming unclaimed rights like dividends. If a person dies in a company and he had not told his wife or his girlfriend about his shareholding in a given place; when he dies, those rights are normally taken by the company in terms of dividends. Companies like East Africa Industries (EAI) which have been in existence for a very long time have over Kshs50 million in their suspense accounts of dividends. There is also a similar loophole in the banking industry whereby, in banks like Barclays Bank, Standard Bank, National Bank of Kenya and Kenya Commercial Bank, there are certain people who own accounts in those companies and they never tell their wives, girlfriends or whoever. When they die, all those savings and deposits are acquired by the bank as though it is nobody's money. In America, there is a rule or law which requires that if there are unclaimed dividends, deposits or such things within a given duration of time, they are appropriated by the state. So, there should be a way of getting all these dividends in suspense accounts with all these big corporations, which have not been claimed for a long time. These would be used for things like taking care of street children or any other causes because these are assets belonging to Kenyans but are not claimed.

So, this is a loophole in law that should be sealed because we are letting these big multinational companies and banks take advantage of Kenyan people because of their not being gifted in certain areas, particularly finance. This is more so in cases of huge companies whereby the tendency is that a lot of Kenyans will not even know the value of the shares they own and, therefore, they do not know even how to claim their dividends. They do not know that a cheque becomes stale after six months. Therefore, after six months, you find that an old man just throws away his dividends because he goes to a bank and he is told he cannot claim it because of this six-month rule. I think the Government should remove that rule altogether because the right of a person is there and should be there endlessly. So, limitations on time should not be there as far as cheques are concerned. This is because if a shareholder is entitled to a dividend, there should be no time limit within which he could claim for it. Maybe, he is not claiming it because he does not know how to do it. Maybe, this shareholder is located in areas like Tana River, Moyale or Mandera, and he may not have access to these institutions based in Nairobi. So, time should not be of essence at all when deciding whether or not he is entitled to his rightful ownership within a company.

I think there should also be a requirement in this country that companies that get listed in the markets have an institution that will help them borrow funds through their shares. It has been a very discriminative element, whereby people walk into a bank and they ask for a facility. They are told: "We are sorry, shares were not good enough. If only you had a piece of land, then only can we allow you to borrow funds". I think this is not fair. Persons who have invested in the markets have denied themselves of alternative forms of investments and, therefore, they should be given a way of accessing credit. So, shares and stocks should be a way without question of raising funds, and it should be easy, such that if one walks into a bank today, he or she should walk out the same day with funds. This is because, hitherto, there have been so many problems of poor local people trying to access credit and they cannot do so because the banks are very stringent and they do not take shares and stocks as collateral.

It is important because we are trying to enhance or democratise ownership of shares in the market, and we should have as many tools as will possibly create incentives, so that many more Kenyans can own part of the stake in the economy. However, I think we should also desist from too much of foreign perpetration in this market. It is true that they talk of liberalisation in all markets, well I also think this liberalisation has got to have a limit somewhere. Currently, Kenyan borrowers are being pressured by banks. There has been a move whereby some of the collapsing indigenous banks and financial institutions have tended to push people into well-established financial institutions like Standard Bank, Standard Chartered, Stanbic, ABN and the like. However, the problem is that although we talk about a liberalised and free market, not many Kenyans are aware of the opportunity existing in these institutions in terms of lower interest rates and competitive rates of interests. Therefore, these banks are taking advantage by overcharging their customers. This is because moving from one bank to the other is not very easy. You may have tied up your collateral in those banks, and moving out requires a lot of stamp duties and other charges. Therefore, you find that you are locked into a situation where you cannot move out.

I think it should be made very easy to move from one bank to the other and, maybe, there should be a waiver on stamp duties, particularly when one is moving from one bank to the other so as to give Kenyans a way of moving out. This is because you are locked into a situation where if you borrowed with NBK and you want to move to Barclays Bank; before you move out, you have to pay a lot of fees. In fact, sometimes, it goes to the level of between 5 and 10 per cent. And if you are talking about Kshs100 million, you are talking also about Kshs10 million expense on you, and you are at that time running in chaos and you cannot afford Ksh1 million. So, this element of parallel movement from

one bank to the other should be made easy, so that people can take advantage of this liberalised market.

Then, of course, there should also be a ceiling on certain components of charges. I mean, there is a problem when say, one becomes unable to service a certain facility, in that during that time the bank will start penalising you for not being able to service your debts. So, in the process, you are not only paying interest but also penalties. So, really, the banks are "killing" industrialists and commercial entrepreneurs in this country.

[Mr. Speaker left the Chair]

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

It is a very sad scenario, and when we keep blaming people who are defaulters in banks, I should think we should put ourselves in a position whereby we can assist our entrepreneurs. It is unfortunate that in this country, we cannot talk proudly about any one single Kenyan who is a successful industrialist. There is none. This country is in the hands of foreigners. There is no single African industrialist, and I would like to hear of one who is worthy of mention.

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Kariuki in order to say that there are no Kenyans who are successful industrialists and yet there are individuals like Chandaria who are very successful industrialists?

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, maybe, hon. Haji has been in the Provincial Administration so much that he has not caught up with the times and what is happening in the industry. I hope he will be acquaint himself with what is going on in the industry. There used to be J.K. Kalinga, S.K. Macharia, Madhupaper and so on. However, presently, there is none at all. Who do we have in mind? We have Chandarias---

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Temporary Deputy Speaker, Sir. If Mr. S.K. Macharia failed, it does not mean that everybody else should fail! There are people that we can take examples from. I have given you the example of Mr. Manu Chandaria.

We have moved from the point of talking about indigenous Kenyans. Every Kenyan is a Kenyan, whether he is red or brown! Therefore, is it in order for the hon. Member to divide Kenyans?

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I sympathise because there are people in this country who are not nationalistic and patriotic. So, they do not care who owns Kenya! Some of us are very sensitive because, at the time of Independence, this country came up with a policy that the Mzungu will be the last, the Asian will follow and the African will be the first. Unfortunately, we have reversed the order! Hon. Haji is not concerned, and I think he is sitting on a time bomb! It is important for us to note that our people are looking at us, to see what--

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to attack me in person? The debate has now moved from industry to hon. Haji! Hon. Haji is well versed with the problems in Kenya than hon. Kariuki!

Mr. Kariuki: I am sorry, Mr. Temporary Deputy Speaker, Sir, but we are not matching each other! We are not trying to out-match each other! But I do take the former PC's sentiments unkindly because he has no national feelings about who owns Kenya! Some of us are very sensitive about it. I think I can talk with authority about the industry because I have been there. You can talk with authority about administration because that is where you belong.

But on a more serious note, I think it is important for us to help our own people, who brought us to Parliament, to own part of the stake of this nation. We should not be talking generally about Kenyans. There are some Kenyans who are more Kenyan than other Kenyans. I think it is important to take note of that. Otherwise, our electors will not take us very seriously when they see that we are not promoting them, and making them own the economy of this country.

The Minister for Public Health (Prof. Ongeru): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am a little perturbed by hon. Kariuki! I have no business to interrupt him, but he has said that there are Kenyans who are more Kenyan than others. Could he substantiate that?

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I am right in saying that there are Kenyans who are more Kenyan than others because Prof. Ongeru knows the Kenyans who brought him here. They are more important than Kenyans from Kiharu!

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Kariuki! I think hon. Kariuki is expressing an opinion! He is entitled to his opinion! Could you let him proceed?

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, thank you very much for saving me the torment from hon. Members from the other side of the House! But I know that they are serious because they are also Kenyans. They are

more Kenyan than other Kenyans, and they are here to protect the interests of those Kenyans who are more Kenyan than other Kenyans.

Mr. Nyachae: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the statement of some Kenyans being more Kenyan than others is contravening the Constitution of this country. This is a very serious matter! We are discussing matters affecting all Kenyans out there. If we, in this House, tell Kenyans that there are some Kenyans who are more Kenyan than other Kenyans, we will be setting a very dangerous precedent. I think it is very important that we clarify this matter for the sake of Kenyans out there.

The Temporary Deputy Speaker (Mr. Musila): Order! Indeed, you are right, hon. Nyachae! The Kenya Constitution does not discriminate against any Kenyan, whether he is white or black; or whether by birth or registration. That is the position, and hon. Kariuki knows it. All I said is that, what he said is not necessarily what is in the Constitution. He gave an opinion which you do not agree with, but definitely, the Constitution is very clear on who is a Kenyan.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I am happy for your protection from another former PC. When he was in administration--

Mr. Nyachae: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is misleading this House! I am not a Member of Parliament from Kisii. I am a Member of Parliament for Nyaribari Chache! He should correct that!

An hon. Member! He has talked about you being a former PC!

Mr. Nyachae: If he talked about me being a PC, he should know that I was in that position for more than 21 years. That is half of his age! Therefore, he should not call me a PC! I have climbed many other ladders after being a PC! So, forget it!

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Nyachae! Proceed, hon. Kariuki!

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, it is good for the former PC to tell us that he rose from a chief to a Permanent Secretary, which is very good. He knows that when he was a PC, among the policies that the Government was spearheading was the one of Africanisation. I think it was a policy that he was a member to.

