

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 27th April, 2000

The House met at 2.30 p.m.

*[The Temporary Deputy Speaker
(Mr. Poghisio) in the Chair]*

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

Sessional Paper No.1, 2000 on National Population Policy for Sustainable Development.

(By the Minister for Planning)

NOTICE OF MOTION

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

The Minister for Planning (Mr. Ndambuki): Mr. Temporary Deputy Speaker, Sir, I beg to give notice of the following Motion:-

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

ORAL ANSWERS TO QUESTIONS

Question No.006

REINSTATEMENT OF MULINGE KOMBO

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Katuku is not here and this Question should be deferred. Is that so?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, yes. Mr. Katuku asked that it be deferred until Tuesday.

The Temporary Deputy Speaker (Mr. Poghisio): That is alright. Question deferred.

(Question deferred)

The Temporary Deputy Speaker (Mr. Poghisio): Next Question. Mr. Ojode!

Question No.013

INSTALLATION OF NDHIWA STD FACILITY

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Ojode is not here. We will leave his Question until the end. Let us move on to the next Question. Col. Kiluta!

Question No.001

PROVISION OF WATER TO MASINGA RESIDENTS

Col. Kiluta asked the Minister for Water Development:-

(a) whether he is aware that the Government in 1996 undertook to provide water to Masinga Constituency through the Masinga-Kitui Water Project; and,

(b) what action he has taken to avail water to Masinga constituents.

The Temporary Deputy Speaker (Mr. Poghisio): Is anyone here from the Ministry of Water Development? We will leave the Question until the end then. Next Question. Mr. Wambua!

Question No.118

MURRAMMING OF KATANGI-MATUU ROAD

Col. Kiluta, on behalf of **Mr. Wambua**, asked the Minister for Roads and Public Works when the Katangi-Matuu Road will be murramed and the bridges on the said road constructed.

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

(a) The Ministry will consider carrying out spot-gravelling on the bad sections on the Katangi-Matuu Road during the next financial year 2000/2001.

(b) There is no damaged bridge on the road. However, the approaches have been eroded. Some of these will be attended to during the spot-gravelling which will be done during the next financial year.

Col. Kiluta: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister says that he is considering financing the works on this road the next financial year. Since the *El Nino* rains, no work has been done on this road. Again, the rains are already here although they are not quite heavy and this road is impassable. Could he consider re-allocating just a small amount of money for work on this road to be commenced because at the moment, it is impassable? We voted money for you the other day and so, can you reconsider doing this road?

Eng. Rotich: Mr. Temporary Deputy Speaker, Sir, we have proposed a figure for the next financial year amounting to Kshs5 million for spot-gravelling. I do not think we have enough money this financial year. However, if need be, we can make a small allocation for the improvement of bad sections on this road this financial year.

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, last year before we went on recess, we passed a Bill in this Parliament that enabled each Member of Parliament from the constituency through the District Roads Committee (DRC) to know the fate of the roads in our own constituencies. What has happened to this Bill where we should have taken charge of what is happening on the roads in our constituencies?

Eng. Rotich: Mr. Temporary Deputy Speaker, Sir, it is no longer a Bill. It is an Act of Parliament that has been signed by the President. The processes of implementing the Act as it is are on-going.

Mrs. Ngilu: On a point of order, Mr. Temporary Deputy Speaker, Sir. So, can the Assistant Minister tell us how long this is going to take so that we can inform also the people on the ground?

The Temporary Deputy Speaker (Mr. Poghisio): Mrs. Ngilu, that is not a point of order. You could just have asked for an opportunity to ask a supplementary question.

Col. Kiluta: Mr. Temporary Deputy Speaker, Sir, following what the Assistant Minister said, which is, "he might consider", and that is a very good gesture on his part, then when will he consider this? Secondly, how much money can the Ministry spare? Lastly, when will the Ministry start this work?

Eng. Rotich: Mr. Temporary Deputy Speaker, Sir, I cannot promise, but by next week on Thursday, I will be able to get an answer.

The Temporary Deputy Speaker (Mr. Poghisio): Next Question. Mr. Anyona!

*Question No.091*IMPLEMENTATION OF MALARIA
CONTROL PROGRAMME

Mr. Anyona asked the Minister for Public Health:-

In view of the scandal in the Ministry involving Malaria Control Programme estimated to cost Kshs7.2 billion, whether he could inform the House:

(a) the nature and quantity of the goods supplied to the Ministry by Equip Agencies Limited under LPO No.312205 and Delivery Notes Nos.296, 298, 303, 308, 313, 323, 337, 349 dated 2nd July,

1996 to 15th July, 1996 and Delivery Nos. 002318, EAL. Nos.4661, 5665, 4666, 4667, 4668, 4669, 4671, 4675, 4677, 4678, 4680, dated 3rd -18th July, 1996;

(b) the amount of money spent on the supply of goods and the authorization of such expenditure;

(c) the mode of procurement of the goods and the names of all the tenderers who were invited and participated in the procurement process; and,

(d) the outcome of the investigations of the Task Force appointed by the Government to probe the matter and report by the end of October, 1996.

The Temporary Deputy Speaker (Mr. Poghisio): Is anyone here from the Ministry of Public Health? We will leave the Question until the end then.

Mr. Kamolleh: On a point of order, Mr. Temporary Deputy Speaker, Sir. It seems that the Ministers are not here and yet Question Time has commenced. Is it in order for the Front Bench to be absent when we have very important Questions to be answered? Could you please give a ruling regarding this matter?

The Temporary Deputy Speaker (Mr. Poghisio): I believe the Leader of Government Business is here.

An hon. Member: The Deputy Leader of Government Business is there!

The Temporary Deputy Speaker (Mr. Poghisio): Yes, we are stuck here! We do not know what to do! The Questions have not been answered.

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, unfortunately, I was consulting with the hon. Member, that is why I did not quite get what you said.

The Temporary Deputy Speaker (Mr. Poghisio): What happened is that, there is a Question for the Minister for Public Health and nobody is here to answer it. There is also another one for the Minister for Water Development but there is nobody to answer it.

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, the Minister for Water Development is here. But I will take up the matter.

Mr. Maitha: On a point of order, Mr. Temporary Deputy Speaker, Sir. If the Government cannot work, there is a government-in-waiting here! We can take over and answer the Questions.

The Temporary Deputy Speaker (Mr. Poghisio): What is your point of order?

Mr. Maitha: You heard what I said!

The Temporary Deputy Speaker (Mr. Poghisio): I do not think I heard that.

Next Question, Dr. Kulundu!

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister for Health has just walked out. I do not know what he was fearing.

An hon. Member: Ask your Question!

Question No.103

USE OF BOREHOLES IN KAKAMEGA
PROVINCIAL HOSPITAL

Dr. Kulundu asked the Minister for Medical Services why the Ministry has reneged on its promise to operate two unused water boreholes at Kakamega Provincial Hospital.

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of what is going on, could this House confirm my fears, which I have expressed in this House again and again that, the KANU Government is "dying"?

The Assistant Minister for Home Affairs, Heritage and Sports (Mr. Sumbeiywo): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is that language which has been used by hon. Member for Githunguri Parliamentary? Mr. Gatabaki has said that the KANU Government is "dead", when it is known that the KANU Government is constitutionally elected and it is ruling this country peacefully?

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order! We will now go back to Mr. Ojode's Question!

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I apologize for coming late.

Question No.013

INSTALLATION OF NDHIWA STD FACILITY

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

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I would like to apologize and seek the indulgence of the House for the Question to be deferred until Tuesday because the information we have is still not satisfactory. So, I would like to respond on Tuesday.

The Temporary Deputy Speaker (Mr. Poghisio): What is your reaction, Mr. Ojode!

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I have no objection to that.

The Temporary Deputy Speaker (Poghisio): The Question is deferred.

(Question deferred)

Col. Kiluta's Question for the second time?

Question No.001

PROVISION OF WATER TO MASINGA RESIDENTS

Col. Kiluta asked the Minister for Water Development:-

(a) whether he is aware that the Government in 1996 undertook to provide water to Masinga Constituency through the Masinga-Kitui Water Project; and,

(b) what action he has taken to avail water to Masinga constituents.

The Minister for Water Development (Mr. Ng'eny): Mr. Temporary Deputy Speaker, Sir, I apologize for coming in late. I was not in when the Question was called for the first time.

Having said that, Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that in 1996, the Government undertook to supply clean water to Masinga Constituency through the Masinga-Kitui Water Project.

(b) My Ministry is currently carrying out the outstanding construction works on the Masinga-Kitui Project, with a view to availing water to Masinga constituents.

Col. Kiluta: Mr. Temporary Deputy Speaker, Sir, this Question was brought to this House last week and the Minister was told to go and come back with more information. He seems to have given almost the same answer he gave me last week. But I know he has got more information than he gave me. Could the Minister tell this House when these on-going works will be completed and when he is going to supply Masinga Constituency with water? We are not interested in what is going on. We are interested in when he is going to supply Masinga people with water?

Mr. Ng'eny: Mr. Temporary Deputy Speaker, Sir, the outstanding work for that project to be completed from Masinga to Kitui is worth Kshs65 million; consisting of various works from distribution, kiosk construction up to and including Kitui Town.

Secondly, in Masinga Constituency itself, the distribution network will cost Kshs10 million and this money is expected to be available in the next financial year. This is now being discussed and, definitely, the project will be completed within the next financial year.

Mr. Musila: Thank you, Mr. Temporary Deputy Speaker, Sir. I appreciate the answer the Minister has given, but I think the Question was not asking how much the project was going to cost, rather it was, when the project will be completed?

For the Chair's information, the Masinga-Kitui Project has been under construction for the last five or so years. Masinga and even Kitui Town has had no water for five years! Could the Minister tell us precisely when he expects this project to benefit the people of Masinga, as well as the people of Kitui Town?

Mr. Ng'eny: Mr. Temporary Deputy Speaker, Sir, the actual pipeline from Masinga to Kitui has already reached Kitui Town and the only part which is remaining is the extension of that work to the town itself.

Col. Kiluta: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to mislead this House? You heard him say that the main pipeline has reached Kitui and then he comes back and says: "The only thing left is to give Kitui Town water." Is he in order to give an answer which is not consistent? Could he actually tell us where the pipeline has reached? We know that it went up to Katheka. Has it been extended from Katheka to Kitui Town?

Mr. Ng'eny: Mr. Temporary Deputy Speaker, Sir, I am sure we are all aware that for a major project like Masinga-Kitui Water Project, there are various points where the pipes terminate and those various points are called water tanks. There are big and small water tanks. But in Kitui Town, there is a big tank which is meant for major

distribution of water and that is what I mean by saying, the main pipe has reached Kitui Main Tank.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, you have heard the Minister say that, "when the funds become available." Could the Minister confirm whether the work is in progress or it has stopped due to lack of funds?

Mr. Ng'eny: Mr. Temporary Deputy Speaker, Sir, no work has stopped because of lack of money.

Mr. Maitha: Mr. Temporary Deputy Speaker, Sir, there has been a slogan by the Ministry of Water Development to the effect that every family will have water by the year 2000. When he says such projects are going to be budgeted for in the next year's Budget, what does he mean? Where has that slogan gone to?

Mr. Ng'eny: Mr. Temporary Deputy Speaker, Sir, I think the House is fully aware that a statement of objective is different from a programme of action. So, there was a statement of objective of giving water to all wananchi by the year 2000. The programme followed and it achieved 75 per cent in the provision of infrastructure.

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead the House that we have already achieved 75 per cent of the year 2000 deadline requirements when we know very well that about 70 per cent of this country does not have the water that it needs? It is the opposite! Maybe the Minister got mixed up.

Mr. Ng'eny: Mr. Temporary Deputy Speaker, Sir, if the hon. Member had waited for me to finish my statement, I was going to qualify it. We achieved 75 per cent provision in major urban areas in terms of infrastructure. In rural areas, we achieved 50 per cent.

Col. Kiluta: Mr. Temporary Deputy Speaker, Sir, the Minister has said that he has budgeted Kshs10 million for this project in this financial year. When the Ministry cost that project, it amounted to Ksh131 million. Could he tell this House when he will avail the balance so that he can complete this project in Masinga Constituency?

Mr. Ng'eny: Mr. Temporary Deputy Speaker, Sir, I did say that to complete the Masinga-Kitui Water Project, including distribution of intermediary supply of water between Masinga and Kitui Town, we would require Kshs65 million.

Col. Kiluta: On a point of order, Mr. Temporary Deputy Speaker, Sir. My Question is not on the Kitui Pipeline, but on Masinga Water Supply. For that project alone, the cost amounts to Kshs131 million. Could he tell us how much money his Ministry has for the Masinga Water Project?

Mr. Ng'eny: Mr. Temporary Deputy Speaker, Sir, I have said that the money available for the Masinga Water Project is Kshs10 million.

The Temporary Deputy Speaker (Mr. Poghiso): Mr. Anyona's Question for the second time.

Question No.091

IMPLEMENTATION OF MALARIA CONTROL PROGRAMME

Mr. Anyona asked the Minister for Public Health:-

In view of the scandal in the Ministry involving Malaria Control Programme estimated to cost Kshs7.2 billion, whether he could inform the House:-

- (a) the nature and quantity of the goods supplied to the Ministry by Equip Agencies Limited under LPO No.312205 and Delivery Notes Nos.296, 298, 303, 308, 313, 323, 337 and 349 dated 2nd July, 1996 to 15th July, 1996 and Delivery Nos.002318, EAL. Nos.4461, 5665, 4666, 4667, 4668, 4669, 4671, 4675, 4677, 4678 and 4680 dated 3rd to 18th July, 1996;
- (b) the amount of money spent on the supply of goods and the authorization of such expenditure;
- (c) the mode of procurement of the goods and the names of all the tenderers who were invited and participated in the procurement process; and,
- (d) the outcome of the investigations of the Task Force appointed by the Government to probe the matter and report by the end of October, 1996.

The Assistant Minister for Health (Dr. G. Galgallo): Mr. Temporary Deputy Speaker, Sir, I apologise for coming late. However, I beg to reply.

(a) LPO No.312205 was for the supply of 171,429 litres of malaria HS oil for control of spread of mosquitoes and dispensing equipment for the same.

(b) The order was for Kshs501,429,825 and was irregularly authorized.

(c) The mode of procurement of the goods was through contract No.S/4420 concluded by the Supplies Branch of the Ministry of Public Works and Housing since the goods in question are classified as common user items directly controlled by the department. The contract details were circulated to all Government Ministries and departments in the form of a circular. The Ministry, therefore, used the authority to procure these requirements.

(d) In view of the fact that M/S Equip have filed a case in court against this Ministry, it would be prejudicial to our case to reveal the outcome of the investigations of the Task Force.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I do not understand how materials for the treatment or prevention of malaria can be described as common user items. Could the Assistant Minister explain what he means by "it was irregularly authorized" in his answer to part "b" of the Question? What is the nature of the irregularity and what has been done about that irregular authorization?

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, the irregularity is that the Ministry did not have money in the Vote Book for that project at that time. Contrary to the regulations that require Accounting Officers to sign LPOs, it was some supplies officers who signed these documents.

Mr. Mwenda: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has deliberately avoided to answer part "c" of the Question. He has not given the names of all the tenderers who were invited and participated in the procurement process!

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, I did not avoid answering that question. The position is that this was a contract which was floated by the Ministry of Public Works and Housing. So, all Ministries and departments in the Government were involved. It was not a tender of my Ministry alone. The documents would be in that Ministry.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I have a lot of respect for this Assistant Minister. First of all, he has refused to tell us what action was taken against the officers who authorized this tender irregularly. Secondly, he has told us that the tender was floated by the Ministry of Public Works and Housing. The tender was floated by the Ministry of Health. So, we are asking for the list of the tenderers and how this tender was awarded. After the Ministry of Public Works and Housing had given you the general authority, your Ministry went on to procure the goods. So, we want that list from your Ministry!

Dr. G. Galgalo: First of all, I was not asked what action was taken against the officers but we---

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir, I do not want to have a fight with the Assistant Minister because this is an important Question and we want an answer. Maybe I overloaded my Question, but I want to warn him that Questions are going to be overloaded in this Parliament. When I asked for the nature of the irregularity, I also did ask him to tell us who the officer who authorized the expenditure was and what action was taken against him. So, it is not right to say that he was not asked to do that.

