

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 7th December, 2004

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The Annual Report and Accounts of Co-operative College of Kenya for the year ended 30th June, 1999, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Office of
the President (Prof. Kibwana) on behalf
of the Minister for Co-operative
Development and Marketing)*

The Annual Report and Accounts of Kenya Sugar Board for the year ended 30th June, 2001, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Office of
the President (Prof. Kibwana)
on behalf of the Minister
for Agriculture)*

The Annual Report and Accounts of Sunset Hotel Limited for the year ended 30th June, 2002, and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Office of
the President (Prof. Kibwana)
on behalf of the Minister for
Tourism and Wildlife)*

ORAL ANSWERS TO QUESTIONS

Question No.962

ASSEMBLING OF POLICE OFFICERS ALONG

PRESIDENTIAL ROUTES

Mr. Deputy Speaker: Is Dr. Ali present? He is not here.
Next Question!

*Question No.408*SEIZING OF NYS YATTA LAND BY
PRIVATE DEVELOPERS

Mr. Ndile asked the Minister of State, Office of the Vice-President and Ministry of Home Affairs:-

- (a) whether he is aware that part of National Youth Service (NYS) land at Yatta has been seized by private developers; and,
- (b) what the Ministry is doing to reclaim the said land.

Mr. Deputy Speaker: Anyone here from the office of the Vice-President and Ministry of Home Affairs?
Next Question!

*Question No.829*SETTLEMENT OF SQUATTERS IN
NGONGOGERI SETTLEMENT SCHEME

Mr. Mukiri asked the Minister for Lands and Housing:-

- (a) whether he is aware that over 300 families in Molo Constituency have resided in Ngongogeri area for 40 years as squatters;
- (b) whether he is further aware that the Government established Ngongogeri Settlement Scheme, but the above families were never considered and the farm was given to outsiders; and,
- (c) what is the Government's criteria on allocation of land in settlement schemes.

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Deputy Speaker, Sir, you are aware that, last week, I had replied to this Question. What was demanded thereafter were names of prominent people who were the beneficiaries of the allocated land.

Mr. Deputy Speaker, Sir, I beg to name those who were allocated land in the Ngongogeri Settlement Scheme. They are: Mr. John Lokorio, 8.43 hectares; Mr. Yusuf Haji, 16.19 hectares; Lt. Col. Bashir Haji, 4.05 hectares; Mr. Timothy Sirma, 12.14 hectares; Mr. Solomon Boit, 8.09 hectares; Mr. Musa Sirma, 8.09 hectares; Mr. Alexander Sawe---

(Loud consultations)

Mr. Deputy Speaker: Order, Members! Order, Mr. Ojode! I thought you laid the list of names on the Table!

(Loud consultations)

Order, hon. Members! the Chair is communicating something. Mr. Ojode, I thought, last time, you laid on the Table a whole list comprising of so many names. Are you going to read all of

them?

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Deputy Speaker, Sir, I was ordered by the Chair to mention the names of prominent people who were allocated land in the settlement scheme. I even asked the Chair to clarify why I have to do so. The Chair instructed me to name the prominent people. The list, however, is not so long.

Mr. Deputy Speaker: For your guidance, Mr. Ojode, I have no problem with you reading out the names. However, I want it to be clear that you laid a list of so many names; in fact, it was a voluminous document. Now, how many names do you want to read out and what criteria are you using in selecting them?

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Deputy Speaker, Sir, I was asked whether the list comprised of some hon. Members and prominent personalities and I answered in the affirmative.

Mr. Deputy Speaker: Okay, continue reading the names!