With those few remarks, I support.

The Assistant Minister, Office of the President (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, we are here as equals. We are all Members of Parliament. We are no longer PCs. I think this is the second time the other side of the House has tried to draw this country into what is happening in Zimbabwe. It is dividing Kenyans into tribes and cults. This is not fair! Hon. Members should give their ideas, if they have any, that will be useful to the whole country. They should stop dividing Kenyans.

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Haji! I thought you wanted to contribute to the Bill!

The Assistant Minister, Office of the President (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, I contributed!

The Temporary Deputy Speaker (Mr. Musila): Hon. Haji, hon. Kariuki finished his contribution! I thought you stood up to contribute to the Bill! But if you have finished, let me ask hon. Keah to contribute.

The Assistant Minister for Lands and Settlement (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity, instead of hon. Haji, to contribute. I am delighted by the opportunity, and I would like to support that we pass this Bill. It has come very timely and I might even add that it is long overdue, particularly when Kenya has had the stock exchange system for over 40 years. I would like to pick one or two points, particularly those mentioned by the previous speaker, and make one to two observations on them, before I go on to my own points.

Mr. Temporary Deputy Speaker, Sir, it is my understanding that the Capital Markets Authority, or institutions with the authority of the Capital Markets Authority, approves shares to be quoted on the stock exchange. I am not aware whether there are any private limited companies that can do that work. I stand to be corrected! I believe what we are doing in Kenya is certainly proper, and it is in line with the rest of the world. So, there are no privately owned companies that would authorise shares to be quoted on the stock exchange. There are good reasons for that. The Capital Markets Authority (CMA) has been empowered by us, through an Act of Parliament, to do just that. Unless the hon. Member has any aspersions about the credibility of the CMA, I would want to take this opportunity to say that it has done a tremendous job since its inception. I would urge them to continue performing their duty professionally, as they have been doing.

I would like to take this opportunity to also thank the Ministry of Finance, for bringing this Bill at this time. As I alluded earlier on, it is timely, but probably a little bit late. It is timely to bring this Bill now, in order to make sure that we centralise and make efficient the system of exchange of stocks, shares and bonds.

Mr. Temporary Deputy Speaker, Sir, while thanking the Ministry, there are a number of issues that I shall be

raising in my contribution, which need attention and I am sure the Minister will take due notice. But let me take this opportunity also to thank the Nairobi Stock Exchange (NSE) for the good work they are doing. I will only want to say that, there is more that needs to be done.

The NSE seems to be concentrating its activities more or less within Nairobi City and, perhaps, a few areas in the country. There are certain flaws that make it impossible for stock brokers to operate in the rural areas. I would like the NSE and the Capital Markets Authority (CMA), and, indeed, the Ministry, to look into the aspect where shares can easily be traded even in the rural areas. I think one of the reasons why shares are not so widely traded in the rural areas is due to the aspect of education. I want to take this opportunity to suggest that some funds are made available for THE education of businessmen about stocks and shares, so that people in the rural areas are sensitised because this is where very few brokers, indeed, make any money. They invest a lot in trying to sell shares or even get people to buy and sell shares in the rural areas, but the returns are very, very low, indeed. Therefore, from a business point of view, it is not profitable for them to trade or spread the business of stocks and shares in the rural area would want to urge that something is urgently done so that those stockbrokers who extend their services to the rural areas are either duly compensated, or there is a mechanism that would assist them in making it possible for stocks and shares to be bought and sold in the rural areas. Education is a fundamental aspect in this.

Mr. Temporary Deputy Speaker, Sir, I would also want to take this opportunity to say something about the financial services as a whole. When I talk about the clauses of the Bill, I will be dealing with the Bill proper. But I thought this is a golden opportunity for me to state that the financial services available in this economy are really limited to the major towns. You will, therefore, find that, even houseboys and housegirls have their own financial services; in one month, five of them give their salaries or part of their salaries to one, and in another month, to the other; in the third month to the next, and so on, and so forth. I am not suggesting that, today, we take that kind of role, but I am just demonstrating the fact that financial services for the lower or less economically endowed members of the society are really lacking in this country. I would want to see the possibility of these financial services being extended for business promotion in the rural areas.

Mr. Temporary Deputy Speaker, Sir, I would like to note here that the co-operative societies, for example, seem to be at a standstill, and they are not as vibrant as they used to be. The credit unions are also not as vibrant as they used to be. Therefore, there is a gap somewhere. We seem to be happy to be dealing with Nairobi City, Mombasa and other large towns, but, in my view, we have not paid much attention to financial services in the rural areas. What then has happened? You find that the NGOs are taking that role. They are, at the moment, providing services to people, communities, women groups and individuals, and they are doing a good job, but there is need to make sure that this is controlled. Some NGOs are better placed to manage this kind of thing than others. But there seems to be lack of regulatory processes for these NGOs, and one of these days there is going to be a little big bubble of some kind which will create problems, just like we had some problems in the banking system a few years ago. These financial services are really a necessity because we have noticed that banks are running away from the rural areas.

Mr. Temporary Deputy Speaker, Sir, the Standard Chartered Bank, Barclays Bank and Kenya Commercial Bank had branches in every corner of the country, but, today, those financial services are not even there. Therefore, the people cannot even save or mobilise savings. This is where we have financial service associations, NGOs, *et cetera*, creeping in, and this creeping in must be watched because if it is not properly regulated, as I said, it could bubble and boil up one of these days.

Mr. Temporary Deputy Speaker, Sir, I thought I should make some of those remarks, which are very well known to the Ministry, the Central Bank of Kenya, the Capital Markets Authority and the Nairobi Stock Exchange, because somewhere, somehow, someone must take the bold step. I am sure, at some stage, there will be a Bill to bring into effect this aspect. Perhaps, at this point in time, the NSE is doing a good job, but I think, it is limited to some extent. Also, in my view, we need a secondary, and even a third market. I agree with hon. Ngenye Kariuki that, at the moment, the shares traded in the NSE are few and, therefore, the Government and everybody else should do their best to make sure that we have more and more shares brought into the NSE. It is a question of persuasion, economic environment, rules and regulations that are more or less stringent, so as to entice and bring into play the private limited companies to raise funds through stocks and shares.

Mr. Temporary Deputy Speaker, Sir, if I had shares in a co-operative society, the only way for me to raise money would be to request for those shares to be sold, for me to sell them. But if there is no way we can create a secondary market whereby shares of, perhaps, co-operative societies can also be marketed in the financial markets--- I do not know; I am just asking whether there is such a possibility, but in my view, there is such a possibility. This is because we have to be innovative enough to be able to raise money and bridge this gap which has been left over by the banks, which now specialise in serving the rich rather than the poor. If you remove those branches from the rural areas; if your savings account must have a minimum balance of Kshs30,000 for you to run that account or maintain it--- I am talking about the Standard Chartered Bank. If others banks require Kshs5,000 as minimum balance, and if the incomes

of those people in the rural areas are worth Kshs100 per day or, Kshs200 per day, they cannot make that balance. You will find it really incredible because the banks cannot avail those services to the rural people.

Mr. Odoyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister, who is a well known auditor and a former Finance Manager of the Kenya Power Lighting and Company, knows very well that one of the reasons why the banks are closing down is because the Government has taken up all the money. Those banks have nothing to lend to the poor wananchi out there! Is it in order for the hon. Assistant Minister, who has been an Assistant Minister for Finance for many years to mislead this House that those banks are closing down because they do not want to serve the poor, when, in reality, it is the Government that has mopped up all the credit and those banks have got nothing to do?

The Assistant Minister for Lands and Settlement (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, first of all, I disagree with him. I did not say that the banks are closing down. I said that branches of the banks are being closed down. The banks are operating very much in this country, but they are closing down their branches. That is the worrying aspect. I am quite sure that it will be worrying to hon. Odoyo as well. I am sure in his constituency, the few branches that were there must have been closed down. If they have not been closed down, he should take care because they will soon be closed down. All I am saying is that ways and means should be found to extend financial services where the banks have not been able to maintain, sustain or retain those services. I totally disagree with him when he alludes to the fact the Government has scooped all the funds from those banks and branches. I think it is the likes of hon. Odoyo who may have irresponsibly borrowed---

Mr. Odoyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member has now moved away from discussing the Central Depositories Bill into discussing hon. Odoyo. On this occasion, I wish to take the opportunity to inform the hon. Member that if he were to take the trouble to look at the Treasury Bills and the Government Bonds that have been issued for the last ten years, perhaps, my point would be clearer. I think he wants to mislead this House that a person like myself, who has just borrowed Kshs50,000 from the bank, has looted that money. He knows those people who have looted the banks, and it is about time that---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Odoyo! You rose on a point of order but you are now contributing. Could you, please, wait until you catch my eye so that you can contribute?

The Assistant Minister for Lands and Settlement (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, as a matter of fact, he has already contributed on this Bill. I would like to request him to allow me to contribute in peace. Let me now go to the Bill, having said what I have said.