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, as I said earlier on, the LPOs were authorized by a Supplies Officer whereas the authority should have been from the Accounting Officer. That Accounting Officer has been dismissed from Government Service as a result of this. With regard to the people who tendered for the supply of these items, I do not have the list, but we used the authority of the Contract No.S.4420 of the Ministry of Public Works and Housing.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, the Question asks for a list of those who tendered and the Assistant Minister has said that he does not have the list. It is another case of the officials of the Ministry turning a blind eye to important aspects of Questions. I do not know what to do with that because we do need the list; the Question asks for it. First of all, what is the case number, when was it filed and where? What is the nature of the case? What is the Ministry being sued for? We do not want to go into the other details.

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, we are being sued by M/S Equip Agencies Ltd under HCC No.1459 of 1999 for non-payment of goods supplied and received by my Ministry.

Mr. Maore: On a point of order, Mr. Temporary Deputy Speaker, Sir. According to the details released by the Assistant Minister, the issue is that the goods were never supplied, the tender was cancelled and a Task Force was appointed. Can the Assistant Minister tell us what the Task Force recommended, rather than talking about the case? We are asking about the Government's own Task Force.

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, maybe, the hon. Member was not listening. I said those goods were supplied but since the procurement procedures were not regularly followed, the LPOs were cancelled. That is what the supplier is suing us for; that is, for having supplied and not getting paid. We cannot pay him because the procedures were not regularly carried out.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Assistant Minister, you say you cannot touch part "d", why are you touching the rest? I think, it is really the same case here. If it is in court, it is in court.

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, if the findings of the Task Force are exposed, it will be prejudicial to our case as a Ministry.

Mr. Maore: On a point of order, Mr. Temporary Deputy Speaker, Sir. This issue of Kshs7.2 billion was a scam hatched by the Ministry of Public Works on how to---

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Maore, what is your point of order?

Mr. Maore: I am explaining what it was, Mr. Temporary Deputy Speaker, Sir. How could the Ministry of Health be the one sued, when they never issued any contract to anybody? It was a scam to just collect the petroleum levy fund money.

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, I have admitted here that the procedures were irregular and people were punished for it. We are not going to pay anybody for goods which are of no use to us.

The Minister for Medical Services (Dr. Anangwe): On a point of information, Mr. Temporary Deputy Speaker, Sir.

Hon. Members: You should have answered the Question!

The Minister for Medical Services (Dr. Anangwe): No, it is a point of information. I am a Member of Parliament and I have a right to stand on a point of order. I have a right as a Member of Parliament to speak when another Minister is speaking.

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Minister, why do you not just clarify why you are rising on a point of order?

The Minister for Medical Services (Dr. Anangwe): Mr. Temporary Deputy Speaker, Sir, this particular Question is a subject of a court case and any information we may discuss here, may be prejudicial to the interests of the Government until this particular case is concluded.

An hon. Member: He has been sacked!

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order! It is really in the interest of the House that this information be given. The reason being, as I asked the Assistant Minister, if the last part is "untouchable" because it is in court, why was he answering the first part because he has already committed himself?

(Applause)

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, maybe, I have not made myself clear. I have said that, if the findings of the Task Force are revealed to the general public at this juncture, it will be prejudicial to my Ministry. The rest of the question is left.

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister not misleading this House by saying that the officer, whom we all know, was dismissed? We know that the Accounting Officer was first transferred to ICDC and then because of public outcry, he was later transferred to State House. It was only when the World Bank insisted that he goes, that he was fired. Is the Assistant Minister not misleading this House?

The Temporary Deputy Speaker (Mr. Poghismo): But surely, how is he misleading the House?

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, I do not know what point of order that is.

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

The Temporary Deputy Speaker (Mr. Poghismo): This is the last one because we cannot keep Members on the same Question for too long.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I understand these things and that is why I did not want to touch on the *sub judice* aspects of the Question. But the Assistant Minister has given us the case number, but which is a criminal case as he says. Then, how can a case of this kind be a criminal matter? What are we talking about; is it a criminal or civil case? I have also asked him to tell us the nature of the suit against the Government.

Dr. G. Galgalo: First of all, I concur with you that, it is a civil case and not a criminal case. I have said the nature is that of non-payment of goods supplied and received by the Ministry. That is what they are suing us for.

Hon. Members: How much money?

Dr. G. Galgalo: They are suing us for Kshs501,429,825.

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Assistant Minister, again, I think this whole matter is in court. So, what business do we have debating it?

Mr. Maore: But courts in Kenya have dealings with these matters---

The Temporary Deputy Speaker (Mr. Poghismo): Why are we answering the Question? Are we not dealing with something which is in court?

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, this Question was directed to our Ministry and the way we looked at it was that, some part of it would be good for the House to know. It is also in the Public Accounts Committee, but we subdivided it. There is a portion which will really be *sub judice* and that is the portion I did not want to cover.

The Temporary Deputy Speaker (Mr. Poghismo): I do not understand, Mr. Assistant Minister. The same

person who is taking you to court, is the one whom we are talking about revealing all these other information on "a", "b" and "c"?

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, the procedures of procurement and the normal operations of the financial expenditures will not be prejudicial to us, even if we talk about it.

The Temporary Deputy Speaker (Mr. Poghismo): So, you are only avoiding the last part?

Dr. G. Galgalo: Yes.

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Anyona, are you satisfied with that?

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, this Question is riddled with a lot of irregularities. This is the infamous Kshs7.2 billion swindle. I understand that there is a suit in court, so our hands are tied to some extent. We want the Assistant Minister to help the House to understand what is going on, by giving us a list of the people who tendered. Let us see whether M/S Equip Agencies Limited were the most qualified or not, because they were not? In fact, all those deliveries were fake.

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Assistant Minister, you have dealt with that part of the Question and it is the one that you can answer. Proceed.

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, I have said the tendering procedure was irregular and all those LPOs were cancelled. It does not matter who tendered.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. If a contract was awarded irregularly or otherwise, people must have tendered. There must have been a tender. He said they floated the tender. Give us a list of those who tendered, out of which the tender was given irregularly to M/S Equip Agencies Limited?

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Assistant Minister, the Question asks you to give the names of all the tenderers and not those who were awarded. Why do you not just do that?

Dr. G. Galgalo: Mr. Temporary Deputy Speaker, Sir, to the best of my knowledge, there was no tendering. The whole procedure was irregular. Some supplies officers arbitrarily used a contract of the Ministry of Public Works and Housing and wrote bogus LPOs which were later cancelled by the Ministry.

The Temporary Deputy Speaker (Mr. Poghismo): Dr. Kulundu's Question for the second time!

Question No.103

USE OF BOREHOLES AT KAKAMEGA
PROVINCIAL HOSPITAL

Dr. Kulundu asked the Minister for Medical Services why the Ministry has reneged on its promise to operate two unused water boreholes at Kakamega Provincial Hospital.

The Assistant Minister for Health (Dr. Wako): Mr. Temporary Deputy Speaker, Sir, I apologise for not having been here when the Question was asked the first time.

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

The Ministry has not reneged on its promise to operate two water boreholes at Kakamega Provincial Hospital. The water boreholes are, currently, not in use as they are defective.

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, I do not know whether to accept that for an answer to this Question. It must be that the Ministry of Health is the one that is defective. For the record, I asked this Question on 9th December, 1998, when I indicated that those two boreholes were sunk by the Finish International Development Agency (FINIDA) at the request of the Ministry of Health. As we talk now, surgical operations at Kakamega Provincial Hospital have come to a halt, and the Minister for Medical Services will, readily, testify to that, because he comes from that area. Those boreholes have never been operated because there seems to be a tug of war between the Ministry of Water Development---

The Temporary Deputy Speaker (Mr. Poghismo): Ask your question, Dr. Kulundu.

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, I am providing some information to the House. There seems to be a tug of war between the Ministry of Water Development and the Ministry of Health. Now that I have given the Assistant Minister some information, what action will he take to ensure that Kakamega Provincial Hospital runs its surgical operations?

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. It seems that hon. Nassir is not aware of the Standing Orders of this House. Why is he standing up?

(Laughter)

The Temporary Deputy Speaker (Mr. Poghisio): Order, Dr. Ochuodho!

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, considering the fact that I asked a similar Question in 1998, could the Assistant Minister tell this House how much money his Ministry has allocated for the revitalisation of the said water boreholes?

Dr. Wako: Mr. Temporary Deputy Speaker, Sir, it is true that the hon. Member asked a similar Question in 1998. In reply, we told him that the repair work required Kshs555,000, and that he should try and raise that amount, because the cost-sharing programme at that hospital was not able to raise that amount of money.

Dr. Kulundu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House by saying that they told me that the repair work would cost Kshs555,000 when, in fact, I have the HANSARD Report of that day, which does not mention any figure?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Assistant Minister, it is now the HANSARD Report against your word!

Dr. Wako: Mr. Temporary Deputy Speaker, Sir, what we are saying is that the repair works for the two boreholes require Kshs555,000.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Assistant Minister, you are on record as having said that, that is what you told the hon. Member then.

Dr. Wako: Mr. Temporary Deputy Speaker, Sir, I remember answering a Question, and telling him that we did not have funds, and that he should raise it.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister telling this House that the whole Government of Kenya cannot come up with Kshs550 to repair the said boreholes and serve our people? Is that what he is telling us and the people of Kakamega, which is a KANU stronghold?

Dr. Wako: Mr. Temporary Deputy Speaker, Sir, we have problems with funding, and with the Ministry of Water Development, who have not permitted us to use the said boreholes. We wrote several letters to the Permanent Secretary (PS), requesting him to allow us to use the boreholes without success. We wrote the last letter in December, 1999, but we have not received any reply to-date.

Mr. Maitha: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to talk of other things, which are contained in a HANSARD Report of a different day other than that being referred to by the hon. Questioner? Could the HANSARD Report in reference be tabled, so that the issue can be verified?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Maitha, the HANSARD is the property of this House. Ask your last question, Dr. Kulundu.

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, this is a Government in disarray. You heard the Assistant Minister say that his Ministry has approached the Ministry of Water Development, but the latter denied the former authority to undertake the said project. Could Assistant Minister, or the Leader of Government Business, clarify to this House whether this Government is working in unison any more?

The Vice-President (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, obviously, the hon. Member has gone beyond the bounds of the Question by asking whether the Government is working in unison. I would like to assure this House that the Government is, indeed, working in unison.

Mr. Wamae: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to say that he is not able to operate the said boreholes because he has not got a reply from the Minister for Water Development, who is seated next to him? Could the Minister for Water Development tell us why he cannot allow the said boreholes to be used?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Assistant Minister, I think the hon. Questioner wants to know whether the said boreholes were initially operational and that they now need to be repaired? Have they ever functioned?

Dr. Wako: Mr. Temporary Deputy Speaker, Sir, to my knowledge, those boreholes have never functioned. What we are saying is that any borehole in this country has to go through the processes prescribed in the Water Act. That is why we have to get the relevant documents authorising us to use the said boreholes from the Ministry of Water Development.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to contradict the Vice-President by insisting that the Ministry of Water of Development has refused to co-operate with his Ministry to serve the people in Kakamega District?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Angwenyi, what is your point of order here?

Dr. Wako: There is no contradiction, Mr. Temporary Deputy Speaker, Sir.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, it is said that life is water and water is life. In this case, people are being denied the use of water simply because two Ministries of the same Government, which the Vice-

President has said is working in unison, cannot agree on the paper work regarding those boreholes. Is this Parliament going to sit here and listen to this kind of indolence? Could the Minister for Water Development, who is here, tell us why his Ministry is unable to authorise the Ministry of Health to use the said boreholes?

Dr. Wako: Mr. Temporary Deputy Speaker, Sir, authorisation for the use of the said boreholes is in the pipeline.

The Temporary Deputy Speaker (Mr. Poghismo): Hon. Members, I think I should say that the burden of answering Questions in this House, really, lies with the Government. The Government Members in this House do their work collectively. What we require here, actually, are good answers. So, the Assistant Minister shall go back and bring to this House a good answer.

Mr. Muchiri: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the confusion in this House about this Question. My request, through the Chair, is: Can the Question be deferred until next week, to allow the two Ministers to consult?

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Muchiri, there are two things here. One, what you have raised is not a point of order; you have asked a question. Secondly, you are, actually, saying exactly what has been said from the Chair. I have said that the burden of answering a Question lies with the Government, and that the hon. Questioner deserves the proper answer to his Question. I hope that the Assistant Minister has taken note of that.

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

The Temporary Deputy Speaker (Mr. Poghismo): Dr. Ochuodho, what you are raising had better be a point of order.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I think we need guidance from the Chair in a situation where a Minister cannot give a satisfactory answer, and the Leader of Government Business can also not give a satisfactory answer. Indeed, I challenge him to tell us what he would call "a Government that does not work in harmony", if it is not in disarray? In such a situation where even the Leader of Government Business cannot give a satisfactory answer to a Question, what do we do? Do we call the President to give an answer?

The Vice-President (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has accepted to give the answer. I would like to say that there is a provision under the Standing Orders that should any hon. Member feel that the Question has not been answered to his satisfaction, he can always bring it under a Motion of Adjournment, but I believe that the Assistant Minister has answered the Question. I have stated clearly that the Government is working in unison and, indeed, the House should know that the Government is in charge.

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. This House is entitled to truthful answers. The Assistant Minister, in answering hon. Kulundu's Question, did state that in 1998 when the Question was asked for the first time, he told Dr. Kulundu that he had to conduct a fundraising as a cost-sharing measure to meet the operations of those boreholes. Dr. Kulundu has the HANSARD here and it does not show that the Minister told him that in 1998. So, the Assistant Minister has misled the House. Would I be in order to ask the Assistant Minister to apologise to the House for misleading it in that particular reply?

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Munyasia, you would certainly be in order. I have already raised the matter with the Assistant Minister, if you can remember. If Dr. Kulundu can remember, I did actually did point that. I said that it is his word against the HANSARD. So, the Assistant Minister may have something to say at this point, but we have already raised that matter.

Dr. Wako: Mr. Temporary Deputy Speaker, Sir, I have not read the HANSARD and one year is a long time. If truly Dr. Kulundu has the HANSARD, then I apologise to the House.

The Temporary Deputy Speaker (Mr. Poghismo): That is fine. Let us move on to Mr. Obwocha's Question by Private Notice.

QUESTIONS BY PRIVATE NOTICE

FUNDS FROM IMF AND THE WORLD BANK

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, before I ask this Question, I would like to complain to the Chair that last Tuesday, my Question that was deferred to this Thursday was on funds from the International Monetary Fund (IMF) and the World Bank. I do not know whether the Ministry of Finance and Planning fears that Question.

The Temporary Deputy Speaker (Mr. Poghismo): Order, Mr. Obwocha! Even in raising that kind of complaint, why do you direct it to the Ministry of Finance and Planning?

Mr. Obwocha: Which one?

The Temporary Deputy Speaker (Mr. Poghisio): Why do you say that they fear that Question?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, there was a Question on the IMF and the World Bank and the Chair ruled that it be answered today. I am shocked to see on the Order Paper this Question on the Kenya Commercial Bank (KCB). However, let us hear the answer.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Obwocha, I am asking why you are putting the blame on the Ministry? They do not put anything on the Order Paper, do they?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, let us hear the answer.

LIST OF KCB BAD/DOUBTFUL DEBTS

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Why did Kenya Commercial Bank find it necessary to make provisions for bad and doubtful debts amounting to Kshs5.1 billion for the year 1999?

(b) Could the Minister table the list of the above bad and doubtful debts?

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): Thank you, Mr. Temporary Deputy Speaker, Sir. As you have rightly ruled, my Ministry does not control the business of this House.

I beg to reply.

(a) The need to make substantial provisions for bad and doubtful debts and deferred interest thereon arose primarily out of a reclassification of some accounts in conformity with the new Central Bank of Kenya (CBK) guidelines and prudent accounting practices. The depressed economic situation that characterised the year ended December, 1999 impacted negatively on the performance of many of the Bank's customers, making it difficult for them to collect their debts and honour their agreed repayment arrangements with the bank.