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Deputy Speaker, Sir, the others are: Mr. Kinuthia Mbugua, 7.75 hectares; Mr. Titus Ngoyoni, 6.07 hectares; Mr. John Abduba, 6.07 hectares; Mr. Hussein Adan, 2.02 hectares; Mr. Raphael Rotich, 8.9 hectares; Mr. Raphael Letimalo, 4.05 hectares, Mr. Philemon Chelagat, 8.09 hectares; Mr. Zakayo Cheruiyot, 6.33 hectares; Mr. Henry Ndiema, 3.15 hectares; Mr. Peter Kipyegon Lagat, 7.81 hectares; Dr. Kipkore, 6.48 hectares, Dr. Daniel Kamuren Toitwet, 7.18; Mr. Wilson Kimalat, 9.79; Mr. Paul Chemongoren, 6.07 hectares; Mr. Kwambai, 4.05 hectares; Mr. Joseph Amdany, 4.05 hectares; Mr. Julius Kandie, 2.02 hectares; Mr. John Mark, 4.05 hectares; Mr. William Boit, 4.05; Mr. Muthui Katee, 8.09 hectares; Mr. Chelimo Cheboi, 8.09 hectares; Mr. Joseph Korir, 8.09 hectares; Mr. Hussein Dado, 8.09, Mr. Davis Chelagoi, 8.09 hectares, Mr. Edward Sambili, 12.14 hectares; Mr. Raymond ipruto, 8.78 hectares; Dr. Kenneth Chebet, 4.05 hectares, Mr. Benjamin Tilitei, 2.0 hectares; Mr. Francis Kibet Sigei, 2.02 hectares, Mr. Samuel Chepkonga, 0.040 hectares and Mr. John Bundotich, 2.02 hectares.

This was a settlement scheme initiated by the Provincial Forest Officer, Nakuru, in collaboration with the Provincial Administration. The Mau East portion of the forest was degazetted and demarcated. It was then offered to the squatters within that area.

Those people who were allocated that land applied for the same from the District Settlement Committee. The membership of this committee comprises of the District Commissioner, District Land Adjudication and Settlement Officer, District Agricultural Officer, the area Member of Parliament, Mr. Mukiri; the area councillor, area women leader, the physical planner, district surveyor and clerk to the council. The list is too long because we are having about 1,618 beneficiaries. This is also a list of who-is-who in Rift Valley.

Thank you.

Mr. Mukiri: When the allocation was done, I was not the Member of Parliament by then. I think the Assistant Minister should have got his facts correct. However, if you listened to the Question I asked and the answer I was given in relation to the Government policy towards the resettlement of squatters, it says that 60 per cent should come from the district, and the people must be landless local residents. The 40 per cent should come from other Kenyans who are landless wherever they come from. This is a settlement scheme which was started by the former President when squatters in Ngongongeri area requested him to degazette part of the Mau Forest so that they could be given part of it for resettlement. None of those 300 families received a single piece of the land. The hon. Members of Parliament and prominent people who have been named here are not landless people. I do not think the Members we have in this Parliament and the prominent people who have been named here are squatters. Since---

Mr. Deputy Speaker: Mr. Mukiri, ask your question now!

Mr. Mukiri: Since the Government policy was completely breached, could the Assistant Minister proceed right now and nullify all those allocations and give those 300 families some piece of land?

(Applause)

Mr. Ojode: Mr. Deputy Speaker, Sir, I will never nullify those allocations, because there is a rule that 60 per cent of the allottees should be landless people within that area, while the remaining 40 per cent goes to any other ordinary Kenyan who is landless. By the way, those Members of Parliament who applied for the land were not Members by that time; they were landless! What do I do now? I would not be in a position to know whether those Members were landless or not!

*(Loud consultations)
(Mr. Sambu and Mr. Wanjala
stood up in their places)*

Mr. Deputy Speaker: Order! You are completely out of order, Mr. Ojode! You do not have to be emotional when answering the Question. Could you answer the Question normally without having to raise your voice?

Mr. Sambu and Mr. Wanjala, could you sit down until you catch my eye? Mr. Ojode, have you finished? I do not want you to preach; I want you to answer the Question.

Mr. Ojode: Mr. Deputy Speaker, Sir, I think I have answered very well that my hands are tied and I am not in a position to nullify the allocations because the law was followed, and the applications were approved by, among others, the Member of Parliament of the area then.

Mr. Mwandawiro: Jambo la nidhamu, Bw. Naibu Spika. Jambo ambalo limeleta matatizo katika hii nchi ni ulafi wa mashamba ambao tumefundishwa na viongozi, haswa wale waliokuwa wakubwa tangu tupate Uhuru. Sasa tunajua kuwa mashamba haya yalitolewa kwa ajili ya kuwanufaisha wale watu ambao hawana ardhi. Lakini wale watu ambao wametajwa hapa, kwa kweli, wana ardhi. Je, ni haki waendeleo kuwa na ardhi au wapewe ardhi wakati kuna wananchi maskini ambao hawana ardhi? Kwa nini watu hao wasinyang'anywe hiyo ardhi ili ipewe maskini?