Mr. Temporary Deputy Speaker, Sir, the Central Depositories Bill is, in my view, technical, but understandable enough. I think it is well prepared, well researched, and it does contain most of the aspects that a Central Depositories Bill should contain. I want to commend the Minister and his entire team for a job well done in preparing this Bill. I have gone through it, trying to find flaws; using a fine tooth comb, but I must confess that it is one Bill in which I cannot find a fault. So, what I am going to say will be on a general note, to merely urge that certain aspects of the Bill should be done expeditiously, with the prudence and wisdom it deserves.

Mr. Temporary Deputy Speaker, Sir, in the appointment of the directors, I trust that the authorities will elect directors to manage the Central Depositories Company as stipulated. These directors should be people of professional substance and competence as is known to be the case in the private sector. We do not want a Central Depositories Company which will be established to be of people who are not professionally qualified, or of any professional substance. I am sure the authors of this Bill had that in mind, and mine is merely to emphasize. When we talk of people of substance in this country, they must come from every part of this Republic. There is a tendency of concentrating the picking of those people of substance from certain particular areas. I would like to caution that people of substance come from all over Kenya, and this aspect should be borne in mind.

Mr. Temporary Deputy Speaker, Sir, once we pass this Bill, I urge the Minister to move with full speed to make sure that its implementation is executed as quickly as possible, but obviously, with the necessary caution so that we do not run before we are able to walk. We should move step by step, but with all the speed that it deserves. There is also need of educating the public about the contents of this Bill. It is a technical Bill and so, it is not easy to understand it unless you are in the business. But I would like Kenyans to be educated properly. Unfortunately, that is not always the case when we pass Bills here. When they become Acts, it is up to Members of Parliament to interpret them to their constituents. There are certain Bills that are of public interest and this, to me, is one of them. There should be various seminars and lectures, not only for stockbrokers but also for ordinary shareholders so that they can understand. Indeed, it will be incumbent upon companies to do that, but I would put the responsibility to the Nairobi Stock Exchange and the Capital Markets Authority to ensure that the public is duly educated. I would like to see a scheme or an outline on how they intend to do this. It is important for us to know, after passing this Bill, how it is going to be disseminated correctly to the public, so that they know what we are passing here today. Otherwise, it is a very technical Bill which can only be understood by those people who know finance.

At this juncture, I would like to suggest that finance should be a compulsory subject at primary, secondary and even at the university level. This should be taught to every school child because everybody, regardless of who they are, deals with one aspect of finance in their lives. The subject on finance can be simplified at the primary level; modified at the secondary level, and made more difficult at the university level. But I think it is imperative that Finance is introduced in schools so that, we all become literate on money matters. The world today is a changed world. It is a world of high finance. In my view, it will be difficult for me to explain a Bill like this one in Kiswahili to the people who have share certificates. It is important, therefore, on that aspect of education, that the Nairobi Stock Exchange, the Capital Markets Authority, supported by the Minister and all of us--

With those few remarks, I beg to support.

Prof. Anyang'-Nyong'o: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Bill. But before I make my contribution, I would just like to make a few comments on the contribution of my dear friend, hon. Keah, who I think has made some very important points that need a little clarification.

Mr. Temporary Deputy Speaker, Sir, people do not need to know everything. People have so many things to do in life that if you expected them to know everything, things would not work. For instance, if you begin teaching Finance in schools, you are burdening students for nothing. Mathematics is enough; algebra, trigonometry and calculus give you the basic things. In any case, I disagree with hon. Keah. This thing may look very complicated, but it is very simple; only that the language is technical. All we are doing here in the language of modern computer systems, all we are doing with the Central Depository system is providing a website for Nairobi Stock Exchange. All these people want to trade in securities. If you do not want to talk about that website, we can say we are just providing a postbox where people can get common information. The short title for the Bill reads: "

A Bill for an Act of Parliament to facilitate the establishment, operations and regulations of Central Depositories to provide for the immobilisation and eventual dematerialisation of, and dealings in, securities deposited therewith in Kenya, and for connected purposes."

The two most important words here are just 'immobilisation' and 'dematerialisation'. I think these people should have put it in a much simpler language. They could have said: "To provide for the keeping in one place"; that is, immobilisation and eventual dematerialisation; that is, eventual removal of the concept that securities must be contained in a document. Securities do not need to be contained in a document. People simply need to have the information that, if you want a share, you can get it from this place. If hon. Okemo replaces Barclays Bank of Kenya and he is trading in a lot of securities, he does not need to have all these things in his office. He only needs to inform a certain website that he has so many shares in the stock exchange, and from time to time he would like to sell them. All he wants to know is that his shares have been sold and he has received so much money. He is not even interested in the persons who have bought the shares. We need a system that handles that. This is what this Bill is all about.

These things do not need to be taught in primary schools, but there is still need for availability of information that, whenever you are interested in buying a share, you have a place to refer to. We have three places; that is, the Nairobi Stock Exchange, the Capital Markets Authority and the Central Depositories system. If we are going to teach these things in primary schools, we are going to teach higher school certificate subjects in Standard One. That is not possible in a proper system of pedagogy; that is, a proper system of education.

Mr. Temporary Deputy Speaker, Sir, let me now go to this Bill. When we were discussing the Bill for the Capital Markets Authority in 1994/95, we did call for a central depository system. If you look at the HANSARD, you will find that I am one of the persons who called for this kind of system. We also called for a lot of amendments to the Capital Markets Authority Bill, which were not then incorporated in the Act, but which, I am glad to say, that the CMA has now found useful to put in a Bill. The amendments to the Bill we shall eventually be discussing are as long as the Act itself. This means that some of the things we discussed in 1994/95, in operationalising the CMA have been found necessary, and that we need to revisit these issues and incorporate them. This is the whole thing about good governance. In good governance, you need to realise that you are not always perfect, and that ideas must come from all over the place, and that you should always be aware of one philosopher who said: "Whenever you are doing something, you should pause for a moment and think that you may be wrong." I am glad that the Central Depositories Bill has now come as a result of some of the things we called for in 1994/95. As my friend, hon. Keah, has said, the Bill was very well drafted. I think we should congratulate those who were drafting it for having done their homework well.

That notwithstanding, it is important that, if you look at the objects of this Bill, one of the things that it is trying to do is to make sure that capital markets operate efficiently and effectively, and that they lead to the increase of capital formation in the economy of Kenya. Unless this Bill facilitates the increase in capital formation, it will not have done its job. But you cannot increase capital formation, which is the basis of development, unless you stimulate savings. Unless you have savings in the community, or in the economy, a Bill like this will remain sheer theory. The background and success of this Bill must be stimulation of savings in the economy of Kenya. When the Bill is looking for agents---

Clause 9 (1) and I am going to read it, and this, I am going to associate with my calling for increase in savings in this country; says:-

"No person shall act or hold himself out as a central depository agent unless such person is duly appointed as such in accordance with this section

(2) Subject to this Act, a central depository may, in writing, appoint:-

(a) any member of a securities exchange; or

(b) a non-banking subsidiary of any bank or financial institution licensed under the Banking Act; or

(c) any institutional investor; or

(d) any body corporate of a type prescribed by the Authority to be its central depository agent."

Mr. Temporary Deputy Speaker, Sir, of all these categories, I am asking the people who drafted this Bill: Where do the savings and credit co-operative (Saccos) come in? We know that in this country, Saccos have been the major source of domestic savings. Saccos have frequently banked their funds in banks and non-banking institutions. Banks and non-banking institutions have gone ahead to lend the hard-earned savings of Saccos to people who do not pay back. Quite often, banks and non-banking institutions have turned themselves into political agents of politically-correct people, to misuse and misinvest savings from Saccos.

Mr. Temporary Deputy Speaker, Sir, if the Central Depositories System (CDS) may appoint all these others, and Savings and Credit Co-operative Societies (SACCOS) are left out, unless SACCOS are identified as institutional investors, we are going to continue ignoring one important source of domestic savings and letting other banking and non-banking institutions to deal with the Central Depositories System when we know very well that prior to dealing with the CDS, those institutions will already have misused savings from SACCOS. I am making a special plea to the Government to ensure that the CDS will have a direct line to SACCOS and to create an institutional framework which will enable SACCOS to become agents in this system of dealing with the CDS.

We realise that we now have very few viable non-banking institutions in this country, precisely, because of the history we have had about banking and non-banking institutions since the end of the 1980s. Those institutions suffered most from the crazy lending of the 1980s and 1990s and the tough measures that the Central Bank of Kenya (CBK) took thereafter which, perhaps, came too late. The supervisory functions of the CBK are still weak. If the CBK had a strong supervisory function, banks such as Trust Bank would not have gone under. Even since then, the saving operation, or the emergency operation, that the CBK has put in motion to resuscitate some of those banks that have gone under leaves a lot to be desired.

Mr. Temporary Deputy Speaker, Sir, given the suffering that non-banking institutions have undergone since the debacle of the late 1980s to the 1990s, there must now be a policy from the Ministry of Finance - this matter is outside the CDS - to strengthen non-banking institutions as agents for mobilising savings in this country. I am much more concerned about mobilisation of savings than anything else. Unless we have a culture of savings, we are not going have either capital formation or economic growth in this country. We know that this country has an economic graph which shows that savings have been going down systematically since the 1980s while consumption has been going up.