A large portion of this portfolio, however, has already been restructured and is expected to perform as the economic performance improves. It is to be noted and appreciated that most of these accounts for which provisions have been made are adequately collateralised.

For those clients whose situations are irretrievable and are not likely to start performing satisfactorily, the bank will have no alternative but to institute legal action for sale of their assets and/or receiverships where substantial debentures are held as collateral. It is expected that as the economy improves, collaterals held will fetch better prices than those ruling in the current depressed economic conditions.

(b) The Banking Act, Chapter 488 of the Laws of Kenya, prohibits furnishing of information in a manner that such information will disclose the affairs of any person unless the consent in writing of that person has been given. It states as follows:-

"Except as provided in the Act, no person shall disclose or publish any information which comes into his possession as a result of the performance of his duties or responsibilities under the Act."

If he does so, he shall, for the purposes of Section 31(1), be deemed to have contravened provisions of the Act.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I have an extract here of the accounts of the KCB for the year ended 31st December, 1999. In their balance sheet, they have specific provision for bad debts of Kshs6,220,000,000; general provisions for the same - Kshs503 million and interest - Kshs3,174,000,000. This gives a total provision of Kshs9,087,000,000 when the paid up capital of the bank is Kshs1,122,000,000 and reserve Kshs7.6 billion which total to Kshs8,798,000,000. Therefore, in the first place, the KCB is insolvent. Secondly---

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Obwocha, ask the question.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, of course, you appreciate that he has not even given me the list of the bad and doubtful debtors of that bank and he is quoting some irrelevant section of the Act. However, I will leave that one for my second question. In the Kshs9,087,000,000, could he confirm whether Mugoya Construction Company is not the biggest debtor with more than Kshs2 billion? Could he also tell us which collateral they have offered to the bank?

(Applause)

Mr. Arap-Kirui: Mr. Temporary Deputy Speaker, Sir, first of all, the hon. Member has not availed to me a copy of the extract that he has talked about to enable me to study it. Secondly, I am sure that, as an accountant, he knows better than to give a general statement that the KCB might be insolvent. I would like to say that the KCB is not insolvent and he knows that. I am sure that a study of the accounts will show that the KCB balance sheet has a positive net figure. Be that as it may, in his follow up comment, I think the hon. Member is trying to circumvent what I have

just said. I cannot comment on any affairs of the bank's customers as the Act does not allow.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has just evaded answering that question. If the Chair heard what he said in his last paragraph, he said:

"Except as provided for in the Act, no person shall disclose or publish any information which comes into his possession as a result of his performance of his duties or responsibilities under this Act."

That provision refers to the workers of the bank and not Parliament and the Assistant Minister. So, he is taking cover under a different Act. Could the Chair direct him to give this Parliament the information we want? These are public funds which his people have squandered and we want that money for the benefit of this country.

(Applause)

Mr. Arap-Kirui: Mr. Temporary Deputy Speaker, Sir, I think I would go along with you and state that we are dealing with the financial affairs of a major banking institution in this country. As responsible leaders, we should avoid statements that are likely to work in the adverse interest of not only that institution, but of the financial ---

Mr. Kathangu: Kwa jambo la nidhamu, Bw. Naibu Spika wa Muda. Hakuna asiyejua kwamba Kenya Commercial Bank ni benki ambayo inaweka pesa nyingi sana za wananchi wa nchi hii. Bunge hili lazima lizungumze juu ya utajiri wa nchi na vile pesa zinapotea kwa sababu ya kuibiwa. Bw. Waziri msaidizi anataka kutuambia kwamba tunatakiwa tunyamaze ili waendelee kuiba pesa kutoka kwa Kenya Commercial Bank kwa sababu ya kifungu cha sheria ambacho hakina maana wakati huu ambao tunazungumza hapa---

The Temporary Deputy Speaker (Mr. Poghiso): Order, Mr. Kathangu! If you should stand on a point of order, let it be one. I think Members need to know that a point of order means that somebody has diverted from our Standing Orders. In this particular case, what is the point of order?

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, this is a very serious Question and it has come up many times before. A time has come when a clear ruling must be made in this House. I cannot believe that Parliament can bar itself from scrutinising a particular public matter under the guise of secrecy. Clearly, the Act is talking about workers within a bank and things like that. I personally do not agree with this kind of interpretation of the law that the Minister and Parliament cannot access information of this kind when something has gone wrong. In view of the seriousness of this matter, can we have your considered ruling? Can we have a clear interpretation - I do not know where you will get that from - of this particular Section of the Act? If it is true indeed, that the Act bars Parliament from accessing information, then the Act should be amended.

Mr. Arap-Kirui: Mr. Temporary Deputy Speaker, Sir, I think the Act is very clear unless this House of course wishes to repeal it, and it is obviously at liberty to do so. Section 33(1) of the Banking Act states:

"The Central Bank or the Minister, may publish in whole or in part at such times and in such manner he thinks fit, any information furnished to it or him under this Act provided that the information so furnished shall not be published even to disclose the financial affairs of any party unless the consent in writing of that person has first been given."

I do not think the Act could be any clearer than that. It is extremely clear. If this House wishes to change the situation, I think there is a system for doing that.

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, we are not asking for the accounts from the Standard Chartered Bank, Barclays Bank, First American Bank or any other private bank. We are talking about a bank where a lot of public money is banked by a lot of parastatals. We heard that there are fellows who are going through the doors of the bank to get this money for free and yet the Assistant Minister feels that these people are customers. They are doubtful and bad customers for the bank. That is why we need your statement and ruling on this issue. We should be told about these bad debts because this is public money and not private deposits.

Mr. Arap-Kirui: Mr. Temporary Deputy Speaker, Sir, I think we are going round and round the same thing. As the law stands, I think we need to be guided. This is a bank, period. We are dealing with a major bank in this country. We are also aware of the recent restructuring undertaken by the members of the bank in order to enable the bank to function more efficiently and recover any outstanding debts. It would be responsible on our part if we would assist in this process.

The Temporary Deputy Speaker (Mr. Poghiso): Order! I am of the opinion that the question has generated a lot of interest. I need to have a look at the interpretation of that Act and come back to it later because it also means that "the person" as defined there may need to be understood. I think we are also going to look at that. The question is deferred.

(Question deferred)

SALE OF MURANG'A COUNTY COUNCIL HOUSES

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I have not received the answer to this Question and I would like to raise my complaint through you.

However, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Could the Minister confirm the sale of houses belonging to Murang'a County Council at Kiharu Estate within Murang'a Municipality?

(b) Is the Minister aware that the tenders were irregularly opened on the midnight of 27/28th March, 2000?

(c) In view of the fact that the staff of the Council currently occupying these houses will be subjected to unwarranted inconveniences, could the Minister consider revoking the approval for sale of these houses?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Temporary Deputy Speaker, Sir, I will find out why the hon. Member has not received the written answer because it was sent from the Ministry to him through Parliament.

The Temporary Deputy Speaker (Mr. Poghisio) Mr. Assistant Minister, did you send it?

The Assistant Minister for Local Government (Mr. Kiangoi): I will find out from my office.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir, this is what we have been saying. Clearly, the Assistant Minister is innocent because it is not the Minister who sends written answers through the Clerk. This means that the civil servants in that Ministry are responsible for this and we were talking about that Ministry yesterday. We do not know whether it is the Minister who is in control, the PS or the "Dream Team". Can it be established here and now whether or not an answer was sent so that the Assistant Minister can be required to take severe action against the officers responsible?

The Temporary Deputy Speaker (Mr. Poghisio): I do not even have my copy of the answer. So, Mr. Assistant Minister, it means that it is not yet in the House. I really do not want to belabour the point that has been ruled from this Chair that answers are a right that Members and the House must get. I think there is a problem in the Ministry because if you do not know about this, then who knows? You are supposed to provide the answers and I think that ruling has been made here. I agree with the hon. Members that we cannot continue that way.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order if I asked the Leader of Government Business to call all the Ministers for a meeting and show them how to answer Questions and how to forward or submit their answers?

The Temporary Deputy Speaker (Mr. Poghisio): No, because they know what to do.

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Temporary Deputy Speaker, Sir, what I am saying is that the written reply had not been given to the hon. Member or sent to Parliament. I will find out what happened because, as hon. Anyona has rightly put it, hon. Ministers are not responsible for carrying written replies to Parliament. I will find out from the Ministry.

The Temporary Deputy Speaker (Mr. Poghisio): Order! The House does not need to know whether or not, the Assistant Minister will find out what happened. The House expects written replies from the Ministers. That is the requirement of the House. So, it is not really going to help us, if the Assistant Minister is going to find out what happened in the Ministry. That is an administrative problem in your Ministry. We want written replies in advance, so that when you come to answer Questions, we already have the answers. That is a demand from the Chair. It is actually the right of hon. Members to get written replies. So, just proceed from there and do not even bother to explain.

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

(a) Yes, I can confirm that I have authorised the sale of Kiharu houses belonging to Murang'a County Council through public tender.

(b) However, I am not aware that the tenders were irregularly opened on the mid night of 27th/28th March, 2000.

(c) I am not aware of any unwarranted inconveniences to the council employees since the occupants were given the first priority to purchase those houses. Consequently, there is no justification to revoke my approval.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, Murang'a County Council applied for approval from the Ministry of Local Government to sell those houses. The grounds they gave were that, they wanted to raise money to pay off 145 pre-primary teachers who had been sacked. Their argument was that Murang'a County Council was poor and, therefore, they needed to raise funds. The information I have is that, the pre-primary school teachers, who were sacked, have already written a letter to the Minister saying that they do not want those houses sold and they are

requesting him to revoke his decision to that effect. With regard to the other aspect involving the cash-flow, it is untrue that the cash-flow of the council is poor because they have already employed 34 new employees, including relatives of the Minister for Local Government. We also have letters to that effect from Kenya Local Government Workers Union.

The Temporary Deputy Speaker (Mr. Poghiso): Mr. Kariuki, ask your supplementary question.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, all I am saying is that, the grounds on which the Minister approved the sale were not proper because he had vested interests in the sale. Could the Assistant Minister confirm or deny this?

Mr. Kiangoi: Mr. Temporary Deputy Speaker, Sir, the grounds upon which approval was granted were sound and the tenders were properly advertised and members of the public applied. In fact, the council employees, who were occupying those houses, were given the first priority.

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

The Temporary Deputy Speaker (Mr. Poghiso): Mr. Murathe, are you sure you do not want to ask a question?

Mr. Murathe: Yes, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to stand here and tell us that the tenders were done through open public tendering and yet, some people were given the first priority? How did you give first priority to the occupants if it was done through public tender?

The Temporary Deputy Speaker (Mr. Poghiso): Mr. Murathe, you ended up asking a question after all.

Mr. Murathe: Mr. Temporary Deputy Speaker, Sir, is it in order for the Assistant Minister to contradict himself? In one breadth, he says it was done through public tender. In the other breadth, he says those council employees were given the first priority. So, which is which?

Mr. Kiangoi: Mr. Temporary Deputy Speaker, Sir, the advertisements were done by inviting tenders from members of the public, but council employees were given the first priority. That does not mean that they bought those houses at a lower price. Whoever tendered and qualified was given priority.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is talking about council employees being given the first priority. I have a letter here from the Clerk to Murang'a County Council, threatening them not to get involved in the sale of the Kiharu houses. They are being threatened that they will be summarily dismissed, if they disclose any information about the sale of those houses. Could I lay this document on the Table of the House, so that the Assistant Minister can peruse it?

The Temporary Deputy Speaker (Mr. Poghiso): Yes, you can do so. What is your question?

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, what type of priority is the Assistant Minister talking about, when the council employees have been denied an opportunity, even to submit their own tenders because of those threats?

(Mr. Kariuki laid the document on the Table)

Mr. Kiangoi: Mr. Temporary Deputy Speaker, Sir, I have information that they were given the first priority. However, if the hon. Member has a document which is on the contrary, then that would definitely contradict the answers that I have given. I will have to go through the document and come back here with the right answer?

Mr. Wamalwa: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not quite understand what the Assistant Minister is trying to convey to this House. If there is open-tendering, then under those terms, how do you give anybody priority?

Mr. Kiangoi: Mr. Temporary Deputy Speaker, Sir, what I have been trying to say is that, council employees were considered separately, while the other members of the public were subjected to tendering procedures.

The Temporary Deputy Speaker (Mr. Poghiso): Order! Actually the Assistant Minister has accepted that there is a contradiction. Given that this information has now come to light - apparently had not been drawn to his attention - and in view of that, I think the Assistant Minister can commit himself to scrutinising the document and later on come with what he understands to be a better answer than what he has already given in this House.

Mr. Kiangoi: Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Kiunjuri: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister seems to be confused, because the property in question belonged---

The Temporary Deputy Speaker (Mr. Poghiso): Order! Mr. Kiunjuri, please, mind your language?

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, the property in question belonged to the larger Murang'a District.

The Temporary Deputy Speaker (Mr. Poghiso): Order! Mr. Kiunjuri, do you know that the Assistant

Minister is not confused? I do not think I will allow you to proceed, if you do not withdraw that word.

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, I am making a clarification to the Chair.

The Temporary Deputy Speaker (Mr. Poghismo): Are you going to withdraw the word "confused."?

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, I withdraw and apologise to the House. I was making a clarification that the property in question belonged to the larger Murang'a District. However, Murang'a District was divided into Maragwa District and part of it was hived to Thika District. Murang'a County Council is the one that is selling Kiharu Estate. How will the Assistant Minister resolve the crisis where people of Maragwa and Thika districts also come to claim the ownership of Kiharu houses?

Mr. Kiangoi: Mr. Temporary Deputy Speaker, Sir, I do not know whether to proceed in the view of the answer that I had given, because I had said that I will look into this matter, after I peruse the document laid on the Table of the House by hon. Kariuki. However, with due respect to the hon. Member, I do not think I am more confused than him.

The Temporary Deputy Speaker (Mr. Poghismo): Order! Mr. Kiangoi, I think you are actually out of order, because the hon. Member withdrew that word and apologised to the House.

Mr. Kiangoi: Mr. Temporary Deputy Speaker, Sir, I did say that before his apologies. I think I can proceed. The question of division of assets---

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

The Temporary Deputy Speaker (Mr. Poghismo): Order! We cannot at the same time be hon. Members and confused. I do not think we can have those two going on together. So, I believe he did not call you confused and, therefore, he has nothing to withdraw because he did not call anybody confused. But the word "confused" which you used is what I wanted you to withdraw, because you are referring to hon. Members.

Mr. Kiangoi: Thank you, Mr. Temporary Deputy Speaker, Sir. I also withdraw the word.

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

The Temporary Deputy Speaker (Mr. Kiunjuri): Order, Mr. Kiunjuri! Let us hear Mr. Kiangoi this time round.

Mr. Kiangoi: Mr. Temporary Deputy speaker, Sir, I have had an opportunity to look at this document---

(Mr. Kiunjuri insisted on raising his point of order)

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Kiunjuri, what is your point of order?

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, I withdrew and apologised, because I respect Mr. Kiangoi in his capacity as an Assistant Minister. Could he also reciprocate?

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Kiangoi, he is asking you to apologise.

Mr. Kiangoi: Mr. Temporary Deputy Speaker, Sir, in the event that he has insisted, I also apologise.

(Applause)

If the Question is found, and I am referring to your ruling and my answer to it--- This letter is not addressed to anybody.

(Mr. Murathe and Dr. Ochuodho stood in their places)

The Temporary Deputy Speaker (Mr. Poghismo): Order, hon. Members! I think we have agreed with the Assistant Minister that he will scrutinise the Question and come back with an understandable answer. I think that was the ruling from the Chair. You will have your chance to say what you think of that document later on. I think we have moved on from that Question.

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

The Temporary Deputy Speaker (Mr. Poghismo): Order, Mr. Murathe! I would like to use this opportunity to remind Members of this House that during Question Time, it is just out of the discretion of the Chair that you are allowed to raise a point of order, because it is meant to find out more information by asking questions and not raising points of order. Question Time would really take the whole day if we did that. Secondly, if the Speaker is on his feet, you cannot be on yours, however, much you want to rise on a point of order. I think that is what we need to know in this House. We need to know about the basics on keeping order in the House before we can raise points of order.

I would like to proceed to the Next Question.