Mr. Ojode: Mr. Deputy Speaker, Sir, if any of the allottees who benefitted thought that they had enough land, they would not have applied for any land to be allocated to them. They can arbitrarily or voluntarily give in their titles for cancellation. But my hands are tied.

Mr. Deputy Speaker: Order, Assistant Minister! I told you to answer the Question and you have answered it. *Kwa hivyo, komea hapo!*

Swali la mwisho, Bw. Mukiri!

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

Mr. Deputy Speaker: Order, hon. Members! This Question took a lot of time last time, and it was only allocated time today for specific questions and for the Assistant Minister to present the names, and he has done it. We cannot spend two days on one Question!

Ask your question, Mr. Mukiri!

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

Mr. Deputy Speaker: Order! Mr. Mukiri!

Mr. Mukiri: Mr. Deputy Speaker, Sir, I am surprised when Mr. Ojode says that he cannot offer a solution. Is the Assistant Minister, therefore, saying that none of those 300 families who have lived in that area for more than 40 years applied for the land, so that he can take the action that he is taking?

Mr. Ojode: I said the list is very long; we are having 1,618 beneficiaries and out of that number, 60 per cent of those people come from the area. These are the same people the hon. Member is fighting for. The 60 per cent are among the 1,618 people.

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

Mr. Deputy Speaker: All right, I give in. What is it, Dr. Khalwale?

Dr. Khalwale: Thank you, Mr. Deputy Speaker, Sir. The purpose of Questions in this House is, among other things, to press Ministries for action. In my view, if we cannot press this Minister---

Mr. Deputy Speaker: Dr. Khalwale, what is your point of order?

Dr. Khalwale: If we cannot press the Assistant Minister for action, whereby he can tell this House and Kenyans in general, the land policy under which the land was given to prominent people and politicians; and not just politicians who are currently in this Government, but also those who are in NARC and are not in this list, then we will not be looking for the way forward.

It is important that the Minister guides this country so that even other politicians---

Hon. Members: What is your point of order?

Mr. Deputy Speaker: Order! Dr. Khalwale, I have given you enough time but I am yet to hear your point of order.

Dr. Khalwale: Is it in order for the Assistant Minister to abuse the role of Questions in this House by refusing to respond to the question on the need for him to show that the action we are pressing for is being respected?

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

Mr. Deputy Speaker: Order, Mr. Sambu!

Mr. Ojode: Mr. Deputy Speaker, Sir, I want to assure hon. Members that my hands are tied. Give me the powers to revoke the allocations and I will do that. I do not have the powers; so, let Parliament give me powers to revoke or nullify any allocations which are either given to prominent persons or any other person, and I will revoke it here straightaway! But I do not have the powers!

Question No.836

MOBILE TELEPHONE SERVICES FOR
SOTIK CONSTITUENCY

The Minister for Information and Communications is here, but Mr. Kimeto called earlier to say that he is held up in Nakuru. Therefore, he will not be in until Thursday. Therefore, the Question is deferred to Thursday.

(Question deferred)

Next Question, Mr. Ojaamong!

Question No.894

STALLING OF FRENCH/GoK
ELECTRIFICATION PROJECT IN TESO

Mr. Ojaamong asked the Minister for Energy:-

- (a) whether he is aware that the French/GoK electrification project in Teso District has stalled;
- (b) what measures he is taking to ensure that the project is completed; and,

(c) what other rural electrification programmes the Ministry has earmarked for Teso District.

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

(a) No, I am not aware of any French/GoK-funded electrification project in Teso District which has stalled.

(b) The French-funded electrification projects in Teso District are Chemasiri Market, Kamuriai Market and boarding school, which are on going, and are anticipated for completion before the end of February, 2005.

(c) Other rural electrification projects the Ministry has earmarked for funding consideration over the next two years (2004/05 and 2005/06) are Kakemer, Moding and Angurai markets.