A country only takes off, economically, when consumption goes down, while savings go up. At that point of intersection, then, what my friend, hon. Okemo, called "recovery", will begin to take place; we are not going to have recovery unless there is a very high point of intersection between domestic savings and domestic consumption, both at the private and public levels. Kenya is known for very high public consumption as well as very high private consumption, especially, among the top 10 per cent income earners in this country.

Secondly, we are not going to mobilise domestic savings unless we have a good tax policy. I would, now, like to address the Minister for Finance. The tax policy of the Republic of Kenya is the most retrogressive and backward, because we aim at taxing income more than anything else. I have time and again pointed out the things that should be taxed in this country, and I would now like to make a very radical statement: Abolish all taxes except land tax. You do not need income tax or Value Added Tax (VAT). If you tax land - and tax it progressively - the Government will have enough money to finance its operations. Other things that should be taxed are those which enter this region through the sea port of Mombasa. The KPA can make enough money to keep this Government going if we had 10 Naikunis in responsible positions in this country.

(Applause)

Mr. Minister, Mr. Naikuni has shown in a period six, or seven, months that you can turn the KPA around, and that instead of losing Kshs5 billion, which you had lost already, you can make a credit of Kshs5 billion every month. So, the KPA can make enough money. If we had a strong trading economy that was going on properly in this country, you would not have to tax the ladies and gentlemen sitting in this House. You should leave their income in their pockets, so that they can spend it and stimulate the economy. Now, people cannot spend. We cannot buy houses. So,

what are we consuming? Nobody can establish a new shoe factory in Kakamega District, because there are no enough people earning money with which they can buy shoes. Peasants and workers go without shoes. No proper textile factory can be established in this country.

The Minister for Medical Services (Dr. Anangwe): On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the hon. Member say that there is no need to establish a factory in Kakamega District, because people there cannot afford to buy the commodity? Is that true?

Prof. Anyang'-Nyong'o: Yes!

The Minister for Medical Services (Dr. Anangwe): Mr. Temporary Deputy Speaker, Sir, I would like to inform the hon. Member that, we, the people of Kakamega District, are capable of putting on shoes.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, hon. Anangwe has a problem, which cannot be solved in this House. All I am saying is that I will be very happy to see every peasant and worker in Kakamega District own five pairs of shoes, like hon. Dr. Anangwe owns. Five pairs only!

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard hon. Prof. Anyang'-Nyong'o say that the problems of hon. Dr. Anangwe cannot be solved in this House. I thought that this House is the supreme authority on the land. Could he clarify what he meant in saying that Dr. Anangwe's problems cannot be solved in this House?

(Laughter)

The Temporary Deputy Speaker (Mr. Musila): Order! Order! Hon. Members, we are debating a very important Bill. So, could you refrain from trivialising this debate by making statements like the one made by hon. Prof. Anyang'-Nyong'o against hon. Dr. Anangwe?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I would like to tender my sincere apologies to the Chair and hon. Anangwe.

Mr. Temporary Deputy Speaker, Sir, the point I was making is that, if you leave money in people's pockets, they will spend it, and that will lead to industrialisation of this country. If people have money in their pockets, there will be demand for shoes. If there is demand for shoes increases, somebody will find it necessary to invest in that industry, because there will be a consumer market for that product. What we have in this country today is the shrinkage of a consumer market because people do not have money in their pockets.

So, we must have a progressive policy of stimulating domestic savings; people cannot save unless they have money in their pockets. One of the ways by which people can save is to reduce the amount of taxes they are paying, especially when they pay those taxes without receiving the requisite services from the Government; simple economics 101 at the University of Nairobi can teach you that. I am also saying that a Bill like the one we are debating which, first and foremost, is meant to stimulate saving, must be strengthened and fortified by other Government policies, which will stimulate saving in this country. If there are no savings, nobody will go to the CDS, seeking to buy shares, or any others securities; economics 102 at the University of Nairobi can teach you that.

Mr. Temporary Deputy Speaker, Sir, the next point that I would like to make is about the movement of capital inside and outside this country. We have known that, over the last five years, there has been a movement of capital from this country's economy to outside countries; the most recent one being the movement of Swani Industries from Kisumu to Mauritius. This means that Swani Industries will no longer have any shares at the Nairobi Stock Exchanging, because they have been moved to Mauritius. Is this, really, going to help us to forestall the movement of capital from our economy? Or, to what extent is it going to attract capital into this country?

One of the things that have been said by the management of the Nairobi Stock Exchange is that a stock exchange should be open, so that anybody who wants to buy shares in Kenya, be he in New York or London, can easily come and buy shares here. My question is: To what extent is this Bill, plus the amendments, which I have not read - or the Markets Authority Bill - going to stimulate the movement of capital into Kenya rather than the de-capitalization of the Kenyan economy? We know, for example, that these two Bills - both the Central Depositories Bill and the Capital Markets Authority (Amendment) Bill - must operate in the context in which the Kenyan economy now finds itself.

For example, the COMESA rules stipulate very clearly that we should reduce tariffs to a certain level so that there is easier trade among the COMESA countries. The East African Co-operation Treaty also says that members of the Community should make sure that there are as little tariff barriers as possible so that capital and labour can move freely across the borders. My question is, and maybe, the answer is in the Bill: To what extent have these two Bills including the one that we are discussing today, going to help us taking into account the principles that are laid down in the COMESA rules as well as the Treaty of East African Co-operation or East African Community with regard to the movement of capital across the borders? This is because if that is not the case, then indeed, we shall have printed a Bill completely oblivious of other commitments we have made within the economies of COMESA and East African

Community, and very soon, we shall have to bring amendments back to this House for us to look at.

Mr. Temporary Deputy Speaker, Sir, the fourth point that I would like to raise and I must commend the framers of this Bill is with regard to the offences and penalties meted to anybody who abrogates stipulations of the Bill. This is outlined from page 71 to 73. I will not read out the offences as they are written here because I am sure that everybody can read them, but I just want to read out the penalties. Clause 49 says:

"Where a central depositories or its central depositories agent keeps or maintains a record or an account that is required to be kept or maintained under any of the provisions of this Act by means of a mechanical device, an electronic device, or any other device, any person who, for example, with intent to falsify, destroys or removes-

(i) information which is recorded or stored by means of that device and so on commits an offence and shall on conviction, be liable to a fine not exceeding Kshs10 million, or to imprisonment for a term not exceeding 10 years, or to both."

"Not exceeding" is a good phrase, but it can give a magistrate or a judge the leeway to fine somebody anything from zero to Kshs10 or to Kshs10 million, or imprison somebody for a term of one week or 10 years. I would have rather been very categoric and say:

"---commits an offence and shall on conviction be liable to a fine not less than Kshs5 million and not exceeding Kshs10 million."

This is because you must make the penalty so high that it becomes counter-productive to commit the offence. For example, if you told matatu drivers today that any matatu driver and tout found driving a matatu with passengers exceeding the sitting capacity of that matatu shall be liable to a fine of Kshs10,000 and imprisonment of not less than six months, the matatu drivers and touts will behave. That is what was done in Singapore. There were such stiff penalties for corruption that people found it absolutely counter-productive to be corrupt and go to court or bribe a judge and then get a sentence which should have been much less than what you should have got.

Mr. Temporary Deputy Speaker, Sir, I would like to appeal to the framers of this Bill to go and revise that section. Do not leave it to Prof. Anyang-Nyong'o to bring an amendment to this House, because it is in your interest to amend that section and make the penalty so stiff that it becomes absolute counter-productive for somebody to commit the offence, go round, look for a judge, bribe him before he comes and fines him Kshs100,000 or sends him to prison for six months and then he comes out and enjoys the billions of shillings that he or she has already received after undermining the principles of this Bill.

The job to get the Kenyan economy running is bedeviled by three major factors, namely; corruption, indiscipline and dishonest. Corruption includes things like tribalism and nepotism, but indiscipline and dishonest from the grassroots to the top bedevils this economy. Unless people are disciplined to wake up at 6.00 a.m. to go and have a proper shower, brush their teeth, say their prayers, have their breakfast and go to work straight rather than calling in a *chang'aa* place or zone, this economy will not get anywhere. People must learn that life comes out of discipline or proper behaviour. Why do you think that the Japanese have made wonders to their economy? They have made wonders to their economy because they are a disciplined nation. When the Asian community first came here and they were brought here as coolies working on the railway line and the lions ate them in Tsavo National Park and all those places and finally the British told them that they cannot have farms or do anything else, but can only have shops, they were faced with a question of survival. They disciplined themselves to do hard work. Of course, some of them were also corrupt. Some of them also sold match-boxes at higher prices than they could sell them and so on. It is important that this nation becomes disciplined.

It is also important that we become honest with ourselves and with what we do. So, if judges will bypass these regulations by giving the lesser of the sentences, that will be an example of dishonesty in this country, because the law must make it very difficult for people to be dishonest. This is because as individuals, we are very weak. One Philosopher once said:

"Human beings come into this world naked and honest. It is this world that gives them clothes and teaches them to be dishonest."