(A number of hon. Members stood in their places)

The Temporary Deputy Speaker (Mr. Poghisio): Order!

SALE OF CONTAMINATED COCA-COLA PRODUCTS

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Tourism, Trade and Industry the following Question by Private Notice.

(a) Is the Minister aware that some products of Coca-Cola Africa Limited are sold while contaminated?

(b) What urgent measures is the Kenya Bureau of Standards (KBS), in conjunction with the Public Health Department, taking to ensure that all food products are safe?

(c) What regulatory mechanisms are in place to protect the public from consuming unhygienic foods being sold in kiosks and by the roadside?

Mr. Murathe: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have not told Mr. Kiangoi when he will respond to the Question.

Mr. Kiangoi: I know when to respond!

The Temporary Deputy Speaker (Mr. Poghisio): Order! Let us hear the reply to hon. Maore's Question.

The Assistant Minister for Tourism, Trade and Industry (Mr. Ekirapa): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) The Kenya Bureau of Standards (KBS) has taken the following measures to ensure safety of food products:-

(i) It has formulated standards which incorporate safety parameters for various food products.

(ii) In addition to the specific standards for food products, the Standard KSO5/15100 Code of Hygienic Practice for the Food and Drink Manufacturing Industry has also been developed to enhance food safety.

(iii) The KBS inspectors have randomly sampled food products from the manufacturers also in open markets for stringent tests against respective standards. Surveillances are also carried out in detailed outlets by the inspectors and appropriate legal action is taken against those who violate these standards.

(c) The Public Health Department handles matters of food hygiene in kiosks under the Public Health Act and prosecutes those who contravene the Act.

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, I did hear the Assistant Minister saying that he is unaware that some contaminated Coca-Cola products are in the market. I happen to have some experiences from the United States of America where Coca-Cola products are manufactured. Here with me, I have a bottle of Fanta Passion with almost 20 pieces of objects and a huge fly in it. I know it may not be appropriate to lay it on the Table, because I know that it will be classified as an offensive weapon.

(Mr. Maore laid the Fanta Passion bottle on the Table)

Now, since the Assistant Minister knows very well that we are dealing with a multinational company---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Maore! How did you carry a bottle of Fanta Passion to the Chamber? In any case, as you know, all harmful and offensive objects should be left at the Bar and should not to be brought into the Chamber. You are not supposed to bring food here any way.

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, I am sorry.

The Temporary Deputy Speaker (Mr. Poghisio): Order! I think the fact that you have made your point, we would now like to see that bottle of Fanta Passion being taken to its rightful place.

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

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, I was trying to raise--- I do oblige with your ruling, but let Mr. Ndicho raise his point of order.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Could we get that removed from the Table to its rightful place?

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, I was trying to raise the point: What do you do when you

are dealing with a Government which is there, but unaware of some contaminated products from Coca-Cola Africa Limited in the market? This is because that is the answer I got. Now that the Assistant Minister can see for himself a huge and dark blue fly in the Fanta Passion bottle and he is aware, what does he have to say?

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Maore you have to comply with my ruling.

*(The Fanta Passion bottle was
withdrawn from the Table)*

Yes, Mr. Ndicho.

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. We would like to get a clear definition of what this House considers to be a dangerous weapon, because even the glasses and the jar of water on the Table could also be turned into one? I can even uproot the microphone from the Table and use it as a weapon, and that is dangerous.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Ndicho, it is only if you begin to think that way that anything here can be turned into a dangerous weapon, including another person, if you want to. However according to the rules of the House, you cannot be allowed to bring in anything like that. Otherwise, if you are allowed, you could carry anything harmful.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I think we have to fine-tune our own rules. If you raise an issue like that and have some evidence and yet the rules bar you from producing it, there is something wrong with that kind of procedure. So, but for the time being, we have gone by the procedure because the Fanta Passion bottle has been taken to the Bar. But that having happened and the Assistant Minister having said that he was unaware, could we now have the Fanta Passion in that bottle tested by the Government Chemist and the results brought before this House, so that appropriate action can be taken?

(Mr. Wanjala stood in his place)

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Wanjala! Allow the Assistant Minister to finish giving his reply.

Mr. Ekirapa: Mr. Temporary Deputy Speaker, Sir, it is the rules of the House which do not permit such objects to be brought into the Chamber. Otherwise, we would have tasted by opening it. However, KBS has got the capability and capacity to test it. I would be glad and willing to take it for testing.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is referring the matter to the Kenya Bureau of Standards, and yet it is the same KBS which failed to do the verification in the first place. This is a matter of life and death. Could the Chair order that this sample be tested by a Government Chemist and the results be produced before the House?

Mr. Ekirapa: Mr. Temporary Deputy Speaker, Sir, there is a gross misunderstanding about the role of the Kenya Bureau of Standards. It is not possible for the KBS to test every single bottle that manufacturers beverages. There are standards which have been designed, as I have said, that there are inspectors who verify whether these manufacturers are conforming to the standards. It is possible that one, two or even more bottles could be contaminated. But this is not deliberate. It is possible that a disgruntled employee could mess up with one or two bottles in order to discredit the Company. Secondly, we know that as a result of competition in the market, it is possible that the "opposition" to Coca Cola could cause that contamination in order to discredit their company.

Mr. Wanjala: On a point of order, Mr. Temporary Deputy Speaker, Sir. Mr. Maore has been seen severally with Mr. Kuguru who is a competitor of the Coca Cola Company. As a matter of interest, could he, therefore, declare his interest? We do not know whether it is Mr. Kuguru who inserted the fly in the bottle, because he also has machines that manufacture sodas.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Wanjala, you should not rise on a point of order and drag Mr. Kuguru's name in the issue. I do not think anybody has named whoever owns what, here. If that sample is tested and found to be contaminated - the hon. Member can do that - a formal complaint could be raised. This is what happens everywhere. In view of the fact that Mr. Maore has brought that sample to our attention, could the Assistant Minister make arrangements to have it tested?

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear the Assistant Minister saying that it is possible that the Fanta Passion bottle was contaminated by the Opposition in order to discredit the Coca Cola Company? Will you please get the Assistant Minister to withdraw? It is against the rules of the House to impute improper motives on any hon. Member of this House, and yet he has imputed improper motives on the entire

Opposition. We heard him say that.

Mr. Ekirapa: Mr. Temporary Deputy Speaker, Sir, I am surprised that an hon. Member like Mr. Muite did not understand what I said. I meant the competitors of Coca Cola products.

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, I heard the Assistant Minister trying to guess very many things. For example, the issue of competitors having tampered with it should be raised by whoever will open the bottle, because he will be able to detect whether the bottle-top is the original or has been interfered with. When we are dealing with lives of Kenyans, how would goods like those be allowed to pass through the assembly plant? It is possible there could have been one or two cases. That means, that the Government is "asleep".

Mr. Ekirapa: Mr. Temporary Deputy Speaker, Sir, there are very many people involved in the manufacturing process. Usually, at the end of the line, we have the quality controllers, but it is possible that one or two bottles in this kind of processing plant can pass undetected. At the moment, what I could undertake to do, is take that soda sample for testing and give the results to the House.

The Temporary Deputy Speaker (Mr. Poghisio): Well, you could liaise with the hon. Member and have it tested.

Next Question.

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, if you are aware, this Question came up last week, and I complained that I had not received a written answer. It was consequently deferred, and up to this moment, I have not received any written answer.

STAFF ESTABLISHMENT OF MWINGI DISTRICT HOSPITAL

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Medical Services, the following Question by Private Notice:-

(a) What is the staff establishment of the Mwingi District Hospital for all cadre of staff?

(b) What is the present staff strength?

(c) What action is the Minister taking to ensure that the Hospital and other health institutions in the district are adequately staffed in order to meet the increased volume of work in these institutions?

The Temporary Deputy Speaker (Mr. Poghisio): Dr. Anangwe, where is the written reply?

The Minister for Medical Services (Dr. Anangwe): Mr. Temporary Deputy Speaker, Sir, my understanding was, that the answer had been sent. But I will find out where the hitch is and report back.

The Temporary Deputy Speaker (Mr. Poghisio): I think in line with the ruling of the Chair before, we would not like to hear that the Minister is going to find out because that is not in the interest of the House. We would like to have the answers in time. I think just as your colleagues do, you should apologise to Mr. Musila because he has really waited. This Question has been deferred several times.

Mr. Murathe: Mr. Temporary Deputy Speaker, Sir, is it possible to defer this Question until the written reply is provided? You are just letting them off the hook! In view of your ruling, it should be made mandatory for all Ministers not to answer Questions before providing written replies. If there is a breakdown between the Ministries and the Secretariat, we should be made aware.

The Minister for Medical Services (Dr. Anangwe): Mr. Temporary Deputy Speaker, Sir, I am very apologetic to Mr. Musila if he has not received the answer. I will ensure that in subsequent answers we give, an effort is made to ensure that hon. Members get the written replies in time.

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

(a) Mwingi District Hospital has a staff establishment of 192 for all cadres of staff.

(b) The present staff strength for the hospital is 124 for all cadre of staff.

(c) Mwingi District Hospital and other health institutions are currently understaffed due to the Government freeze on employment. However, the situation will be redressed once redeployment of the available medical staff is finalised countrywide, as recently announced during my Ministerial Statement on 20th April, 2000.

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, my Question has not been fully answered in parts "b" and "c". Could you ask the Minister to finish answering my Question?

The Temporary Deputy Speaker (Mr. Poghisio): No, he has answered your Question, Mr Musila. He has talked about the present staff strength.

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, going by the answer that the Minister has given, namely that the staff establishment is 212 members and only 104 members of staff are in Mwingi District Hospital, this, therefore, means that the hospital has a staff shortage of 68 members of staff. Is the Minister aware that his Ministry has posted 18 members of staff, including three doctors, to Mwingi District Hospital since March, 1999, and none of

them has reported to the hospital? In addition, although these members of staff have not reported to the hospital, the same Ministry has posted out of Mwingi District Hospital eight members of staff without replacement, thereby, making the situation even more critical.

Dr. Anangwe: Mr. Temporary Deputy Speaker, Sir, I am aware that 18 members of staff were posted between September, 1999, and April, 2000, to Mwingi District Hospital. However, out of all these, four nurses reported, four doctors resigned after that redeployment and six nurses, for various reasons, failed to report. This Question was deferred at the particular point when the House wanted to know what had happened and what reasons were obtained in relation to the six nurses who did not report.

We have here a lengthy report, and if I were to go through it, it would consume a lot of time. Among the reasons why the six nurses did not report is the fact that one of them went berserk after receiving the posting. I can tell you what has been written here in relation to Ms. Irene---

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Minister, is that technical language or what is it?

Dr. Anangwe: Mr. Temporary Deputy Speaker, Sir, this is what the doctor said. If he said so, he did so as an expert. He knows the state of the mental health of this particular person. The other one was---

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. This Minister is a doctor, my profession.

Dr. Anangwe: No, I am not.

Mr. Ndicho: Then why are you called a doctor? Does the Minister know that it is not proper to disclose the illness of a patient?

The Temporary Deputy Speaker (Mr. Poghisio): Order! He did not tell us the name of the patient!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, he was almost reading out the name. When he go bananas, we do not want to be told that Dr. Anangwe went bananas.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Minister, will you read through that document or will you table it?

Dr. Anangwe: Mr. Temporary Deputy Speaker, Sir, I would beg to table this document, so that hon. Members can have a look at it, so long as they do not also go berserk. That is what an hon. Member is also advising me.

(Dr. Anangwe laid the document on the Table)

I remember also that hon. David Musila had stated here that a doctor who I had posted on 6th April, 2000, had not reported to the hospital. The information that I have - probably he can confirm it - is that the said doctor, Mr. Kigo Nicholas Mutua, reported on duty on 11th April, 2000. The other information that I would like to give is that, indeed, today, we also posted to Mwingi District Hospital a Dr. Wafa. In fact, according to our records, the needs of Mwingi District Hospital are two doctors, 20 nurses and eight clinical officers. The other cases will be handled as we redeploy the rest of the members of staff, as I had mentioned in the Ministerial Statement.

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, first of all, I would like to thank the Minister if, indeed, he has posted a doctor to Mwingi District Hospital as he has said. The other doctor that he has talked about, is an intern. We all know that there is a difference between a fully qualified doctor and an intern. Therefore, if he has, in fact, posted a doctor to Mwingi District Hospital, that will make two doctors and I am grateful.

Nevertheless, I would like to inform the Minister that, in fact, it is his Ministry that is responsible for the run-down of staffing in that hospital. I have a letter here written to one of the nurses. I would like to quote:

"I am writing in response to your appeal against reporting order to Mwingi. The purpose of this letter is to inform you that the office has no objection to your request".

So, for the Minister to say that it is the members of staff who are refusing to go to Mwingi District Hospital is rather misleading. It is the Ministry's officers who post people and before the ink on the posting letters dries, they cancel those postings. Could the Minister confirm or deny that?

Dr. Anangwe: Mr. Temporary Deputy Speaker, Sir, I have tabled here a document which shows the reasons which these officers gave for their reluctance to go to Mwingi District Hospital. We have had to stop the salaries of some of them for failure to report.

Mr. Musila: On a point of order, Mr. Temporary Deputy Speaker, Sir. I served in the Government for 30 years. As far as I know, Government employees have commitment to go wherever they are posted. Is the Minister in order to inform this House that his officers can refuse to go wherever they are posted in Kenya?

Dr. Anangwe: Mr. Temporary Deputy Speaker, Sir, if I deploy an officer and he refuses to go, the option that I have is to discipline him. May I confirm that those officers who have refused to report to their new stations, have

been disciplined.

COMMUNICATION FROM THE CHAIR

MOTION OF ADJOURNMENT UNDER STANDING ORDER NO.18

The Temporary Deputy Speaker (Mr. Poghiso): Hon. Members, I have a written notice from Mr. Munyao, indicating his intention to raise a Motion of Adjournment under Standing Order No.18, on a matter of unsatisfactory reply received to a Question by Private Notice, Question No.3, on Wednesday, 19th April, 2000. This concerned a meeting of Makueni District Education Board.

Mr. Temporary Deputy Speaker, Sir, this will come up at the interruption of business on Wednesday, next week, 3rd May, 2000.

MINISTERIAL STATEMENTS

PROPOSED PARLIAMENTARY SITTING CALENDAR

The Minister for Information, Transport and Communications (Mr. Mudavadi): On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to bring to the attention of the hon. Members, the proposed Parliamentary Sitting Calendar for the Fourth Session of the Eighth Parliament. The House Business Committee, during its sitting on Tuesday, 25th April, 2000, approved the proposed sitting programme and directed that it be circulated to all hon. Members for information.

The calendar is primarily intended to indicate the legislative programme and to assist the hon. Members in planning their activities. The Government will also, as far as is practicable, adhere to this calendar, and I request that all parties do co-operate on this matter.

ACCESS TO WATER AT RUBIRU SPRINGS

The Minister for Water Development (Mr. Ng'eny): Mr. Temporary Deputy Speaker, Sir, I wish to issue a Ministerial Statement on access to water at Rubiru Springs. On Wednesday, 19th April, 2000, the Member of Parliament for Gatanga, hon. Murathe, raised a point of order seeking a Ministerial Statement on what the Government will do to multi-national organisations such as Kakuzi Limited whom he alleged to have denied Gituamba Community Water Project access to water from Rubiru Springs.

Mr. Temporary Deputy Speaker, Sir, I wish to respond as follows: Rubiru Springs originates from Kakuzi East Farm and finally drains its water into Thika River. Gituamba Community Water Project is in the process of applying for authorization to abstract water from Rubiru Springs. It is under this project, that Gituamba community has sought assistance from World Vision International. The proposed point of water abstraction by Gituamba Community Water Project will be on Kakuzi Farm. Gituamba Community Water Project has asked Kakuzi Limited to give them wayleave for the construction of the intake and the pump house.

The Water Act, Cap 372, Section 108, Laws of Kenya, requires that any water operator or water user who wants to construct a water works on land that does not belong to him or her to give notice to land holders for an easement. Section 116 of the Water Act, Cap 372, allows the operator or water user, to apply for an easement to the Water Apportionment Board if the land holder does not agree within two months after request by giving notice for such easement. So, it is Gituamba Community Water Project who should first give notice to Kakuzi Limited for easement for their intake, pump house and the pipeline. The Gituamba Community Water Project will apply for authorization and the water permit under the Water Act, Cap 372, for construction of water works and the use of water from Rubiru Springs.