Mr. Ojaamong: Mr. Deputy Speaker, Sir, before the Cabinet reshuffle which resulted in the Government of National Unity, the then Minister for Energy, hon. Ochillo-Ayacko, had earmarked some funds for a project which involved electrification at Ojaamong Primary School and its environs. He even confirmed it on the Floor of the House here. Now, it is missing in this list. What caused its removal from the list of projects to be implemented?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, no project has been removed. We are funding them as funds become available. So, if the project was earmarked for implementation, it will still be implemented when we get the funds. However, the Member will agree with me that in Kamuriai Market, work is almost complete, and for Chemasiri Market, the lines are already coming up from Bungoma District. Any other project will be undertaken as funds become available.

Mr. Arungah: Mr. Deputy Speaker, Sir, Khwisero Market has benefitted from the same French programme. But the various traders there are being asked to pay as much as Kshs20,000. In many of these cases, their stocks in shops are worth less than Kshs5,000.

Could the Assistant Minister consider giving these people time to pay the deposit required for them to get connected?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I said the other day that we are considering a new policy where we shall ask people to pay deposit and then we distribute the remaining phases and give people time to pay slowly. But they have to be connected and pay the required amounts of money.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to tell us so far, how many countries or foreign donors have signed with the Ministry of Energy to start giving Kenyans electricity?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we have France, Spain, South Korea and Finland.

Mr. Ojaamong: Mr. Deputy Speaker, Sir, the line that supplies electricity to towns like Bumala, Busia, Malaba and Adungosi is persistently causing blackouts. This has been attributed to the low quality second-hand transformers that were imported and supplied to the Kenya Power and Lighting Company (KPLC) by a former Minister during the former regime. What measures is the Ministry taking to see to it that these faulty transformers are replaced, so that people can have regular power supply in Busia and its environs?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we ordered last year, through the tendering system, for new transformers. We are also making sure that whoever supplies any new transformers or anything concerned with electricity lines contacts us. We shall ensure that they meet the specifications of the Kenya Bureau of Standards.

Mr. Deputy Speaker: Next Question, Mr. Choge.

REMOVAL OF KAPTUMO WATER
PROJECT PUMP

Mr. Choge asked the Minister for Water and Irrigation:-

(a) whether she is aware that an electric water pump belonging to Kaptumo Water Project in Aldai Constituency, Nandi South District, was irregularly removed in the year 2003 by the District Water Officer of North Nandi District and taken to an unknown destination; and,

(b) what steps she is taking to have the water pump returned to its original and intended beneficiaries.

The Minister for Water and Irrigation (Ms. Karua): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that an electric water pump belonging to Kaptumo Water Project in Aldai Constituency, Nandi South District, was removed and installed at Lessos Water Supply, which is in Tinderet Constituency, Nandi South District.

Mr. Deputy Speaker, Sir, the pumpset was bought in the financial year 1996/97 for Kaptumo Water Project. However, the equipment had been lying idle for all those years due to lack of power supply to the Kaptumo water source intake.

Kaptumo Water Project and Lessos Water Scheme are both run by my Ministry, and last year, when a breakdown of an electric water pump at Lessos occurred, and the spares were not readily available, we decided to use the idle pumpset at Kaptumo Water Project. At the moment, Kaptumo Trading Centre is served from Mosombor Water Supply which has an interconnected reticulation system with Kaptumo Water Project.

(b) My Ministry is pursuing the KPLC to connect electric power to the intake works at Kaptumo Water Project. Once that is done, we will purchase and install a replacement pumpset for the project.

Mr. Choge: Mr. Deputy Speaker, Sir, arising from that answer, could the Minister tell the House what specific plans she has or has put in place, and how much she has set aside, to provide electricity?

Ms. Karua: Mr. Deputy Speaker, Sir, until the Kenya Power and Lighting Company gives us a quotation for the connection of electricity, we cannot put funds aside or say how much it is. But we are pursuing the KPLC, and I am sure that very soon, we will have the cost estimates, and we shall make the necessary provisions.

Mr. Deputy Speaker, Sir, I urge the Member to bear with us, since this project has not been completed in the last ten years, but we are doing it now.

Mr. Sambu: Mr. Deputy Speaker, Sir, I want to thank the Ministry, since for the last two years, we have seen funds go into both districts of Nandi to finance water projects. I would like to request the Minister to look into the water office in Kapsabet, because they buy sub-standard pipes. If it is class "B" pipe to be bought, they buy class "C", which is quite soft. Right now, for Cheptul and Lelmuk Water projects, they have bought such sub-standard pipes.