We are all very good, but which we come into cultures that give us clothes to look like very proper ladies and gentlemen, but also teach us to be corrupt and dishonest. Unless we have rules and regulations that civilise us--- This is where the word "civilization" comes from; that human beings must be civilised through rules and regulations that make them proper members of civil society.

I think since this Bill goes to the very centre of trying to mobilise savings and capital formation in this country, it must in this section make it so difficult for anybody to undermine these noble intentions of the Bill.

Finally, it has been known in the Nairobi Stock Exchange (NSE) and the Capital Markets Authority that there has been a system of internal fixing of prices, shares and share dealings. It has been known that people do meeky-mouse businesses in the stock exchange so that only a few people know that so much shares will be traded and fix the prices

and you hope that the NSE works properly. I would like the Central Depositories System as well as the revised Capital Markets Authority Act to stop this practice. This is because if this practice goes on, no domestic or foreign investor will have confidence in the NSE or the Kenya Capital Markets Authority. The internal dealing and fixing of prices of shares should have ended when the stock market was at the New Stanley Hotel in those old days than now when it should be electronically controlled.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

Dr. Ochuodho: Thank you, Mr. Temporary Deputy Speaker, Sir.

May I begin with a rare commend of this Bill because to the best of my knowledge, it is the first major attempt by the Government to bring about modernisation of our system. I do not know of any other Bill that the Government has brought here ever since, that has realised that the new millennium and the new century is going to be dominated by a need to modernise. I also recognise that as we try to digitise the monetary systems in the country, we must take cognisance of the fact that the world is moving towards a paperless society. There will, of course, be a price to pay as a result of realising a paperless society. One of the prices the Government must be ready to pay is to continue with review tariffs on computer and computer products.

I do realise that, concerning the CDS, whereas hon. Keah thought finance is the key issue here, I may argue that it is, indeed, a management issue. We are basically talking about management information system here. This is a multi-disciplinary concern. Finance, economics, PIC, sociology and several other fields come in. I would want to call upon the Government that, as we make history by bringing about this Bill that sets a course for modernisation and hopefully, industrialisation by 2020, we will also take advantage of the same to totally remove all taxes on software products in particular considering that software is going to be a major component. It is ironical that while we appreciate from the computing fraternity that the Government has lowered taxes on computer products from 15 to five percent, taxes on software that run the same products still stand at 15 percent. I call upon the Minister not only to reduce the five percent, but, perhaps also take the opportunity to remove all taxes that still stand in our way to realise a modernised society.

I also want to draw attention to the trend the world over of introducing electronic commerce. With the world becoming a global village, if we cannot trade electronically we are soon going to be very irrelevant. Indeed, we are not going to be competitive at all. I do appreciate the effort made by the Government to introduce electronic commerce. I think it is going to remain competitive. It will be an attractive destination for investors. We must espouse the need to introduce, on a meaningful and significant scale, electronic commerce. It is useful to the Government even in running its own businesses electronically.

It is in this regard that I think the Government should also look into a way of computerising its services in a wider scale because not many Kenyans are not going to benefit from the CDS if it is less than one percent of Kenyans who can directly access it. It is in that context that I challenge the Government to also look into the broader computerisation of its services. I also want to draw the attention of the Minister to the need to create a national informatics council. We do know that all this is happening in a vacuum. If one asked: "In what framework are we coming up with a modernised CDS?" you will find that it is sort of like an island. It is like a loner. It would be important if we had a broad national policy with regard to modernisation. That may only be possible if we had a national informatics council. I am glad to hear that the Government is considering converting some components of the national Y2K committee into a national informatics council. That should be hastened and encouraged because it is until we have such a council that we can modernise in a structured manner.

I also want to draw the attention of the Minister to the need to have high integrity staff. The system that will be in place is going to be as good as the staff itself. In the past we have seen a haphazard manner on recruitment of staff in some Government institutions. I hope this will not be allowed in this particular case. Honestly, as my predecessor, Prof. Anyang'-Nyong'o did say, the issue of honesty is going to be very crucial. The only recourse we will have is the accuracy and integrity of the data. We must ensure that the staff that will have access to this system are of high calibre and integrity. I must also draw the attention of the House to the fact that the CDS on its own is not going to be enough. Good governance, in particular, sound economic management will be crucial for an economic take-off.

I want to caution that people who have often tried to computerise have come to realise that it is not good enough just to computerise. You must have an entire system that is going to benefit from the efficiency, accuracy and timeliness that come about with computerisation. I challenge the Government to ensure that sound economic management also comes about with the introduction of the CDS. Another aspect that is closely related to the CDS is the telecommunication liberalisation and expansion. I am delighted to note that in the current tendering for the regional telecommunication operators, a condition has been set that by the year 2005, that we should have at least two telephone booths in every sub-location in the country.

To many of my colleagues, and I guess to many Kenyans, this may sound very remote and unnecessary. Those who have benefited tremendously from the offers of modern technology would realise that Kenya will go a long way

when we get to the stage when you can get these services right at the doorsteps of the rural community. I would want to encourage a move in that direction that the telecommunication liberalisation must also be hastened to cope and ensure that a wider number Kenyans benefit from the CDS that is going to be introduced. We must also take cognisance of the fact that computerisation is in a way going to enhance transparency. We also know that we are operating in a system where transparency has been a thorny issue. I want to draw the attention of the House in particular to Sections 44 and 45 with regard to the provision secrecy. In fact, Section 44 reads: "Every Central Depositories and CD agents shall take all reasonable measures to protect information and documents relating to the affairs of the depositors and in particular, relating to the securities--- "

Section 45, is a bit more specific. We do remember having serious problems in this House last week with issues of bad debts. There were requirements from some of the hon. Members that they should be told who our bad debtors are, particularly, with regard to the NBK. I would be a bit uncomfortable with the arrangement as it stands in the Bill. There are certain circumstances under which it may be necessary for this House to disclose certain so-called confidential information. I would urge the Minister to look into a way of making amendments so that under certain extreme conditions, the House can reserve the right to have access to this information. Otherwise, we are going to have the same problems that we have currently, whereby the public is denied the privilege to know those who are running down the economy by taking debts from public banking institutions which they are either unable or unwilling to service.

I want to emphasise the issue of transparency because we take cognisance of the fact that there may also be bad meaning but technologically competent hackers who may be able to break into this system. We must take cognisance of the fact that unlike the traditional paper system which may be a bit difficult to penetrate, armed with adequate knowledge, it may be easier for the technocrat to break into the system. That may also be in a way healthy for the transparency of the system.

Mr. Temporary Deputy Speaker, Sir, it is important that Bills like this one receive adequate public discussion before they come to the House, so that the stakeholders--- There is a saying that it is the shoe-wearer who knows where it pinches most. I think, it would be important in the future, that a wide consultation with various stakeholders is made before a Bill like this, finds its way into the House.

Finally, I would like to draw attention with regard to small-scale depositors and investors. I believe like my predecessors have said, it would be wrong for us to create a system that basically takes into consideration our few billionaires, but does not consider the majority of small-scale investors. This is because our economic take-off will not be brought about by those very few billionaires, but by millions of those who have few thousands of shillings or a couple of hundred of shillings to save. So, I want to appeal to the Ministry, even if it is not in the context of this Bill, they must try to put into place, a system that takes into cognisance that, our strength lies with the majority who do not have much to save or to invest, but nonetheless, must be encouraged to invest.

Mr. Temporary Deputy Speaker, Sir, I do take cognisance of the fact that, the only reason why it was necessary to come up with the Central Depositories Bill was that our laws are not year 2000 compliant. The reason I say this is that there seems to be a discrepancy between law on one hand and the emergence of the information age on the other. Information age still moves too fast. In the legal fraternity, things tend to move a bit too slowly. I want to urge the Government, in particular the Attorney-General, to start a major process of looking at our laws to make them year 2000 compliant. What I mean is that there are many laws that we need to update. For example, if we are talking about electronic commerce, if somebody makes an order using a fax machine, can that be legally binding or not. In developed communities, something like a fax or an e-mail message can be binding if it is secure. In our own system as of now it is not very clear. It is like a grey area. I would want to call upon the Attorney-General to bring up to date our laws, especially those that relate the emergence of the information era.

One major area of interest, indeed, is data protection. The Data Protection Act is a major issue. Hon. Members, maybe concerned about infringement of their privacy, for example, when it comes to things like tapping telephones, copyright laws or intellectual property rights laws. These are just a few examples of laws that, I believe the Government must look into, so that they are made year 2000 compliant.

With those many words, Mr. Temporary Deputy Speaker, Sir, I beg to support and once again, congratulate the Ministry and, indeed, the entire Government arms that ensured that this Bill came into being.

The Temporary Deputy Speaker (Mr. Musila): I will now call upon the Mover to reply?

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, I beg to respond to various points that have been made by hon. Members.

First of all, I wish to express my appreciations to hon. Members for very useful comments and contributions. This subject is an important one as every hon. Member, who has contributed, has said. We wish to have better capital markets because over all, financial markets will improve as a result of passing this particular Bill. I wish to reiterate the fact that the proposed Act will go a long way in establishing the robust market infrastructure and vibrant capital markets.