As of now, the community has not filed a complete application with the Thika District Water Office any recommendation to the Water Apportionment Board for use of water from Rubiru Springs. All the same, the present Water Act and the Revised Water Act, which I promise to table before this House in due course, does not and will not allow anybody or organisations to deny any person or any farmer water for domestic purpose which we all have a right to. I wish to table the document before the House.

(Mr. Ng'eny laid the document on the Table)

Mr. Murathe: Mr. Temporary Deputy Speaker, Sir, I am surprised at the extent to which the Minister can be misled by his own officers on the ground. We have a letter here from his own Ministry. We have an application from the Gituamba community for the Rubiru Water Springs. We also have a letter here from Kakuzi Limited and I would like to quote it for the benefit of the Minister, regarding the Rubiru Water Springs. It states:-

"I think you will be aware that when we fenced, our pineapples and Kakuzi East Settlement along the road to the power line, we did not fence around the spring to allow you access to it.

Executive Director,
Kakuzi Limited,

F. R. Bibi, 1993".

It is the current Managing Director, a Mr. Fox, who has now come around and refused those people access to the water. We had agreed to go on site with the Minister, but we have rescheduled that.

Mr. Temporary Deputy Speaker, Sir, this Rubiru Water Spring is to serve a hospital constructed by the World Vision Limited which, indeed, includes a maternity for expectant women in that hardship area. Pipes worth Kshs.9 million have been laid from the hospital to the spring. I do not know what to say. The water analysis, the communication from the Ministry and everything else including from the District Commissioner, Office of the President is here.

(Mr. Murathe laid the documents on the Table)

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, to reinforce the question---

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Ndicho, are you going to open debate on this issue?

Mr. Ndicho: No, Mr. Temporary Deputy Speaker, Sir. I am not going to open debate but I want some clarification from the Minister. You can imagine that we share this problem with hon. Murathe.

The Temporary Deputy Speaker (Mr. Poghismo): Are you saying anything new now?

Mr. Ndicho: No, Mr. Temporary Deputy Speaker, Sir. I just want to make some clarification on this issue.

The Temporary Deputy Speaker (Mr. Poghismo): Okay, go ahead.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, before these people came to Kakuzi Limited, the people who used to live there, who are our ancestors, had access to this water without any problem. When Mr. Fox came the other day - and the Kiswahili meaning of fox is Mbwa Mwituu - he literally denied our people access to water when he himself has sunk a borehole in his farmyard and he has access to clean water. Could the Minister assure us that today, before all these formalities of writing those letters and whatever else before he comes out with a policy on water, he is going to ring the Thika Water Office and authorise the District Water Officer to go to this Mr. Fox and order him to open the gates and cut off the wires to allow our native Africans access to this water? Anyway, we are taking over the land in 60 days from now; but before that time, we want our people to have access to the water.

The Temporary Deputy Speaker (Mr. Poghismo): Order, Mr. Ndicho. Mr. Minister, do you want to attempt to answer those questions?

Mr. Ng'eny: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghismo): Proceed!

Mr. Ng'eny: Mr. Temporary Deputy Speaker, Sir, I would be grateful if I could get all that information in my hands so that I will follow exactly what happened. However, all the same, the rules which should be followed must apply to everybody, and I am sure if what I have said is followed, nobody will be denied access to water. In fact, I had promised hon. Murathe that we shall go together and inspect the site. We agreed that we shall do this probably next week or the week after. This is so that we know exactly what happened.

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

The Temporary Deputy Speaker (Mr. Poghismo): No. We cannot allow that now because we have to move on.

Mr. Munyao: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am the shadow Minister for Water Development. When this Member says good things I like to clarify them. The Minister has made a very important statement to Kenyans. I know he is serious particularly when he quotes a Bill which he is going to bring here to make it illegal for any person to deny another one access to water. While sitting here a week ago, I heard the Minister saying the same thing when replying to a Question by hon. Mboko, the Member of Parliament for Kiboko. This Question

involved a case where a certain other Mzungu denied Kenyans within that area access to water. This issue had even come to the DDC, Makueni, and we discussed it. The Minister here said that he was going to direct that this Mzungu should not deny Kenyans access to water in Kibwezi. Does this statement which he has made today also apply to those Kenyans down south where we live?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Munyao, let us not open debate on this; you should consult! This is also a Ministerial Statement! We are turning it into a full debate! I am moving on to the next Order.

POINT OF ORDER

RE-LOCATION OF CHIEF'S CAMP

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. While replying to a Question regarding the re-location of a Chief's Camp in Homa Bay District last week, the Minister did say that the Chief's Camp was re-located by virtue of a request by the residents. I did, accordingly, inform the Minister that, last Sunday we were going to have a baraza at the said Chief's Camp to establish whether the wananchi really wanted to Chief's Camp transferred or not.

Mr. Temporary Deputy Speaker, Sir, what transpired is that, the Minister, perhaps, using Provincial Administration, went ahead to send policemen to protect the area and to beat up and chase away wananchi. But I am glad to inform the House that wananchi were being chased away, but they kept on coming back and we held our meeting.

The Temporary Deputy Speaker (Mr. Poghisio): What are you seeking?

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I am seeking a Ministerial Statement from the Minister, to tell us what reasons were used to re-locate the Chief's Camp illegally. Secondly, why the assailants who brought down the house belonging to the area councillor have not been arraigned before court. Thirdly, where are the said Minutes of the leaders' meeting that resolved to transfer the location of the Chief's Camp?

Finally, why did the police attempt to disrupt a legally constituted meeting on that Sunday, despite the fact that, we notified the police as required by the law?

I demand a Ministerial Statement.

The Temporary Deputy Speaker (Mr. Poghisio): Is the Minister here?

Dr. Ochuodho: The Deputy Leader of Government Business is here!

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, we will get the Minister of State, Office of the President to respond.

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

BILL

Second Reading

THE CENTRAL DEPOSITORIES BILL

(The Minister for Finance on 26.4.2000)

(Resumption of Debate interrupted on 26.4.2000)

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the House will require some guidance from the Chair before the Minister stands up to move the Second Reading of this Bill.

The other day, the House referred this Bill to the relevant Department Committee as required by the Standing Orders. It is then provided that, within seven days, that Departmental Committee should report back to the House by tabling the Report, and then subsequent to the tabling of that Report, the Minister would then designate a day when the debate could commence on that Bill.

Therefore, in fact, the Minister moved the Second Reading of the Bill yesterday. How come there is no report? The requirement of the Standing Orders is that, we should have the Committee Report brought to the House first, then on that basis the debate starts.

Mr. Mkalla: Mr. Temporary Deputy Speaker, Sir, let me give him the position.

The Temporary Deputy Speaker (Mr. Poghisio): Okay! Proceed!

Mr. Mkalla: Mr. Temporary Deputy Speaker, Sir, the Report on the Central Depositories Bill was tabled before this House three days ago. I am surprised if that Report has not been made available, but it has been made available in Room Number 8. I did table the Report here in this House. So, I wanted to correct that position.

The Temporary Deputy Speaker (Mr. Poghiso): Thank you. Mr. Anyona, actually we have the Report. So, the Minister can proceed.

The Minister for Finance (Mr. Okemo): Thank you very much, Mr. Temporary Deputy Speaker, Sir. The Central Depositories Bill, 2000, is part of the essential reforms which are needed to strengthen the financial and capital markets as part of the overall economic reforms.

As hon. Members will recall, the Capital Markets Authority was established some ten years ago, in recognition of the critical role that sound capital markets play as a pillar of a dynamic economy. These markets mobilise domestic and international savings and help to channel them to those who seek medium to long-term finance for productive investments. Vibrant capital markets have the added advantage of enabling investors to raise funds at lower costs than banks can provide. For this reason, we need to ensure that our capital market is positioned appropriately to adopt the necessary information technology to be competitive in a globalized financial system.

Mr. Temporary Deputy Speaker, Sir, there is now overwhelming evidence to the effect that, direct foreign investments are essential for a country to achieve rapid and sustainable economic growth. The most appropriate channel for entry of such capital is through capital markets. However, to play this role, the markets must provide investors with efficient and convenient services.

In a central depository, transactions are conducted electronically without the need to move documents physically. This makes the central depository system an ideal channel for investments. Otherwise, sophisticated investors dealing with large transactions of stocks, particularly fund managers, who have enormous volumes of money, will find it cumbersome and risky to operate in a manual system. As will be appreciated in the world of finance, the Bill needs to be concluded and effected immediately and expeditiously. A few hours delay could lead to a major shift of conditions. It is for this reason that we need the electronically operated central depository system.

In accordance with the Capital Markets Authority mandate for promoting and facilitating development of orderly, fair and efficient capital markets in Kenya, the Authority plans to move the market to the electronic age. In discharging the dual roles of developing and regulating the capital markets, the Authority is now seeking to ensure that the legal and regulatory market develop in tandem with the growth and competition of other financial markets. In so doing, Kenya needs to achieve compliance with global trends and standards, if we are to remain competitive in attracting direct foreign investment.

Mr. Temporary Deputy Speaker, Sir, we believe the Capital Markets Authority has now become of age, and a lead regulator. In conjunction with the Nairobi Stock Exchange (NSC), it has achieved a tremendous transformation as evidenced by the following facts:

First, the annual market turnover which was only Kshs230 million in 1990, grew in several folds to reach Kshs6.1 billion in 1997. The annual turnover, however, declined to Kshs4.8 billion during 1998, due to the economic down-turn, but has risen again to Kshs5.1, during 1999.

Secondly, the number of players has also been increased facilitating competitiveness and efficiency of brokerage services.

Thirdly, the overall operating and regulatory environment has improved with the development and enforcement of compliance with rules and regulations leading to enhanced market discipline and integrity.

Fourthly, improved disclosures have enhanced fairness and access to information by investors. This has enabled the market to achieve a high degree of corporate governance.

Mr. Temporary Deputy Speaker, Sir, in spite of this progress, there are still a few critical challenges that need to be addressed, in order to prepare our capital markets for a more competitive environment in the new millennium. This includes the following: One, the market infrastructure, namely registration, trading and settlement systems remains undeveloped making the operations too slow and too costly.

Secondly, the institutional arrangements for promotion of specialised financial services, including collective investment schemes, remain unexploited. It is, therefore, not possible for the market to increase range and lengths of financial instruments. For this reason, it is necessary to improve the institutional improvement.

Thirdly, the legal and regulatory framework requires urgent strengthening, in order to improve the regulatory regime and improve operational standards to reduce the response time.

Mr. Temporary Deputy Speaker, Sir, it is against the foregoing that these measures are necessary to establish the Central Depository System. To supplement the new system, I will also introduce in the near the future a Bill to amend the Capital Markets Authority Act so that the two are in harmony. These measures are intended to lay the foundation for a robust infrastructure and regulatory framework for the expansion of the capital markets. These changes will prepare the ground for this country to develop into a more efficient regional financial centre.

The Central Depositories Bill will provide the enabling legal framework for the establishment, operation and regulation of the Central Depository System which will be owned and operated by the private sector. The Capital Markets Authority will remain a facilitator, but with a regulatory function. The system will facilitate custody, security and settlement including registration and transfer of ownership of financial instruments such as shares and bonds which are traded at the Nairobi Stock Exchange. In its simplest form, the Central Depositories System will act as a bank for securities in the same way as banks act on cash deposits. In this regard, securities will be launched with the depository and transfers of ownership of securities as well as payment will be effected by means of book entry transactions within the records of the depository. This means there will be no physical movement of the securities. The system will, therefore, facilitate immobilization of financial securities by the depository and introduction of electronic records evidenced by a statement of account issued by the Central Depositories System Corporation. A statement of account will show the number of securities held by each depositor in a listed company, the same way a bank issues a statement to a customer indicating the value of the deposit. The Central Depositories System will replace the current manual and paper oriented systems that encompasses physical movement of certificates for registration which is prone to prolonged delays in terms of ownership as well as settlement risks. Other major benefits of this system will include greater liquidity within the stock markets which in turn, will lead to lower spreads and lower transaction costs. This system will also eliminate risks associated with the physical movement of certificates, such as thefts, loss, forgery, defacement and so on. The system will also give rise to increased confidence and trading operations of the stock markets.

Mr. Temporary Deputy Speaker, Sir, the system will be flexible enough to allow investors who wish to withdraw their certificates from the Central Depositories System to do so on condition that such certificates will be redeposited whenever they are to be traded at the Stock Exchange. The Bill also provides for complete dematerialisation of certificates at an appropriate future date, when the immobilization of certificates has been successfully implemented. The de-materialisation entails a complete elimination of share certificates, such that from that point on, ownership will rely exclusively on electronic records. When that time comes, proof of ownership will be evidenced by a statement of account issued by the Central Depositories System without the option of withdrawing certificates from the depositors. The new system will be easy to monitor and will be subject to enhanced transparency while stimulating trading activities at the Nairobi Stock Exchange.

Mr. Temporary Deputy Speaker, Sir, this is the way forward to the future of stock markets. The change is, therefore, urgent if our stock market has to remain viable, vibrant and competitive. I urge the hon. Members to support this Bill to enable the operators in this important market to prepare themselves for operations in the new millennium. This is expected to generate significant economic benefits and enhance Nairobi as a regional financial centre.

With those remarks, I beg to move.

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I stand here to second the Bill which has been moved by the Minister for Finance.

From the onset, I would like to state that the introduction of this Bill is long overdue because the proposition has been on the table for a long time and it is important that the Government - and indeed, this is a good move - comes forward to support our capital markets so that they can become more vibrant.

Mr. Temporary Deputy Speaker, Sir, regionally, the Nairobi Stock Exchange, and indeed, Kenya's capital markets have earned a major positive reputation. It is important that we now move to the second level of the development of our capital markets. One of the issues that has been pending for a long time is the legal framework that would provide for the Central Depositories System. I am glad that this has now been brought to this House. So, I urge the hon. Members to look at this Bill and give it the necessary support.

Mr. Temporary Deputy Speaker, Sir, it is also important to put on record that the activities, operations and the development of the Nairobi Stock Exchange, are viewed as those of an emerging market. This is because we fall under the category of the emerging markets with regard to capital markets. This has been a reference point and I can confidently say that when I was in Malta, there was a lot of good reference that was made to the Nairobi Stock Exchange and the way it has developed as one of the more robust and fairly vibrant capital markets in developing nations. So, we need to encourage the people who are players in this area so that they can continue to strengthen what is turning out to be an effective source of mobilizing capital within the country.

Mr. Temporary Deputy Speaker, Sir, it is also becoming very clear that with the kind of interest rates in this country which are completely non-sustainable at the rate of 30 per cent or 40 per cent, the economy cannot grow. It is, therefore, necessary that an alternative modality of raising resources for expansion and starting of new industries is developed. One secure way of doing so is through the capital markets. This has been done successfully by a number of companies which have gone out to secure rights issues. They have been able to raise resources which they have used for expansion and even rehabilitation of their industries. There are many examples here like the Athi River Cement Factory which was started. A lot of its resources were raised through the Capital Markets Authority. So, when one looks at the progression that is being made to be able to equip our stock exchange and to make it more competitive and

be in tandem with those in the developed countries, it is absolutely necessary that this House gives the necessary support to the passage of the Central Depositories Bill.

Mr. Temporary Deputy Speaker, Sir, the other aspect is that the integrity of any financial system at the end of the day depends on good management and also, in ensuring that the players go by the rules. We want to make sure that there is continued confidence in our stock markets. Therefore, the provisions that have been put in this Bill, when looked at broadly provide that basic framework. But what qualifications will those people who will run the Central Depositories System have? We must make sure that they are people of integrity so that they do not, at any one stage jeopardise the security that will be vested in their custody. It is also important that the aspect that relates to the secrecy provisions is adhered to. One of the most dangerous things that can develop in any financial system is a situation where there is no confidentiality or secrecy in accordance with the provisions that are accepted internationally. We have seen many cases in this country of leakages relating to some financial matters being made public.