I am requesting the Minister to follow up this matter so that we do not do projects which do not last due to fraud.

Ms. Karua: Mr. Deputy Speaker, Sir, I would like to ask the Member and any other Member, who has a complaint on sub-standard pipes, to get in touch with the office of the Director of Water. Such complaints have reached our offices from various parts of the country. Last week, I had a meeting with the players in the water industry, and I warned suppliers that if they do not follow their outlets to ensure that people are supplied with quality items for water supply, we will stop doing business with them. We are, therefore, attending to the issue.

Mr. Choge: Mr. Deputy Speaker, Sir, could the Minister undertake to carry out an evaluation of the entire water system and supply of Kaptumo?

Ms. Karua: I will do that.

Question No.645

REPAIR OF CHEPKANGA BRIDGE

Mr. Deputy Speaker: Mr. Kipchumba is not here? Let us move on to the next Question by Mr. Wamwere.

Question No.901

SALE OF NCPB MAIZE THROUGH
SINGLE-SOURCING

Mr. Wamwere asked the Minister for Agriculture:-

- (a) if he is aware that in 2002, chief officers of the National Cereals and Produce Board (NCPB), through single-sourcing, sold about two million bags of maize at a price below the official price of Kshs1,650;
- (b) how much the NCPB lost through this transaction; and,
- (c) what action he has taken against those involved in the loss.

The Minister for Agriculture (Mr. Kirwa): Mr. Deputy Speaker, Sir, I beg to give the following reply.

(a) I am aware the NCPB sold 2.9 million bags of maize at the prevailing market price, ranging between Kshs805 and Kshs866, which were below official set prices that ranged between Kshs1,000 and Kshs1,200 in the year 2002.

(b) The Board incurred a loss of Kshs2.2 billion in the transaction.

(c) Investigations were carried out by the Inspectorate of State Corporations, identifying managerial weaknesses at the time. A new team of managers has been put in place and those involved in the loss are being suspended, pending investigations.

Mr. Wamwere: Mr. Deputy Speaker, Sir, I wish to thank the Minister for that answer. However, it is clear that a crime of corruption was committed in this case, leading to a loss of Kshs2.2 billion.

Could he table the names of those who perpetrated this "Goldenberg" scam? Since the crime was committed, why has the Ministry so far not taken the perpetrators to court?

Mr. Kirwa: Mr. Deputy Speaker, Sir, those who were involved were the managers at that time. We have made recommendations for the former Managing Director, Dr. Julius Rotich, to be surcharged for the Kshs1.1 billion loss incurred by the NCPB through export of maize.

Secondly, we have also recommended that disciplinary action be taken against the former Chief Supplies Officer for flouting Government procurement regulations.

Thirdly, we have further recommended that the General Manager, Administration, Mr. Kiprono Kittony, be surcharged for authorising payments of Kshs5 million.

Finally, the Ministry has set a joint-committee with the NCPB and the Inspectorate of State Corporations to follow up the implementation of the said recommendations.

Mr. Wamwere: Mr. Deputy Speaker, Sir, I am rather surprised that while a crime of theft was committed, the only disciplinary action the Minister recommends is surcharge. Why could he not actually consider having these people taken to court and charged with theft?

Mr. Kirwa: Mr. Deputy Speaker, Sir, the capacity of the Ministry hinges on the

recommendations I have just given. However, I recommended to various arms of Government to conduct further investigations and take the necessary action. If they find it necessary to take them to a court of law, that will be done.

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

Question No.074

NUMBER OF KITUTU MASABA RESIDENTS
KILLED BY MALARIA EPIDEMICS

Mr. Mwanicha asked the Minister for Health:-

- (a) how many people have died of malaria epidemics in Kitutu Masaba Constituency for the last three years; and,
- (b) since malaria epidemics are predictable and the disease treatable and curable, what measures the Government has put in place to ensure that further loss human lives is minimised.

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

(a) An approximate figure of 172 deaths due to malaria have been reported in Kitutu Masaba Constituency since January, 2002, to date.

(b) The Ministry has put in place the following measures to control the spread of malaria in the country:-

(i) Availability of drugs in the district throughout the year, through revolving drug funds at the district medical hospital. Malaria diagnosis and treatment is free in the country today.