Mr. Temporary Deputy Speaker, Sir, hon. Members have expressed fears on the security of the Central Depositories system. I wish to assure them that the legal structure, as well as the system including, architecture and topology are designed to enhance internal checks and control measures to safeguard against unauthorised access and to ensure security of the system. As part of the security measures, the Bill provides for mandatory free deposits and free trading validation of ownerships which will be backed by the state of art information technology, for user identification before executional instructions to transfer from one investor security's account to another. For further security, the Central Depositories System will be required to install on-site and off-site back-up and disaster recovery systems to ensure information within the system is protected and retrievable under any circumstances.

Mr. Temporary Deputy Speaker, Sir, I also wish to assure hon. Members that through the rules and approval process, the Capital Markets Authority (CMA) will ensure that only persons of impeccable integrity will be appointed to run the Central Depositories.

Some hon. Members also expressed some concern over job losses by persons currently handling the transfer of securities as company registrars or as part of a stock brokers back office operations. In this regard, I wish to assure hon. Members that the increased volume in the number of transactions will mean not less business for the brokers and CDS, but more business. This will obviously lead to more jobs. As far as company registrars are concerned, the Central Depositories System will provide a useful vehicle for managing the register of members and will make the register more transparent and up-to-date, as the registrar will have access to the record of deposits of all persons holding the shares of their particular company.

Mr. Temporary Deputy Speaker, Sir, hon. Members were also concerned about the supervision and surveillance of Central Depositories operations by the CMA. I wish to state that the CMA regulatory oversight powers are being actually enhanced in the amendments to the Capital Market Authority Act, which I have already laid on the Table of this House. In particular, the CMA will be given additional powers to trace any asset that might have been acquired through fraudulent dealings, insecurities and deny the fraudsters access to such assets, until any pending prosecution has been determined. In addition, I wish to confirm to this honourable House that the CMA has developed adequate surveillance, compliance and enforcement capacity to oversee the operations of the markets and continue to invest in manpower, in line with other emerging markets, international practices and security markets.

Mr. Temporary Deputy Speaker, Sir, hon. Members touched on the issue of education and awareness of capital market operations by market players at large. I wish to assure hon. Members that the CMA and Nairobi Stock Exchange (NSE) have over the last three years been sensitising market participants and practitioners on progress towards establishing as a Central Depositories System. Hon. Members will recall that the workshop for them was organised by both CMA and NSE on May 13th 1999 which was attended by over 80 hon. Members, including Mr. Speaker. The Authority and stock exchange will continue with the vigorous public education and awareness campaign, to sensitise investors and other market participants on the *modus operandi* of the Central Depositories System.

Mr. Temporary Deputy Speaker, Sir, there were also some references to other Acts which would be in conflict with Central Depositories System Bill, such as the Companies Act and the Banking Act, because certain previous provisions might be in conflict with what is proposed in the Central Depositories Bill. The provisions of this Act have, to the extent that might be necessary to give it effective to the requirements and operations of the Central Depositories System, been amended by the provisions of the Central Depositories System Bill. Therefore, there will be no conflict between the proposed Central Depositories Act and any other legislation.

I wish to assure hon. Members---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Affey! May you consult quietly? Continue, Mr. Minister.

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, I also want to make reference to comments by some hon. Members regarding the questions of the interplay, or interdependence between fiscal and monetary policies and the request by some Members for the Government to intervene. I think that will be a very retrogressive move, having gone through the whole exercise of liberalisation. I think what we need to do is to emphasize on the harmonisation of actions, both by the Central Bank of Kenya (CBK) and the Ministry of Finance and Planning, which is going on very smoothly. We need to ensure that the fiscal activity - this means basically borrowing by the Government - is in harmony with monetary policies by the CBK, which essentially deals with the control of supply of money. Now, if those two policies were harmonised, then, we should have a predictable and reasonable level of interest rate to reflect what is actually happening in the market, as far as supply and demand are concerned.

I wish to inform hon. Members that we are seeking to implement, through the Central Depositories System, amendments to the Capital Markets Authority, among other macro policies, aimed at promoting appropriate

infrastructure and safeguarding investment confidence of the financial operations. I wish to support the amendments that have been proposed and underscored by the Members of the Committee on Finance, Planning and Trade during the debate.

Mr. Temporary Deputy Speaker, Sir, I beg to move the Bill.

(Question put and agreed to)

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

MOTION

ADOPTION OF SESSIONAL PAPER NO.1 OF 2000 ON NATIONAL POPULATION POLICY FOR SUSTAINABLE DEVELOPMENT

THAT, this House adopts the Sessional Paper No.1 of 2000 on National Population Policy for Sustainable Development laid on the Table of the House on 27th April, 2000.

The Minister for Planning (Mr. Ndambuki): Thank you very much, Mr. Temporary Deputy Speaker, Sir. It is my great pleasure to table in this august House, and before you, the Sessional Paper No.1 of Year 2000 on National Population Policy for Sustainable Development for this country. Allow me to give a brief background of the evaluation of this Paper. The Kenya Government is committed to pursuing the implementation of socio-economic policy that will raise the standards of living of all Kenyans. The population size and its growth rate is one of the approximate determinants of socio-economic development for most of the countries, particularly the developing countries, and Kenya is no exception in this case. Our country realised this as early as 1965. That is manifested in the Sessional Paper No.10 of 1965 on African Socialism and its application to socio-economic development. On the realisation that the country's population growth rate was outstripping our economic growth rate, the Kenya Government adopted an official population policy in 1967 and became the first Sub-Saharan country to do so. The emphasis of that policy was reduction of population growth rate by reducing fertility through family planning programmes.

The implementation of that policy left a lot to be desired. Contrary to expectations, the fertility rose from 7.6 children per woman in 1976 to 7.9 children per woman and the population growth rate rose from 3.3 per cent per annum to 3.8 per cent per annum during the same period. That is the highest level ever recorded anywhere in the world. The non-performance of that policy did not deter the Kenya Government from searching and pursuing population policy, that if implemented, would improve the quality of life of the individual, the family, the community and the nation as a whole.

Mr. Temporary Deputy Speaker, Sir, it is in this vein, that the Kenya Government established the National Council for Population and Development in 1982 to advise on population issues; formulate population policies; and co-ordinate all the population-oriented activities in the country. In 1984, the country held the first national leaders' conference on population issues. Subsequently, Kenya revised and updated the original population policy and came up with Sessional Paper No.4 of 1984 on the Population Policy Guidelines. That document has been guiding the implementation of this country's population programme to date. The implementation of that programme, under the guidance of the Sessional Paper, has been successful as recorded in the document before the hon. Members. This success has mainly been attributed to the country's political goodwill and stability, especially with the strong support of His Excellency the President.

Mr. Temporary Deputy Speaker, Sir, I would like you to note that despite the documented successes of the country's population programme, there have been continuing and emerging issues, which have been identified and recorded in the current policy document and form the core target of the proposed policy. These include fluctuating quality of family planning services and need for family planning, high prevalence of sexually transmitted diseases, including HIV/AIDS pandemic, high level of adolescence fertility and regional and rural-urban disparities in fertility and mortality. The current population document has the following inputs: Adoption of a revised and updated Sessional Paper No.4 of 1984 on Population Policy Guidelines, with the initial overriding goal of matching the population growth rate and available natural resources over time in order to improve the quality life of the individual, the family and the nation as a whole.

The other one is the Country Specific 1994 Cairo Programme of Action. During this conference, Kenya became party to its deliberations and translated the adopted programme of action to suit the country's population and development means to the year 2010. The outcome incorporated the document before us. A Draft Policy Document was

prepared by Kenyan nationals such as lawyers, medical doctors, economists, demographers, policy makers and other academicians from diverse disciplines. That Draft Document took into account the input that I have mentioned. The Draft Policy Document was deliberated upon in four regional leaders' seminars on population and development. All provinces were represented in those seminars that were held in Mombasa, Eldoret, Kisumu and Nairobi. Participants were drawn from political parties, religions, administrative centres, women groups and youth leaders. They also included NGOs, academicians and health workers.

While this policy views on, and strengthens the population policy guidelines, it widens the scope of population policy by integrating Population Programme of Action of 1994, Cairo Conference on Population and Development. The policy considers and focuses on the following issues as critical: Integration of population variables into the development process, gender perspectives, the family, population structure; children, the youth, the elderly and persons with disabilities, reproductive health and reproductive rights, population and development. To address this issue, the policy has developed its base principles and has set goal objectives and targets to monitor and evaluate its implementation.

Mr. Temporary Deputy Speaker, Sir, let me reiterate that this policy reaffirms the Government's long stated commitment to continue managing the population with a view of balancing population growth rate with available national resources for sustainable development and untimely rise in the standards of living of all Kenyans. Its implementation will call for commitment from all the people of Kenya, leaders, communities, beneficiaries, NGOs, Government, private sector and development partners. The implementation of the country's population programme will be subject to regular reviews as may be dictated by changing circumstances.