That may be good for people who do read about them, but looked at in the broader context, it is a symptom that there is something wrong within our financial system, which is not sustaining the integrity of these institutions. This can seriously undermine the growth of this economy. So, I would like to urge the Minister, while we want to support him on this Bill, to ensure through the Capital Markets Authority (CMA) that the integrity of those who will be manning these institutions is impeccable and proper ethics are followed. The other area that I briefly want to touch on while seconding this Bill is also to state that in Clause 5, the Capital Markets Authority will, of course, have the power to establish, approve and also license other people who will be able to man Central Depositories System. Let us be very careful in this particular exercise. We must be very careful that we are not under any circumstances being duped into licensing characters who, first of all, have no clear background in financial matters, and also characters who are not going to use those depositories as vehicles to embezzle funds. We have seen in the past people getting banking licences and within a very short time those banks go under receivership and they go with people's deposits. So, it is equally important that in the process of approving the people who will man the Central Depositories System and those who will be allowed to run them; measures and requirements must be as rigid as necessary, of course, without stifling the necessary growth. Nobody should be unduly denied, but we will want to make sure that integrity is ensured.

Mr. Temporary Deputy Speaker, Sir, the other thing, of course, is the supervisory aspect. It is, indeed, shown that there will be the question of the ability to investigate and demand records and so forth. I would like to, perhaps, propose to the Minister that somewhere within this--I have not seen the report by the Financial Committee, but perhaps, one of the things that one would want to look at is that, at these initial stages when we are setting up this Central Depositories System, I think, there must be some element of some supervisory mechanism. This is not just for the purpose of saying that there will be records to be inspected and that records must be kept. The reason is that, there must be some supervisory mechanism just the way the Central Bank of Kenya Ltd has got some bank supervision mechanism where periodically, the operations of these depositories can be put on some check on a regular basis. Some assurance should be given to investors that they are being properly run. We would not want to face a situation where action is being taken too late. So, this is something that I just thought I need to emphasize, while looking at the provisions of this Bill. Otherwise, I would say it is important that this House does endorse this Bill with the necessary amendments, if it so deems fit. But the most important thing is for us to be able to make sure that the Central Depositories Bill can be accepted and we can now start seeing a more vibrant Capital Markets Authority.

It is also clear that this will also be a very good reflection of what really happens in the economy. One can see daily, whether from the print or electronic media, that we are going through a very difficult time. When one looks at the turn-over levels at our Stock Exchange at the moment, it is quite clear that the economy is going through some difficult period. So, a vibrant Capital Markets Authority is also a very good gauge when it comes to reflecting what goes on. At the same time, as we engage in privatisation of some of the State corporations, we need to make sure that our Capital Markets Authority will be properly equipped to facilitate an area where Kenyans can participate effectively.

Mr. Temporary Deputy Speaker, Sir, I would just want to urge the CMA to also make sure that they safeguard the interests of our people, because we have these capital markets here and we may want to have cross-listing with other countries. That is important. However, I would also want to emphasize it is important that there is some close observation of what goes on within the capital markets, because we want Kenyans to be the key players here. Whereas we do not mind foreigners participating in our trading, it is important that this becomes a major vehicle of transferring ownership and participation of some of the key institutions and industries to Kenyans. This has been one of the issues that has been lacking over a long period of time. It is important that we quickly galvanise the CMA, to provide that vehicle that will assist Kenyans of all walks of life, to ensure that they have a stake.

It should also become a major vehicle for providing strict measures to ensure that companies that are listed provide the major vehicle for companies to adhere to strict good governance practices. Once companies are listed, it is clear that they have to meet certain standards when it comes to the audited accounts, the management of their finances

and all other operations. So, the more we can get our institutions being dealt with within the CMA, the better it will be for this country. It will also provide a major way of being able to change the management of some of the institutions. This is quite clear that, it is through the CMA or the Nairobi Stock Exchange, that Kenyans have now been able to start providing necessary leverage and putting institutions, like the National Bank of Kenya Ltd on their toes and even changing and effecting the management of those institutions. The same goes for the Kenya Commercial Bank and others. So, it is important that this Bill is given due support, so that it can help in improving the management of our affairs and in providing broader ownership of Kenyans in the economy.

With these few remarks, I beg to second.

(Question proposed)

Mr. Mwiraria: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support the Bill, but with a little reluctance.

Mr. Temporary Deputy Speaker, Sir, the Mover and the Seconder of the Bill have referred to the economic problems that this country is facing at the moment. The reason why I rise to support the Bill rather reluctantly is that, this Bill like many other ones we have discussed in this House is aimed at helping the well-to-do, the wealthy, the rich; or the people and companies which can afford to float shares in the capital markets. The plight of the poor still remains unattended. The hon. Mudavadi referred to the prevailing interest rates. At the moment, they are around 32 per cent, if you borrow from a bank. Before a poor Kenyan can borrow, he has to complete what they call in banking terms a metric, complete or extremely elaborate, detailed and very complex forms which no kiosk owners can complete. Unfortunately, the Minister for Finance does not seem to think that those kiosk owners or the poor Kenyans who need to borrow Kshs10,000 to Kshs20,000 to earn a living to keep their families together, need to be looked after.

Mr. Temporary Deputy Speaker, Sir, unfortunately, the Minister for Finance does not seem to think that kiosk owners, who need to borrow Kshs10,000 or Kshs20,000 to do business to enable them keep their families together, need to be looked after. My appeal is that, while we look after the multinationals, wealthy Kenyans and those companies which can afford to float shares in the capital market, we should give priority to the poor, who have little and who can hardly complete forms to get the kind of metrics accepted by a bank to give them a small loan. More importantly, I feel that the time has come for the Minister for Finance to take the initiative and intervene in the banking industry to lower the interest rates. The Governors of the Central Banks in the United States of America (USA) and in the United Kingdom (UK), which are among the most developed economies in the world, still intervene to have bank interest rates at levels where the economies of their countries can operate and benefit *wananchi*. Why does a poor country like Kenya not do the same? When replying, could the Minister tell this House what stops him from intervening to lower bank interest rates in this country?

If there is one thing that is really "killing" this country's economy, of which the Minister is very much aware, it is his Ministry's inability to collect revenue due to the winding up of many companies. Many companies no longer make enough money to enable them pay taxes. The main reason for all this is that, this country's bank lending rates are too high. There are very few businesses one can do in Kenya and make enough money to repay a loan with an interest rate of 32 per cent and survive. So, this issue, in my view, should be given first priority.

Mr. Temporary Deputy Speaker, Sir, the second point I would like to make is that the country, definitely, needs to move into the electronic age, but - and this is a big "but" - we need to do so cautiously. When computerisation started in the banking industry, we were assured that there would be no loss of jobs. However, today, every bank is reducing its staff. Banking staff are being retrenched in their thousands because of computerisation. When we computerise the operations through the Central Depository, how many Kenyans will lose their jobs? Have we addressed this question? How many of those people who have been maintaining manual share registers in companies will become unemployed? How many of the people who are employed by stockbrokers in the country will become unemployed? I do not know whether there is any way by which we can ensure that no job losses will result from our activities. If we have another problem that this country faces today, it is that of unemployment. We do not want to increase the number of unemployed people in this country.

My second word of caution on the issue of introducing the Central Depository System (CDS) is that I do not think we have done enough background work in preparation for the introduction of the same. We all want to join the age of information technology. We want to keep up with the rest of the world in this technology, but at what cost to this nation? Really, the question I would like to ask the Minister is whether enough preparatory work has been done to ensure that this system can operate without hiccups in the economy.

As I stand here, I am reminded of the problems being faced by the banking industry as a result of computerisation. In the USA, some 12 to 14-year old children have managed to access codes of some big banks right from their parents' homes and steal a US Dollar from every account, ending up with a lot of money at the end of the

day. In this case, we will be dealing with shares, stocks and other securities. Has enough ground work been done before we start, to ensure fraudulent practices will not take place?

The Bill before the House talks about immobilising security in accordance with Central Depository rules - rules which will, hopefully, be established. When does the Minister propose to have those rules prepared? This is in reference to Section 13(2) of this Bill. As we have been informed by the hon. Mover, the enactment of this Bill into law will lead to amendments to the Companies Act and the Capital Markets Authority Act, and the repeal of the Unit Trust Act. I have not studied this Bill well enough to establish whether, as I suspect, it will lead to the amendment of the Banking Act. I urge that all the necessary amendments be attended to, particularly in making sure that the rules to safeguard against fraudulent practices have been prepared in good time.

Mr. Temporary Deputy Speaker, Sir, reading through the Bill again, one notices that if a company which is in the stock market has its shares immobilised, they will hand them over to the Central Depositories Authority, which will record the number of shares they have taken, but in their records they will not show the number of shares. Section 25(3)(b) states:

"Notwithstanding Section 112 of the Companies Act, a record of depositors maintained pursuant to subsection (2) shall not be distinguished by any share number.

I would like to ask whether there will be need for close referencing between the shares somebody held, which would have share numbers and so on and so forth, and the new records in the Central Depositories Authority? The Minister made it clear in his statement that all that is required is the number of shares somebody has. I would like to ask: Since we do not have an educated society, as societies elsewhere, what safeguards do we have to make sure that a *mzee* who had share certificates from 500 to 1,001 in Kenya Breweries Limited (KBL) and puts them after they have been immobilised into a Central Depositories Authority, can compare his new wealth in the Central Depositories *vis-a-vis* the shares he used to have?

Mr. Temporary Deputy Speaker, Sir, let me now make my final point which relates to the operation of the Central Depositories as well as the Central Depositories Agency. I think the hon. Seconder made a very pertinent point, that in looking for people to manage the institutions, we would need men of integrity. We need more than integrity to manage the institutions. In Kenya, our systems have completely broken down. I would also like to say that in Kenya, making a quick buck has become the order of the day. So, when we introduce a new system, we must make sure that the rules which govern the operation are in place well in advance, and that they are good rules. I wanted to repeat this, and I have mentioned it several times, because I believe we require rules to safeguard possible fraudulence.

We agree with the Minister that we need to introduce proper market structures in Kenya. This is perhaps the last of the structures that will make our capital markets comparable to others around the globe. If we introduce a system which does not safeguard the interest of the owners of the security, we could very easily destroy the capital market that we intend to improve, enhance and make it world class.

I really want to support the Motion. I agree that it is long overdue, but I must add that while we look after the well-to-do and the big companies, we must look after the poor Kenyans who cannot afford to borrow money at 32 per cent rate of interest and do any business in this Republic.

Mr. Temporary Deputy Speaker, finally, I would like to say that Kenyans should no longer be embarrassed to talk about Kenyanization. I looked at the Report of the Departmental Committee on Finance, Planning and Trade and found that in it, we have the composition of the Central Depositories stakeholders. What I saw in that Report is encouraging, but I would like once again, to remind the Minister that the banking industry in this country must give local banking facilities to local companies, the majority shareholding of which belong to Kenyans. I do not think that we should be shy about that. To me, it looks ridiculous that we allow an overseas company to come to this country, do local banking and make a lot of money which it takes out. It would have been much better if local companies did local business, made that money and it remained within the economy.

I would like to say that many developing countries have that as a requirement, for example, India, which has a much stronger economy than Kenya. Foreign companies can deal with foreign transactions. I think it is only fair--- But we must start thinking of what to do to benefit this country from operations. We are not chasing away foreign companies. I do not want to be misunderstood as saying that, but I want us to give priority to our own companies, although in the last few years, we have destroyed almost any company that you can call a Kenyan bank.

Mr. Temporary Deputy Speaker, Sir, with those very brief remarks, I beg to support.

Mr. Mkalla: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute on this Motion. On behalf of the hon. Members of the Departmental Committee on Finance, Planning and Trade, and in pursuance of provisions of Standing Order 103, I wish to present to the House the report and recommendations of the Committee on the Central Depositories Bill, 2000.

Some of the functions of the Departmental Committee, pursuant to provisions of Standing Order 151, are:-

(i) to study and review all legislation after First Reading, subject to the exemptions under Standing Order 101,

A(4);

(ii) to investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister; and,

(iii) to make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Bill seeks an Act of Parliament to facilitate the establishment, operation and regulation of Central Depository System for the capital market. The mix is between credit-based and capital-based financial systems. Our credit-based systems relate to banking where savers earn interest, and borrowers pay interest. Capital base system articulates equity ownership where enterprises raise financing by selling shares while rewarding the subscribers with capital gains and dividends from enterprise performance.

Mr. Temporary Deputy Speaker, Sir, there is an urgent need to establish the Central Depositories System (CDS) for the capital markets to enable rapid transaction. The system is of special importance both to foreign and local investors because it allows unfettered transactions, which boost domestic saving. The CDS can, therefore, be a vehicle of attracting an inflow of both direct foreign investment and short-term investment. The objectives of the proposed CDS are:

1. To develop a faster and more efficient settlement system.

2. To facilitate safe custody of security.

3. To achieve electronic transfer of securities and funds by eliminating physical movement of documents such that there would be no more handling of physical share certificates since all these will be dealt with through the electronic system.

4. To facilitate the attainment of companies mission statements.

The duties of the CDS are clearly stipulated in Clause 8(1) of the Bill, and these have been given in that particular Bill in detail. The impact of the CDS will be as follows: It will contribute to poverty eradication through the creation of additional employment in the country. The expected increase in the turnover at the Nairobi Stock Exchange will make current employers increase the number of investor-agents, security dealers, clerks and investment analysts. Here, I would like to remove the fear that as a result of the introduction of the CDS, people will lose jobs because of the introduction of the electronic system. That is not true because there will be creation of more job opportunities as a result of introduction of this new system.

It will also facilitate the inflow of foreign investment which we really need for the economic growth of our country. It will also provide for electronic transfer in transaction. This means there will be no manual transfer of shares, thus making the market more efficient. The system will also reduce costs involved in the transfer of shares since allocation and distribution of shares will be done electronically. One of my colleagues in the Finance Committee was talking of the shareholders, stakeholders and the percentage of their shareholdings. It is good for me to state who the proposed stakeholders and their shareholding are. One of them will be the stockbrokers who are expected to take 30 per cent of the total shareholding. Other groups are: Nairobi Stock Exchange - 25 per cent of the shareholding; the City Bank - 10 per cent; Jubilee Insurance Limited - 10 percent; Kenya Commercial Bank - 10 per cent; International Finance Corporation - 10 per cent and Apollo Insurance Company Limited - 5 per cent.

I would also like to remove the fear that it is only foreigners who will deal with the question of CDS because a lot of these institutions have Kenyans on their payroll. So, this means, therefore, that Kenyans are the ones who will work here even if some of the companies will be incorporated from overseas. The beneficiaries will be the local people. Of course, we should give a condition that prohibits the unnecessary repatriation of the profits so that they can be ploughed back into this country for better economic growth.

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

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

The re-published Bill is the same as the Central Depositories Bill, 1999, which was tabled before the House during the third Session of the Eighth Parliament. The new Bill was tabled in the House on 13th April, 2000, and referred to the Committee on the same day. The Committee had two sittings to deliberate on the Bill. In the first sitting, the Committee had the opportunity to discuss the Bill with the Minister for Finance as well as the Capital Markets Authority. During the second sitting, the Committee proposed amendments from the Capital Markets Authority on the Central Depositories rules. I was a bit surprised to learn from a colleague that there are no rules for the Central Depositories Bill. That is not true.

During our deliberations with the Capital Markets Authority management, we did demand to see the rules which had been formulated. These rules were submitted to the Finance Committee for perusal. We went through these rules and made amendments where it was necessary. These amendments have since been incorporated in the Central Depositories Bill. We are satisfied that if it becomes operational, Kenya is going to benefit in terms of economic growth, poverty eradication and increasing the employment opportunities for the people of this country, many of whom are unemployed. We see it as a vehicle of improving the country's economic goal.

The deliberations and recommendations of the Committee have so far been incorporated in the Bill. For example, Members suggested that some clauses should be added to this particular one. An example of them is:

"A securities exchange shall, in respect of securities exchange, give rules of all eligible securities prescribed by it to be immobilised with the Central Depositories System in not less than three dailies of the national circulation, one of which shall be in Kiswahili and two in the English language, once in a week for three consecutive weeks."