(ii) The Ministry has started in-door spraying of homes. This started with Rigoma Division of Kitutu Masaba Constituency. An estimated 80 per cent of homes are expected to be covered.

(iii) Health education through public *barazas* on preventive and curative measures. In addition, the African Malaria Day celebrations were carried out in Rigoma Division this year. The Ministry donated 1,000 mosquito nets with treated kits to be distributed throughout the district, to pregnant mothers. The Ministry, in conjunction with Population Services International (PSI), has embarked on a vigorous exercise of supplying affordable mosquito nets at a subsidized cost of Kshs50 per net, to pregnant mothers and children under the age of five.

(iv) The Ministry offers free intermediary pre-assumptive malaria treatment to pregnant mothers attending ante-natal clinics in district hospitals.

Mr. Mwanicha: Mr. Deputy Speaker, Sir, the Assistant Minister says that they will be giving affordable mosquito nets. Could he tell the House how they will administer the distribution of these nets to ensure that all pregnant women and children below five years get them?

Mr. Konchella: Mr. Deputy Speaker, Sir, administration of these nets will be done at the district level through hospital management boards, which will monitor and control their use.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, malaria is a big problem in most parts of Nyanza Province. In fact, population in those areas has gone down. The population in Kisii District, for example, was growing at a rate of 3.8 per cent. However, it is now growing at a rate of only 2 per cent. This is because the Ministry of Health has not taken steps to protect our people.

Could he tell us how many mosquito nets the Ministry will give to each constituency in Kisii District?

Mr. Konchella: Mr. Deputy Speaker, Sir, the nets which we distributed were provided by UNICEF. However, there is a programme which will start in January next year to take care of 15 districts that are prone to malaria. The programme will also provide subsidized nets at Kshs50. Women groups will also be able to access these nets to distribute amongst themselves.

Mr. Mwanicha: Mr. Deputy Speaker, Sir, a lot of money is being spent buying insecticides used to spray mosquitoes in homes. Unfortunately, these insecticides are not used in Europe where these donor funds come from because of their lethal toxins. Could the Ministry consider using pyrethrum-based chemicals from the Pyrethrum Board of Kenya (PBK)?

Mr. Konchella: Mr. Deputy Speaker, Sir, the chemicals that are used for in-door spraying are registered by the Pharmacy and Poisons Board (PPB). Therefore, they are acceptable within our standards. However, the Ministry is targeting the use of pyrethroid-based insecticides because this will support pyrethrum growers.

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

Question No.957

MEASURES TO REDUCE UNEMPLOYMENT

Ms. Mbarire asked the Minister for Labour and Human Resource Development:-

- (a) what the current level of unemployment is;
- (b) how many jobs the Government has created since January, 2003, to date either directly or indirectly; and,
- (c) what steps he is taking to create more jobs in order to reduce the high level of unemployment.

Mr. Deputy Speaker: Is the Minister for Labour and Human Resource Development here? Now, for the second time, Question by Dr. Ali!

Dr. Ali: Mr. Deputy Speaker, Sir, before I ask my Question, I would like to apologise for coming late.

Question No.962

ASSEMBLING OF POLICE OFFICERS
ALONG PRESIDENTIAL ROUTES

Dr. Ali asked the Minister of State, Office of the President:-

- (a) if he could explain the rationale of lining police officers along the route the President uses while travelling around the country;
- (b) if he is aware that police officers are assembled several hours before the President leaves his abode and have to walk to their stations after the motorcade passes; and,
- (c) if he could stop this inhuman treatment of officers and instead deploy them to fight crime.

Mr. Deputy Speaker: Is the Minister of State, Office of the President, here? What is happening today? Prof. Kibwana was here a while ago!

The Assistant Minister, Office of the President (Dr. Machage): Mr. Deputy Speaker, Sir, I beg for the indulgence of the House that this Question be deferred until tomorrow.

Hon. Members: Why? There must be a reason!

The Assistant Minister, Office of the President (Dr. Machage): Mr. Deputy Speaker, Sir, there is a reason. The Minister who had the answer has not yet arrived.

Mr. Deputy Speaker: Fine, Dr. Ali. I think we have to defer this Question to tomorrow.

Dr. Ali: Mr. Deputy Speaker, I will not be here tomorrow.