Mr. Temporary Deputy Speaker, Sir, it is now my humble duty to ask the House to adopt the document before you, as a Sessional Paper No.1 of 2000, on National Population Policy for Sustainable Development as a Government document to guide the Kenyan population programme to the year 2010.

I beg to move.

The Vice-President (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, the hon. Minister has requested me to second this Motion, which is seeking the House to adopt the Sessional Paper No.1 for 2000 on National Population Policy for Sustainable Development.

Mr. Temporary Deputy Speaker, Sir, this Sessional Paper is clearly a culmination of timeous achievements which this country has made in the area of family planning and population development. As the Minister has stated, early in 1970s up to the early 1980s, Kenya had a very high population growth rate. The figure then stood at around 4.1 per cent. For that matter, Kenya was regarded as one country with the highest population growth rate. It is for that reason, that it was found necessary for Kenya to have a sound and coherent policy on population and development, because population has a major bearing on whether a country can be able to have sustainable development or not. Indeed, the very economic growth of a country is influenced by whether a balance is there between the population growth rate and the country's economic development. Where population growth outstrips development, normally the per capita income goes down. That can create major economic problems. Besides that, the problems of environment also come into the picture. It is for that reason, that the Kenya Government found it necessary, that a policy for the purpose of family planning, in order to influence population growth had to put into place.

Mr. Temporary Deputy Speaker, Sir, as a result of that, a very sound population council was put in place, and Kenya was able to achieve on a progressive basis, great improvement in matters of family planning to the extent, that today, we can actually say, we have a 2.2 per cent population growth rate. We are not going to stop there. It is important that, this must come down. Therefore, this Sessional Paper arose from a number of international population and development meetings which are usually held every year. The latest one was held in Cairo in 1995. It was a very important meeting which Kenya attended and became a party to the resolutions which were adopted. One of the important resolutions which were adopted, was that every country was going to formulate its own policy on population and development. We should have, as a Government, brought up this Sessional Paper much earlier, but we had to take into account that the country was going to have a policy in the 20th and 21st centuries on population and development. It was therefore, important that such a policy had to be owned by all Kenyans. It was important to go all over the country and sensitise Kenyans about the objectives of population and development, and what was required to be done. The policy was put in place on the basis of what wananchi saw as the best way of approaching this very substantive issue.

Mr. Temporary Deputy Speaker, Sir, I can vouch here, that this document is not just the work of the Government. It is the work of partnership between the Government, wananchi and all the leaders. The people and all the religious leaders have been consulted, because it must be taken into account that family planning is an extremely sensitive issue. It has to respect the religious beliefs and the traditions of the people. Family planning methods cannot be forced on people. We decided not to adopt, for example, the methods that were at one time used in India. We all know very well what that did to the late Indira Gandhi. Ours was to ensure that whatever approach is adopted, was the one owned by the people. It is for that reason - as the Minister has said - prior to the compilation of this Sessional Paper,

four regional leaders' seminars were held to ensure that people from the various parts of this country were able to attend and debate openly about population. In addition to that, several consultative meetings were also held between the Council for Population and Development and the clergy. I would like to state that there was really no problem as far as wananchi were concerned. Kenyans have so far been sensitised and fully persuaded on the need for to have family planning. That is no longer an issue.

Indeed, what we are beginning to see is that, the family size in this country is getting smaller and smaller. This has been acclaimed internationally. But really the sensitive issue here was what sort of methods were going to be used in matters of family planning.

Mr. Temporary Deputy Speaker, Sir, there are several methods of doing family planning. Some of them are acceptable to people depending on their ethical or traditional beliefs. But essentially, this Sessional Paper states that truly speaking we agree that families and the leaders of families, for that matter, must plan sizes of their families. But as to which methods of family planning are to be used, must be governed by their religious and traditional beliefs. We believe that this was the common denominator that was accepted by all the people.

Mr. Temporary Deputy Speaker, Sir, having said that, the deal becomes another very sensitive issue which has been in the public domain as a debate. This is the question as to whether this is an important matter to be discussed by this Parliament. Should the youth, and especially school children be exposed to sex education? There is a school of thought which takes into sound that this matter should not be discussed publicly for moral reasons. Indeed, that school of thought goes on to argue that, perhaps, discussing that issue exposes the young people to the very issue of sex and to the methods which must be used, and in the long run, perhaps, the youths will be tempted into committing sin. I have no intention to discourage any school of thought, but the basic question which the country must face is this: These are the days when we have to face the problems of the HIV/AIDS pandemic. Should we keep quiet or should we educate the young ones about the danger of what lies ahead? To me, that is a moral question and it is a question that the nation must face. Today, there are very many people who are dying as a result of the HIV/AIDS pandemic. The country is losing 600 people every day. We have about two million people who are already affected by AIDS virus. There are, perhaps, many others who are already carrying the virus and yet this has not been diagnosed. The stress of HIV/AIDS is on the basis of geometric progression.

Mr. Temporary Deputy Speaker, Sir, we, as a nation, have gone to the extent of declaring HIV/AIDS a national disaster and a major problem in this country. This is because AIDS is robbing this country of the manpower that the country has invested substantially to develop it to where it is. Even much more important, HIV/AIDS is especially affecting that very productive group of the Kenyans. Can we keep quiet about it? Should we not alert our youth about the dangers which lie ahead? I will take a personal view here. I have no doubt that if we are to be silent on this matter, then we may be abetting death. We may very well be abetting a major catastrophe. I am of the view that we must speak about the issue publicly and openly. We must tell the youth what we know about HIV/AIDS. We must tell them the consequences of the indulgences which they could very well get themselves in, and we cannot do so through silence. I do not think that we can hide under the cloak of religious beliefs. We believe that even the religious leaders themselves must also be part of this effort.

Therefore, although this particular report does state clearly that even the matters of dealing with the sex education and the other forms of school education, matters of religious and traditional beliefs, we believe that we should stretch farther and educate our children because of the problem that we are faced with here. There can be no turning back on an issue which is as fundamental as the HIV/AIDS pandemic.

Mr. Temporary Deputy Speaker, Sir, some people do not want to hear about condoms. But I am sorry to say that today we have got to talk about it in public. As has been said on a number of occasions, abstinence is clearly the way out, but let us face it. How many people are true to that? How many people can actually resist that temptation? This is quite clear. If they cannot abstain, should we say that they cannot use condoms? We should say that they can use it. We do not want to tell the youth to use the condoms, but we want to preach to them the virtues of abstinence. We wish that the churches can do all that they do, but we must at the same time also inform the youth that there is the condom; that they should not use it, but it is there as a last resort.

The other question has to do with the size of the family. It is absolutely important that we must undertake vigorous campaigns to ensure that Kenyans understand clearly that a family must have the size that it is able to feed, cloth and shelter. For that reason, Kenyans should use the most usable, acceptable and moralistic way of planning their families. Once again, how they do it? We do not want to force them, but they should also be exposed to the knowledge of family planning methods. It will then be upon the people to choose whatever methods they will use, based on their ethical and traditional beliefs. If we do not do that, then we will end up with a very big population. The reason why today, Kenya's population is 28 million people is as a result of that very high population growth rate experienced in the 1970s and the early 1980s.

Mr. Temporary Deputy Speaker, today kids are being born. We are now seeing the consequences of the baby

boom. One consequence of the baby boom is the very large number of youth we have in this country. These are children but because you see the economic growth was not commensurate with the population of growth rate, what do we have? There are those who will talk in terms of the mismanagement of the economy, but let us also admit, all through, that the population growth rate has been quite high. Therefore, we have a high number of kids and youthful people without education and a very high population growth rate. That also does lead to the increase of poverty. In no way do I want to use the population growth rate as the reason for the very high incidences of poverty or unemployment. There are many other reasons but, indeed, no country can be able to have sustainable development without a sound population and development policy. This is why this Sessional Paper has been brought here.

Mr. Temporary Deputy Speaker, Sir, I hope that the House will be able to debate this Paper thoroughly, taking into account that what is contained here is not just a Government policy, but it is the country's policy. Members of this House are at liberty to make recommendations as to where amendments can be made. But, indeed, we want to make it clear that it is a document that has gone through many stages of refinement. We have talked to the Kenyans out there and we have heard their views. We have talked to all the religious bodies and leaders of all denominations. We have borrowed what we have heard about what other countries do and we do believe that what is contained here is, indeed, a sound policy.

Mr. Temporary Deputy Speaker, Sir, I beg to second this Motion.

(Question proposed)

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, it is true that this particular Sessional Paper is a result of various extensious debate and discussions. Now, I want to contribute a specific point which I think, is implementation. This is because that is what is going to matter. That is: How effectively do we implement what commitments have been written here?

Mr. Temporary Deputy Speaker, Sir, looking at the history of Kenya and other countries, particularly developing nations, one major reason for the huge population increase is the fertility per woman. That is: How many children does a woman have in her lifetime? That has to do with one thing - at what age do they get married? When they get married; what decision do they make about how many children they actually want to have? One result which has been known and established around the world is that the more educated the women are, the fewer children they want to have. This is one of those things because they have other ambitions. They have other standards of living that they want to raise. So, we want to encourage two things. First, that the girl child gets the maximum period at school until she is grown up and that the drop out which is now highest in Kenya is reduced. Secondly, we have to fight directly against customs continuing in our own communities whereby little girls as young as ten get betrothed to some old people to be married and start bearing children at the age of 12 years. So, you have a child having children which is a totally ridiculous thing in any society, but it is continuing here. Now, we should have those who speak wherever we do, address this subject and speak against it as much as we can. That particular factor is a major one and should be dealt with.