We said this because we know there are some Kenyans who may not know English, and they may want to read these things from the Kiswahili newspaper on a daily basis so that they can understand what is happening. We did say in our recommendations that it must be put in the three dailies; two in English and one in Kiswahili for three consecutive weeks, so that every Kenyan has the benefit of knowing what is happening in the market. The Minister has incorporated these recommendations in Clause 67 of the Bill. There are other clauses, just to name a few; Clauses 60, 61, 62 and 63, where the Committee had proposed to increase the penalty to Kshs5 million or five years' imprisonment, or both. This has also been incorporated in the Bill. Initially, the Bill stated that there will only be a penalty of Kshs2 million and, maybe, two years' imprisonment. The Committee felt strongly that there is need to bring punitive measures which will deter people from defrauding the system.

We further said in our recommendations that apart from paying the penalty of Kshs5 million and serving an imprisonment sentence of five years, any losses incurred as a result of any fraudulent action will be recovered in full from the assets or anything acquired by that person who has fraudulently acquired those things. These recommendations have since been incorporated in the Bill. It surprises me when a Member of the Committee also stands here to say there are no rules, which means that, maybe, he has not been there to discuss with the other colleagues in that particular Committee.

There are other areas which the Committee had recommended for the consideration of the Minister. One such area was the absence of Central Depositories rules. The Committee benefited from the submission of the Central Depositories rules by Capital Markets Authority. The Committee deliberated on the proposals from the Authority, which they adopted, but recommended that the Minister, in consultation with the stakeholders, should formulate the CD rules.

I would like to comment on the need to reduce the interest rates. We, in the Finance Committee, believe that the Minister for Finance should play a big role to make sure that interest rates today in this country are, at least, pegged to the Treasury Bills rates. We know today that the Treasury Bills interest rates are about 12 per cent.

Mr. Temporary Deputy Speaker, Sir, we are also aware that there are some commercial banks in this country that are charging as much as 40 per cent interest rate. Why such a disparity; from 12 per cent on Treasury Bills, to 40 per cent interest rate charged by some commercial banks? As the Finance, Planning and Trade Committee, and on behalf of this House, we are saying that there must be a regulatory system whereby commercial banks will not exceed something like 5 per cent of the interest rates which are charged by the Treasury Bills, so that people do not suffer unfairly.

Mr. Temporary Deputy Speaker, Sir, I would like to make a comment because there is fear that people will lose job opportunities as a result of introduction of the Central Depositories system. We believe it will create more employment opportunities. We also believe that it will be a source of improving the economic growth of this country.

In conclusion, I wish to commend the report of the Finance, Planning and Trade Committee to the House. I hope hon. Members will find it of use in deliberations of the Central Depositories Bill. Last, but not least, I would like to sincerely thank hon. Members of the Committee and the staff of the National Assembly for their co-operation and dedication in pursuing the objectives for which the Committee was established. I feel indebted to their invaluable contribution and commitment, which has ensured the timely production of this report.

Thank you, Sir.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, when the Minister for Finance was moving this Bill, he stated that one of its objectives is to attract foreign capital and for participation in the Nairobi Stock Exchange. Even when hon. Mudavadi was seconding the Bill, he also alluded to the need of revamping our economy.

First of all, I am happy that the Government agreed not to rush this Bill into this House. This has given hon. Members of Parliament time to study the provisions of the Bill and to consult, like I have done with the members of the Nairobi Stock Exchange. I am happy to say that, in principle, the objectives of the Bill are very commendable, and I

fully support this Bill. We should pass it. But what I want to emphasise is that the enactment of this Bill will not be an end in itself. This is because as the Minister for Finance was saying, we are seeking to attract foreign capital into Kenya, so that we will use it in the Nairobi Stock Exchange and help our economy to grow. But is the enactment of this Bill into law by itself going to achieve that objective or not? This is because it is not an end in itself. We want to attract foreign capital. We want to use the new mechanism or structure in order to revamp our economy. There are serious question marks as to whether, indeed, we will attract foreign capital into the country merely because we have enacted this Bill into an Act of Parliament. Perhaps, a lot more needs to be done. Let us remember that even if we succeed in attracting foreign capital, we also need to ensure that the management of our affairs is such that, that capital can remain here. A lot of this capital is, in fact, "hot" money. About ten days ago, we read about the collapse of the stock market in the USA. This is a phenomenon that is happening across the world. This is actually "hot" money. In accordance with the current trend, it is possible to transfer shares electronically. This means, overnight, you can witness collapse of a stock market even here in Nairobi. All I am trying to say is that the name of the game is confidence. If we are going to attract foreign capital and realise economic growth, we have to underpin it on the management of our economy. This Bill might create confidence in the economy of this country. We cannot have economic growth or development without confidence. Therefore, the name of the game is confidence. As long as we are trying to pursue an item in isolation and it is not an end in itself, we will continue to chase a mirage or a dream. The whole aspect is integrated. We need to take a holistic approach to the management of the affairs of our economy.

Mr. Temporary Deputy Speaker, Sir, even when we enact this Bill into law, by itself, it is not going to restore the confidence of Kenyans, international community or the foreigners that we are trying to attract, until such a time that they feel confident in the management of our economy. You cannot force anyone to feel confidence. You can preach to them until cows come home, but you cannot force them to feel confident. Confidence is something that will be subconscious. That is, they will judge very quietly whether they have confidence in the management of our economy or not.

Mr. Temporary Deputy Speaker, Sir, what I am saying is that we should see the enactment of this Bill in a wider context; what further measures this Government will take in order to restore confidence. Only then, will we be able to achieve the objective of the Act, namely, to use it as a vehicle for resuscitating economic growth. Sometimes we get a little concerned about the issue of confidence when, for example, the Central Bank of Kenya (CBK) and Treasury seem to be pulling in different directions in terms of monetary policies. Again, if we are talking about restoring confidence in the management of the economy, the monetary policy of a country is not an end in itself. It does not do any Kenyan any good to be told that because of the monetary policies that we have rigorously enforced, we are holding inflation at a single digit. That does not mean anything when the economy is not growing. One should use the instrument of monetary policy to get economic growth. Monetary policies are not an end in themselves. Holding inflation at a particular level is not an end in itself. It only makes sense when it is integrated with the other objectives of getting the economy going.

Currently, the USA economy is overheating and, therefore, they are using monetary policy to actually raise the interest rates in order to slow down the growth of the economy. There are too many people with too much money, and the purchasing power is too high. So, you need to use this in the context of managing the economy. Do you want the economy to grow? Is it growing too fast? Do we want to slow it down, so that we do not have a crisis? What does one not see happening in our country? We hear the Governor of CBK saying the problems of this country are fiscal. They are not monetary as far as CBK is concerned. We are enforcing a rigid regime of monetary policies. You cannot do that in isolation to the fiscal policy.

The Governor of CBK is an adviser of the Minister for Finance. So, they need to sit together and see what efforts they should make in order to resuscitate the economy. What is the state of the economy? What do we need to get the economy growing? What is absolutely critical for this country is to get the economy growing again because it has stagnated. So, it does not make any sense to pursue monetary policies which will only result in holding inflation at a particular level, if they are not leading to economic growth. The Governor of the Central Bank of Kenya needs to sit with the Minister for Finance and chart out the steps which need to be taken, like the estimates of the revenue which the Government of the day expects to collect; the expenditures it expects to make out of that and, therefore, be able to harmonise monetary policies with the fiscal policies. At the moment, all the policies should be targeted at getting the economy going again. That is why I am saying that the underpinning for economic growth has got to be confidence.

Mr. Temporary Deputy Speaker, Sir, one of the glaring falsities is for any of us to think that you can have economic reforms which will result in economic growth and be delinked from the constitutional-political settlement. That is an absurdity and will not happen, because it will not result in confidence in the country. Even as we enact this Bill, let us see it in the wider context; because of the need for economic reforms which will resuscitate the economy and lead to economic growth, they have to be linked to a political and constitutional settlement. But here we are trying to enforce reforms at the economic front and pulling backwards as far as the political-constitutional reforms are

concerned. That will not result in confidence in this country. That is contradictory, self-defeating, and it will not restore confidence and, therefore, the economy will not grow at all.

All the economic reforms; monetary and fiscal reforms, retrenchment in the Public Service and all the other steps you need to take to jump-start the economy have again got to be undertaken simultaneously with political and constitutional reforms. If that is not done, that confidence underpinning, the basis of economic growth, will not be realised. So, I do urge the Minister that even as we support him in the passage of this Bill, he should ensure that he persuades his Cabinet colleagues on the need to take a holistic approach to the management of the Kenyan situation, so as to realise economic growth and development, and raise the socio-economic situation of the majority of our own people. If that is not done, the economy would continue to stagnate and unemployment and insecurity would escalate. This is because as long as you have got people who are hungry and have not fed their children, you would experience insecurity. I am not condoning it and I hold no brief for the people who have been. Personally, I was almost subject to this insecurity.

I am saying that until we ensure the majority of our people live in dignity and free from wants; that they have got enough food to eat, clothing, shelter and are able to educate their children and access adequate health care, then, insecurity will be there. We cannot ensure such conditions of living for the majority of our people unless we get the economy going on, because we cannot print money and get wealth from outside. We have got to create wealth in order to afford paying educational expenses for those who cannot. We need to create money in order to provide health services for those who cannot afford them.

Mr. Temporary Deputy Speaker, Sir, economic growth is fundamental, but I am saying that we will not achieve it, unless we restore the confidence of Kenyans and foreign investors in the management of our economy and public affairs in this country. That is the fundamental key. However, lack of realisation of that simple truth is what is leading us to keep going round in circles. I hope the Minister for Finance will take steps to convert his Cabinet colleagues to this holistic approach of the management of the economy and public affairs, and to persuade them to see the linkage between the constitutional and political reforms which we are talking about now. They can never be successful unless you bring in a wide measure of consensus, even if you have got a majority. You can use that majority to impose your will on the majority which is outside, but unless those issues are linked together, nothing will be successful. This is because there is a nexus between the two, which would result in confidence and in the growth of this country's economy.

Today, even if you are a Kenyan and you have got between Kshs10 million and Kshs50 million to spare, and of course there are many who are laundering that sort of money; once this building is going up for the time being--- Those who are serious would not start any business in this country. Today, Kenyans, themselves, despite the removal of the exchange control, because of lack of confidence in their country, as well as the management of the economy and public affairs by the Government of the day, are not investing any money in the country. They would rather put that money outside the country and not bring it back until there is confidence in this country. If, tomorrow, we were to arrive at a political and constitutional settlement which will be supported by the majority of the Kenyan people, the day after, there would be restored confidence by Kenyans and outsiders. We would then attract capital, provided we can create the environment for the enforcement of the necessary political, constitutional and economic changes. We can get this country going. It is not difficult.

We are blessed with a lot of assets, particularly the entrepreneurship spirit of our people, who understand the value of hard work and just want a conducive environment. It is the failure of leadership at the political level which has led directly to the sort of the economic mess in which we are. That economic mess has not come about on its own; it has not dropped from Heaven. It has come as a direct result of the failure of leadership at the political level. That is where we need to address and find a solution, so that even as we enact this sort of Bill, we will be sure that the environment which we are creating will attract the capital of Kenyans and foreign investors, and lead to economic growth.

So, with those few words, I beg to support the Bill.

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me to contribute to this important Bill. As has been explained by the Mover, the Seconder and the Chairman of our Committee on Finance, Trade and Planning, that is a very major and positive development in the financial management of our country.

As you know today, if you invest in shares, you are supposed to carry them to your home and keep them in your safe. Some of us do not have a safe. With the introduction of this system, your shareholding will be safe. You do not have to carry them home. Even if your house is burnt, like it happens in Mathare or Kibera, your shares would be safe. You only lose your blanket and, maybe, a few chairs, if you had them. The global market, right now, is like a village market. With the development in electronics, you can transact any business with any party in any part of the world within a second or a minute. So, people who would like to transact business with Kenyans have been experiencing problems, going through the red tape, with increased and prohibitory costs. With the introduction of this

system, I believe, it will be faster and quick to transact business with anybody in the world at a reduced cost.

Mr. Temporary Deputy Speaker, Sir, we need to create confidence in our economy and institutions. If this Bill is passed and implemented fully, we will have confidence in our stock exchange. If we do that, our people will have the confidence to invest locally and buy shares in our companies, and the foreigners will also be encouraged to invest in Kenya.

Mr. Temporary Deputy Speaker, Sir, the previous speaker said that, maybe, this will create unemployment. But from what I understand from this new system, the transactions will be increased and, therefore, they will need more people to handle those transactions. I believe, by doing that, they would have expanded the stock exchange market, and more jobs will be created in the country for our people.

Mr. Temporary Deputy Speaker, Sir, when a few years ago, banks wanted to introduce plastic money, people were reluctant to accept that, that was a positive development in our banking system. Similarly, today, people may be reluctant to accept this new system. But this system has been embraced in many countries in the world, and it has increased trading in shares in those countries. The system is secure. I believe, when our people discover that this system is as secure as plastic money, they will enjoy transacting business within this system.

Mr. Temporary Deputy Speaker, Sir, one hon. Member who happens to be a Member of the Finance Committee said that he thinks the shares should have serial numbers so that anybody would identify their shares. The system we are getting into is not like cattle rearing. It is a system whereby the colour or the serial number of the stock has to be known, so that, for example, if there is cattle rustling, you can identify your herds. Shares will be like cards, and once you have deposited it, it no longer belongs to you, but you know the number of shares you own. You do not have to identify them. You only have to know the number and the value as will be dictated by the market.

Mr. Temporary Deputy Speaker, Sir, we have heard contributions here with regard to interest rates. I hope the Minister for Finance will deal with that problem. Today, if you deposit funds in any of the financial institutions, you will be paid at an interest rate of between 6 to 10 per cent maximum. But if you borrowed from the same institution, you will be forced to repay at an interest rate of between 26 and 40 per cent. I do not know why the Ministry of Finance allows such daylight robbery from our people. I think this is immoral. I hope the Minister for Finance will deal with that situation. If he does not, this House will have failed in allowing that situation to thrive.

Mr. Temporary Deputy Speaker, Sir, in the current system, it appears we have stripped ourselves naked with liberalization. For example, you can purchase tea, coffee or any cash crop in Kenya at a very low price and export it overseas at a very high price. Instead of bringing back the foreign exchange earned, you are not required to do so. There are crooks in this country who are repatriating our wealth by buying cheap, exporting and not remitting back the profits from the exports. I also hope, the Minister for Finance, who seems to have really improved in recent months, will handle that problem. Otherwise, we will leave our country naked and impoverish our people. There will be no foreign exchange that we could use to import the essential inputs we need for development.

Mr. Temporary Deputy Speaker, Sir, the several mechanisms that have been put in this system are very good. I hope they will be enforced so that our people do not lose their investments. Today, we were told in the House that one of our major banking institutions has provided for loss of bad debts up to the tune of Kshs10 billion. This is far beyond the capital base of that institution. This means that those who have shares in that institution have lost all their investments. As we establish this system, I hope all those concerns will be addressed. We hope the Treasury will move fast to save the investments and the interests of our people and those who want to invest in our country. A country cannot develop unless it has savings. We must create an environment suitable for investment. As we introduce these new systems, we are injecting confidence in our economy and institutions. If our institutions are managed properly, I have no doubt that this country will turn around, and the economy will start growing.

Mr. Temporary Deputy Speaker, Sir, I hope hon. Members on the opposite side of the House will co-operate with us, so that we can talk with one voice and induce or seduce, if possible, our development partners, so that they can bring in investments to turn around the economy. I know there is an impasse in the constitutional review process, but in my view, what is important is for the average Kenyan to have a job before the review of the Constitution. The average Kenyan would like to have food on his table, at least once a day. The average Kenyan would like to clothe and shelter himself. The average Kenyans would like to get treatment when they fall sick.

Mr. Odoyo: On a point of information, Mr. Temporary Deputy Speaker, Sir. It is for the very same reasons why we want the Constitution reviewed. We would like to change the Constitution so that our people can identify jobs. Therefore, we should first change the Constitution and then jobs will come by.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, most of the people I represent need employment, shelter and clothing before the review reform. The opposite side of the House should join us so that we talk with one voice and discuss our grievances.

Mr. Temporary Deputy Speaker, Sir, yesterday, the Head of State, to some extent, conceded to the needs of those who would like to be involved in the constitutional review process. We should congratulate him for having

looked at their interests. Can we, for the sake of our country and our people, work in unison, at least, on matters relating to the economy?

Mr. Temporary Deputy Speaker, Sir, this House represents all Kenyans. If you watch the television every evening, you will see people dying of hunger in Turkana. I know that the Pokots have no people to fight with because the Turkanas are almost dying off. You have seen people dying of hunger in Wajir and yet, we have got too much food in Kisii, Western Kenya and in Limuru here, and some of it is rotting. Can we, for a change, talk with one voice, and accept to improve our institutions, especially institutions dealing with financial management of our country?

This Bill would have come from the private sector. As you know, the private sector is the only sector in this country that has been able to manage itself well as opposed to the public sector. So, we should all support this kind of incentive and encourage them to make similar incentives in future, so that we entrust our people who do well with the management of our economy. This will enable us to remove political interference from our institutions. I also believe that if we had removed political interference from the constitutional review process, the Constitution could have been ready by now. But because of our petty jealousies and differences, we have only destroyed our country.

Mr. Temporary Deputy Speaker, Sir, I am supporting this Bill and with that, as I had said, will the Minister for Finance look at all those aspects that are hurting our people, so that our country can turn round the economy?

With those few remarks, I beg to support.

Mr. Odoyo: Thank you, Mr. Temporary Deputy Speaker, Sir. As a Member of the Finance Committee, I have already had an opportunity to discuss this Bill with the Minister. So, I will simply restrict my comments to some of the areas to which the Minister can pay some attention.

Our country, Kenya, has several comparative advantages in the provision of services. These services include ports, railways, airports and financial services. Even though Kenya has been ahead and has the oldest stock exchange in this region, we have been using outdated systems, especially in the immobilisation of our stocks.

This Bill is a step in the right direction, and I confirm that I am here to support it and say that the system of Central Depositories (CDs) is already in practice in Uganda and Tanzania. I think Tanzania is already implementing it. We are very much behind in this, and it is important that all hon. Members support this particular Bill to enable us move ahead. I may say that many hon. Members find this particular Bill particularly technical and, perhaps, it is useful that the relevant Departmental Committee has had a chance to go through it. But, equally, it is a good lesson that the Capital Market Authority (CMA) needs to do more with the hon. Members of this House. The importance of the securities market to this economy cannot be over-emphasised. The interest rates and the monetary issues, at the end of the day; and capital and equity, are central to all investments in this country.

I will, therefore, concentrate, as I had said earlier, on the areas to which the Minister needs to pay close attention. The first of these areas is public education. This Bill will affect the Companies Act. It will also affect the way companies issue and handle, especially those that have quoted on the stock exchange, their shares. That transition period, when they are being educated, will be central to the success of this particular Bill. Equally, this Bill has got serious implications on computerisation. All the players, and this includes the Capital Markets Authority, the Depository body, the Stock Exchange, the stock people and even the investors, will require to be computerised in order to enable us to benefit fully from the impact of this particular Bill. The fourth generation computers; the P2 and P1 computers, will not just be valuable. Therefore, we must ask the Minister to put in place systems whereby we shall be able to import computers at almost no taxable duty. The fifth generation computers that will be required are expensive, and unless we are able to access the computers, the implementation of this Bill might not be as expected.

I would also like to touch on the issue of confidentiality. Even though the Bill is very specific on how this will be maintained, I wish to echo the feelings of my colleague, the Minister for Finance, that now we have many computer hackers. They are young and some of them are outright thieves. Therefore, the technical competence of CMA and the CDs will be brought very much into question: Does the CMA have the technical capacity to monitor the CDs, especially on the computer and related issues? A lot of powers have been given to CMA, but the issue as to whether it has the technical competence to deal with the implementation of the surveillance of the CDs will come into question.

Mr. Temporary Deputy Speaker, Sir, the board of this CDs, I believe, will be composed of the representatives of the stakeholders. Effectively, it will be a private sector board, but even at this point, the CMA should have some capacity to exercise veto if anybody of improper integrity will be appointed to any board position. This issue is touched on a bit by the Act by implication, but, perhaps, the Minister may wish to assure the House that those who will run these particular depositories and settlement systems will be people of integrity and technically qualified. Even though he has called for involvement of international companies, some of the largest frauds in this country have been perpetrated by the so-called international companies. For example, we have had the fertilizer and the Goldenberg scandals. The Central Depositories System (CDS) will be privately run. Therefore, I repeat, the monitoring capacity of the CMA has to be ahead. These people must be international in their perspective. They must know what is happening in Paris, London, Hong Kong, Singapore and all the other stock markets of the world. This is in order to keep up with

the new technical strategies that are coming up for monitoring these particular new bodies in the market like, CDs.

Mr. Temporary Deputy Speaker, Sir, one of the questions raised by my colleague was that of the poor people. As we are moving towards CDS, in respect of the traditional methods where we have used our stocks, like, for example, gaining loans from banks, I wish to request the Minister to assure us that our capacity to use those same stocks as collateral in banks will not be affected by the CDS. I should still be able to gain my Kshs50,000 loan from the bank on the strength of my stocks. It should not be that because the stocks have been immobilised now, private people do not have easy and quick access to them so that they can use them for such basic functions like borrowing from the bank on a short-term basis.

Mr. Temporary Deputy Speaker, Sir, regionalisation and globalisation are here with us and, therefore, I urge the Minister that harmonisation with Kampala and Dar-es-Salaam on what you are doing on the systems you want to put in place, on compatibility of computer programmes and even on the people who are managing the CDS will become critical. This is because, I believe, over the next two weeks, we are going to be tabling in this House a Bill on the East African Community. Therefore, whatever is done in Nairobi on the CDS should be compatible with the other regional markets.

Mr. Temporary Deputy Speaker, Sir, I wish to echo both the Minister and also the official finance spokesman of the Opposition on Kenyanisation. Increasingly, we need to have our people get into these complex areas, like CDS and some of the shareholdings that are now being held by either the banks or the international bodies. A provision should be there that in the future, these shares must be shared to Kenyans so that we have more Kenyans also owning a part, and learning and educating ourselves so that we can take the lead in the region on these financial matters.

Mr. Temporary Deputy Speaker, Sir, I also wish to echo the fact that the CMA Act will be amended. This needs to be done quickly so that it is in conformity with the amendments to the Companies Act, the CMA Act and the Banking Act, if any, to take into consideration the emerging security products. Very many new products are coming into the market, and the complexity of the money market and the securities market is such that, increasingly, the Minister has to assure us that the legislation did not lag behind what is happening in the market.

Mr. Temporary Deputy Speaker, Sir, on immobilisation of the security, I think a period is given for two days. These are two days when the stockbroker informs or transacts, or the whole transaction is complete. There has been a case of cheque kiting. Cheque kiting is a very common practice where somebody issues cheques and goes round in cycles, where Peter pays Paul, *et cetera*, hoping that he will not be caught out.

Mr. Temporary Deputy Speaker, Sir, there is a risk here and the CMA has to be very vigilant that the same stocks might be, unless we are very vigilant, traded two or three times even before the CDs is fully in the picture. I know the Act has indicated some steps to be taken, but should that risk turn out to be a reality, it can damage the total confidence that people have in this system. I therefore wish to reiterate that the issue of stocks insecurity is the business of confidence, and here I echo the speech given by the Member for Kabete, hon. Muite. We are really in the business of confidence of the stock markets. Unless we are able to get confidence in these particular markets--- I am pleased to say that, so far, the Capital Markets Authority is doing a tremendous job in terms of ensuring that the market operates within the confines of the law. I wish to urge them to continue operating within that particular Act.

The holistic approach indicated by my colleague is critical and, therefore, I wish to take this opportunity to urge all stakeholders, that includes all Kenyans in the constitutional amendments, to co-operate, so that we can work together and get the constitutional hangover over as soon as possible. It is good that the President has indicated that the Ufungamano Group will participate in the constitutional review process. I wish to request that this particular opportunity be capitalised on by the Ufungamano Group. This House is proceeding with the Raila Report, and it is leading this country in ensuring that we have a Constitution in place fairly soon.

Mr. Temporary Deputy Speaker, Sir, one of the rights which we hope that the constitutional amendments will bring is ability for entrepreneurs to conduct their business and keep their returns. Those who work hard should be able to earn their keep, and not for somebody to decide and say: "Because you have worked hard and earned your money, we want to take it away from you". I think we have to inject that in the Constitution to ensure that the reward goes to those who work hardest.

With that, I wish to end my submission by saying that, I support this particular Bill, and I hope that as soon as possible, the Minister will start the transitional period to get the Bill off the ground.

Thank you.

Mr. Kariuki: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to comment and support the Bill.

This is a milestone in the capital markets due to the fact that, the Nairobi Stock Exchange was started about 46 years ago, and it was essentially a very small market then. It has grown to be the leading stock market in this part of the world, and also in East Africa. But the Capital Markets Authority, which again was started about 10 years ago, whose role then was regulatory and market development, has also helped the market to grow. I think there are a few

issues that ought to be addressed so that we can harmonise the challenges of the CMA with the challenges that will be brought about by the CDs. The CDs is an initiative in the new millennium, which is very welcome in the sense that it will speed up the process of transactions and increase market efficiency, accuracy, safety of instruments that are dealt in, transferability, marketability of shares and, generally, it will enhance shares as a medium of exchange. It will also enhance the element of globalization and inter-linking of stock markets in this country with those in other countries.

Mr. Temporary Deputy Speaker, Sir, certainly, the CDs is a very expensive investment, but luckily, the Government of Kenya is spending a minimal amount of money. It is the private sector initiative that will be more challenged. So, really, there is nothing very much the Government is being asked to do, but just to endorse. Otherwise, the challenge will be on the private sector; the stock market operators like stockbrokers, the dealers and investors who are going to put money in this venture. Therefore, it is not a very big challenge to us on this side of the House to oppose because there is nothing to oppose. This is a Bill that should be pushed through without much problem.

Having said that, I think we should look at the whole question of the market set up and the nature of the market therein. As hon. Muite mentioned, the market relies entirely on investor confidence and the confidence of the players who are in that market. Certainly, the investors out there, particularly the potential stockholders or buyers of shares would like to ensure that they are dealing with a commodity which has a market and whose investment is safe and secure. But that same investor requires to be reinforced in terms of his investable power; that is the purchasing power in terms of buying those instruments.

Mr. Temporary Deputy Speaker, Sir, we have been talking about poverty reduction in this country and the problems we are facing as a result of having about 46 per cent of our people living below the poverty line. In that very pathetic situation, there are very few funds that are available for investment. As we address the Central Depositories System, we should also address the issue of empowerment of our people so that they are able to invest. Otherwise, this new structure will be useless because the country will be riddled with poverty and paupers. So, we have a very big challenge as a nation, in addressing the root cause of poverty.

Mr. Temporary Deputy Speaker, Sir, the element of investors' willingness and ability is foremost in terms of the challenges that the capital markets development have. Of course, the Capital Markets Authority cannot address it unless the Government puts in place proper monetary and fiscal policies to enhance our economic growth, and ensure that the country bails itself out of the current economic quagmire. So, if the investors are able and willing to buy, and there are not enough securities, then we have a problem. So, we must also address the depth and breath of the instruments that we have in the market. I am not sure that we have enough instruments in the market to gather for both local and foreign investors. In fact, if our economy was vibrant, the market would normally be constrained by the fact that there are very few instruments in the market. So, what we should be addressing is how to promote the growth of capital markets through the availability of more instruments in that market.

Why have programmes like privatisation failed? It is because we have very few companies that have been introduced in the stock market. There are just four companies which have been introduced in the recent past. These are the National Bank of Kenya, Kenya Commercial Bank, Housing Finance Company of Kenya (HFCK) and Serena. So, this programme of privatisation has virtually failed because the Government has not been fully committed to it because of vested interests within the Government. Whatever is being privatised is always being grabbed by Government Ministers. I am not sure whether those grabbers are in the House today. No, those present are not the ones. It was the others who were here before and we may name them, if necessary. As a country, we should be more serious about the people we represent. The public out there is eager to invest and it has no alternative mode of investment other than savings accounts and the current accounts. So, they would like to have more instruments in the nature of securities of good companies like the East Africa Industries, where the Government is holding 40 per cent shares. What business does the Government have in owning shares in the East Africa Industries? It is high time the Government off-loaded that stake.

The Minister for Finance (Mr. Okemo): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Kariuki in order to mislead this House by saying that the Government holds shares in the East Africa Industries, when it actually sold all its shareholding last year?

Mr. Kariuki: Thank you very much, Mr. Temporary Deputy Speaker, Sir. The Minister is my very good friend and a former classmate, and we share information. He has not shared that information with me.

The best I knew about the East Africa Industries is that the major shareholder was ICDC and, maybe, it is during my duties as a Member of Parliament for Kiharu that, that may have escaped my attention. But I am trying to challenge the Government to come up with many companies that are ripe for investment. They can sell off their shareholding in very many companies. The Government has a major stake in the National Bank of Kenya Ltd., the Kenya Commercial, Kenya Airways and others. I think it will be important to choose better companies and not those ones I have just mentioned, which have flopped, and see which other investments that are in the pipeline that could be privatised. We have heard about the Kenya Posts and Telecommunications Corporation (KPTC) coming up on the

market, but whenever there is something good, then we have a few people with vested interests, who are properly connected, taking advantage. We hope the Minister will be prudent enough to ensure that not only the loss making institutions are privatised, but also those other companies that are strong enough, so that Kenyans can partake in this very noble investment.

Mr. Temporary Deputy Speaker, Sir, with regard to electronic devices, a lot more is required in terms of transparency and integrity, particularly of the people involved with the management of the Central Depositories (CDs). I think the Bill here does not talk about the requirements for the appointment of the chief officers in the Central Depositories. I think it is good to stipulate the minimum requirements for the chief executives and, maybe, the computer managers, who are very key and pivotal in managing the Central Depositories. I have had the advantage of seeing Central Depositories systems in New York, Kuala Lumpur, Singapore, Taiwan, Philadelphia and Chicago. Mostly, CDs in those other countries are managed by banks because of the very importance of those institutions, and more so, the element of safety of the investments with which they are entrusted. This type of initiative entails that every other register that is owned by all listed companies be managed by the CDs. So, it means, therefore, that the CDs will be entrusted with the whole wealth that is quoted on the Nairobi Stock Exchange (NSE). So, we are talking about Kshs4 billion market capitalization on the NSE, which will be entrusted to this body. So, if there is a small mistake, it could cause chaos. Therefore, of importance is the human aspect; the machine can do what it is instructed to do by human beings. I think it is important to prescribe very clearly in the Act, the requirements for the chief officers of the CDs.

Mr. Temporary Deputy Speaker, Sir, it is true that the major players will be the financial intermediaries, who are operating in the market in the nature of stockbrokers, dealers and others. I think there is a tendency in this country of being overzealous in talking about foreign expertise while Kenya has got enough experts. I think it is good to give priority to our local people, not only in working as employees, but also in owning of these institutions. There is a tendency of glorifying investment and calling for foreign investors to invest in small investments. We are seeing foreign investors in small fast foods in the streets of Nairobi. There is a tendency that the same could be happening on these markets, where a foreigner will come in with a briefcase, calling himself a stockbroker based in New York and so forth, when he knows nothing more than the locals. I think this is where the element of control also comes in, to ensure that this market is not colonised by foreigners. They target areas where we are poor and then, they say they are going to bring in foreign capital. But we have so much money lying in the deposit accounts in commercial banks which is not utilised properly. So, it is a question of changing the scenario, to ensure that local funds move from idleness; that is, from savings accounts and deposit accounts to the capital markets, so that we have a scenario like we have in South East Asia, whereby about 60 per cent of the GDP is invested on the stock market. We have not got to that stage as yet, but we are only, maybe, about 5 per cent.

Mr. Temporary Deputy Speaker, Sir, with those few remarks---

The Temporary Deputy Speaker (Mr. Poghio): Order! The time is up; you will continue next week.

Hon. Members, I do not have any item on the Zero Hour.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghio): It is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 2nd May, 2000, at 2.30 p.m.

The House rose at 6.30 p.m.