Mr. Temporary Deputy Speaker, Sir, as regards the dropout of girl children from primary and secondary schools, there is action we can take. Today, in about 30 districts of this nation, people are very poor right now. They are even poorer this year and they will even be poorer during the year 2000 because again the rains have failed. As they get poorer, one of the consequences is children dropping out of school because they are required to pay school fees which parents do not have. They are sent home by the education system to go and get school fees and yet, there is no school fees to be found. So, I proposed this in another debate in Parliament, but I hope that the Government can still take action. What should be announced now is that from now on, we do not send any children home, particularly in these poor semi-arid and arid areas comprising 30 districts of this nation because even if you send children home they will get no school fees. When you send them home you have condemned them to being dropouts. They remain out and yet we go on paying teachers. This is a fact. All of us can visit our own constituencies. We can visit other peoples' constituencies in all these poorer districts and you will find a teacher teaching 20 children instead of 40, but you are still paying him or her the same salary. So, really you gain nothing, but you lose enormous human resources. So, there is absolutely no moral or economic justification for continuing the habit of sending those children home because they have no school fees. You are saving nothing. You go on spending the same amount of money paying teachers. As all of us know, in the education field nowadays the Government pays only teachers. They do not pay for the construction of classrooms or anything else. It only meets the payment of teachers. So, since you will continue paying the same amounts, why do you not let the children at least, finish primary education. There is no additional cost and it is perfectly logical. I do not know why it cannot be phased out. It would help us even in this particular context. I am sure that is what really needs to be proposed. Let us stop sending children home. Let them go on until they complete primary education and you will get bigger girls who are slightly more mature. In that way, then you will be helping with this programme of family planning.

Mr. Temporary Deputy Speaker, Sir, there is a second point that I want to emphasise on; family planning. As of today, our development exercise has now come to zero. The rate of growth is zero, although it is pretended otherwise by those who produce statistics which have no basis. They even calculate the thing called inflation and yet, you and I and every ordinary Kenyan know the rate of increase of prices is phenomenal at least, over the basic needs like transportation, housing, *et cetera*. However, when you read the brochures being produced by the Government through some mysterious arithmetic formula since nobody understands it, they are pretending that inflation is being held at a certain level. How? It is not possible! Every day prices of the essential commodities are rising and those are the ones that should be taken into account when you are calculating the cost of the price to use in any arithmetic formula about inflation. However, we do not know how it is done. It is mysterious.

Mr. Temporary Deputy Speaker, Sir, it is not explained fully. However, what I am saying is that since we have already accepted that more than 50 per cent of the population of this nation lives below the poverty line and the poverty line is earning only one dollar per day--- That is all that you have per day to meet all your needs in transport, food, housing, clothing *et cetera*. Now, if people are living at that level and you expect them to raise school fees and you send their children home because they cannot pay school fees, are we really being logical? Are we being sensible? Are we treating the people with honesty and decency as we should? We are not!

We are not! That is an honest fact! There is no point in pretending otherwise! Do not hide! Just face and accept it as a reality. We are mistreating Kenyan citizens. On one hand, you publish in a Government document---

The Minister for Environment (Mr. Nyenze): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that the Kenya Government is mistreating Kenyans, when we know for sure that, the Opposition, led by the hon. Member, has been calling for freeze on foreign aid to this country? Are they not the ones who have contributed to this?

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, if people never got educated, I am not guilty! There is totally nothing you can do about it! We are talking about the reality. But the hon. Member is wondering about aid from foreign territories. How will foreign aid help you in educating your children as a nation, when, in fact, this Government has been told a fictitious story by the World Bank, and it has accepted it. The story is that, we have excess teachers in this nation. We have accepted it and we want to make it the basis of our education policy.

Mr. Temporary Deputy Speaker, Sir, you and I know that, we do not have excess teachers. You and I know, because we represent rural areas that, excess teachers are only found in towns. In rural areas, there are no adequate teachers, particularly in sciences and mathematic subjects. But somehow, a useless fellow who has just come out of a university advises the World Bank that, we have 6,000,000 children and 250,000 teachers in our primary schools. Then, he divides both figures and comes out with a formula of one teacher per 40 children. It is a good theory, but in our sparsely populated Samburu, Tana River and Wajir, how will you achieve that particularly ratio, when you cannot have children in boarding schools? Those districts are sparsely populated and students travel many miles to reach their schools. Yet, that policy has been accepted. It is frightening! I am saying something very obvious; that a man and a woman, if they are living on an income of less than one dollar per day, should not be required to pay school fees for primary school education, because they do not have it by definition! The Government has accepted that, more than 50 per cent of our people live below that level of income. The logic of that argument is to say: "Do not demand school fees from children who come from those families."

Mr. Temporary Deputy Speaker, Sir, above all, there is a mistake which he has propagated. The Opposition has never ever said that, you should not get aid. You should get aid. But aid is a loan. Any giver of a loan always asks: "How will I be repaid?" That is one condition you must explain. He also puts other conditions. If we are unable to collect our own revenue in the nation, why do we demand other people to assist us? The Government itself cannot collect revenue from petrol. A huge proportion of petrol which is sold in Kenya is not taxed. That is a fact and you cannot deny it. Tax is not paid for the importation of sugar and other goods. What we are saying is that, if those who lend you money are giving a condition that, you should first put this and that right, they are right! You must put those other things right in order to see the seriousness of our minds. Unless you want to be saved, you cannot be saved. You cannot even go to Heaven unless you want to go to Heaven. There is no way of anybody forcing you there.

The Vice-President (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. I hate to interrupt the Leader of the Official Opposition. I thought that he agrees that, what has been promised is that, the Opposition has been asking for Kenyans to live in hell all along!

An hon. Member: What? What has he said?

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, nobody has understood what the Vice-President has said, or even what he intended to say.

The Vice-President (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am sure the hon. Member would not wish me to repeat what he said much earlier. I would rather be much more civilised. I do not want to say that he did not go to school. He is a very well educated man. I am sure hon. Kibaki heard what I said. He

heard my English properly. I said that the Opposition, on a number of occasions, has said that Kenya should not get aid, so that we can continue to live in hell forever!

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, no amount of repetition of lies will ever be the truth! It is an honest matter! We have put those things even in written form, in our own manifestos. Definitely, we have not said that Kenya should not be given aid. We, in the Democratic Party of Kenya, have never said such a thing.

The Vice-President (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. Are you satisfied that the word "lies" is parliamentary? The hon. Member has used it! It is not used in Parliament. It is unparliamentary!

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, you cannot tell a particular Member that he is telling lies. But you can talk about lies being used as a manner of trying to explain things. You do not attribute it to a particular Member. But it is okay. We understand the Standing Orders because we have been here for a long time!

Mr. Temporary Deputy Sepaker, Sir, what I am honestly saying on the matter of education is that, let us encourage girls to remain in primary schools, until they complete standard eight. We should make sure that they are not sent home because their parents cannot afford schools fees, because they live below the poverty line. We have agreed on those facts. If the Government still refuses to take any action, it should tell Kenyans why.

Mr. Temporary Deputy Speaker, Sir, another point that I would like to bring to the family planning business is that, we were told that the Marriage Act will be upgraded and brought here. The Attorney-General said so in another forum out there. I am sure that when this is done, in the matters of the so-called customary marriages, the business of people marrying children, and beginning to produce children with children, will be done away with. It is shameful and immoral! It is one of those things that should be banned in the revision of the Marriage Act. We must insist that girls should be married when they, at least, attain the age of 16 years. It is shameful to have a girl of 12 years being married to an old man. The old man has no shame to even pursue a child! Some of them are even polygamous. They have old wives who have children as old as 12 years and over. Then now, he marries another one of 12 years, and he proceeds to produce children with those children. This must be banned so that, it can be a genuine offence for old fellows to marry tiny little girls. Let them have a chance to grow and remain in school. We shall control the increase in population once we do that.

Mr. Temporary Deputy Speaker, Sir, referring to the matter of education in primary schools, the dispute is not meaningful as to whether children should be taught matters of sex. Even in our traditions, children were taught matters to do with sex. They were taught in the context of the extended family by their aunts and other relatives. As it is now, since many people do not do it at home, and then we say it should not be done at schools, where should it be done? Are we neglecting and saying it does not matter? It cannot be possible for us! We have got to be honest. I agree with the Vice-President that because we have the HIV/AIDS epidemic, the question can no longer remain unanswered. It must be answered. To answer it is to say that; let this matter be talked about in schools and other places.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Musila): Hon. Kibaki, you will continue with your contribution tomorrow.

Hon. Members, it is now time to interrupt the business of today. The House, therefore, is adjourned until tomorrow Wednesday, the 3rd of May, 2000, at 9.00 a.m.

The House rose at 6.30 p.m.