Mr. Deputy Speaker: What about on Thursday?

Dr. Ali: Mr. Deputy Speaker, Sir I will not be in. However, I will liaise with the Clerk of the National Assembly to arrange for a date when the Question can be answered.

(Question deferred)

Question No.408

SEIZING OF NYS YATTA LAND BY
PRIVATE DEVELOPERS

Mr. Ndile asked the Minister of State, Office of the Vice-President and Ministry of Home Affairs:-

- (a) whether he is aware that part of the National Youth Service land at Yatta has been seized by private developers; and,
- (b) what the Ministry is doing to reclaim the said land.

Mr. Deputy Speaker: Where is the Minister for Home Affairs? Could someone take responsibility? What should I do about this Question?

The Minister for Information and Communications (Mr. Tuju): Mr. Deputy Speaker, Sir, we are consulting.

Mr. Deputy Speaker: Mr. Ndile, we will defer this Question.

Mr. Ndile: Bw. Naibu Spika, Swali hili limekuwa katika orodha ya Maswali kwa muda mrefu sasa. Swali lenyewe linahusu mambo ya mashamba. Nina jibu ambalo limeandikwa.

Mr. Deputy Speaker: Unataka kulisoma?

Mr. Ndile: Bw. Naibu Spika, ninaweza kulisoma jibu hili lakini siwezi kujijibu. Niko na orodha ya watu ambao waliiba mashamba katika sehemu hii.

Mr. Deputy Speaker: The Question will be answered tomorrow.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, I wish to reply to this Question.

Mr. Deputy Speaker: Now?

The Assistant Minister for Finance (Mr. Obwocha): Yes, Mr. Deputy Speaker, Sir, I beg to reply now.

Mr. Deputy Speaker: Very well. I am happy about that. You can go ahead.

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

(a) It is true that parts of the National Youth Service land at Yatta were alienated by the Government to private developers.

(b) The Yatta National Youth

Service land is part of public land that was allocated to individuals in the past. It is among those pieces of land that the Government has instituted a commission of inquiry to look into. It is, therefore, imperative that when the Ndung'u Report is made public, the recommendations therein will determine the cause of action the Government will take.

Mr. Ndile: Bw. Naibu Spika, katika jibu lake, Waziri Msaidizi amesema kwamba shamba hilo lilipeanwa na Serikali. Pia amesema kwamba Serikali inangojea ripoti ya Ndung'u, ambayo hatujui itakapomalizika. Badala ya kuingoja ripoti ya kamati ya Ndung'u, nina na orodha ya majina ya walioyaiba mashamba hayo na ninaweza kuisoma. Nitaanza na jina la Gen. Mulinge, ambaye alikuwa Waziri wa Ardhi. Wengine ni Muuka Musau---

Mr. Deputy Speaker: Order, Mr. Ndile! Order! You are trying to ask a question. Please,

go ahead and ask a question.

Mr. Deputy Speaker: Bw. Naibu Spika, Waziri Msaidizi ametuambia kwamba anaingojea ripoti ya Ndung'u iwe tayari. Ningependa Waziri Msaidizi aniruhusu ili niisome orodha ya watu waliochukua mashamba hayo ya Yatta. Ninaweza kuisoma orodha?

Mr. Obwocha: Mr. Deputy Speaker, Sir, you know that it is against our Standing Orders for one to ask a Question for which they know the answer.

However, since the Government is interested in getting back this land to its rightful people, the people of Yatta, we will ask our colleague to wait for that report. If he is not satisfied, then he can ask another Question.

Mr. Muite: Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister has just said that the land in question is among the pieces of land that were dished out to individuals. Could he tell this House the names of individuals to which the land was allocated?

Mr. Deputy Speaker: That is the kind of question you should ask Mr. Ndile.

Mr. Obwocha: Mr. Deputy Speaker, Sir, I have already told the hon. Member that the Government will release the names of those people when the Ndung'u Report comes out. It will, therefore, be premature to name the individuals who were allocated this land.

Mr. Ndile: Bw. Naibu Spika, shida hii ndio tunayopata wakati Waziri yeyote anapojibu Swali kwa niaba ya mwingine. Sielewi ni kwa nini Waziri Msaidizi amelijibu Swali ambalo halihusu Wizara yake. Ninaomba Mawaziri wote walitembelee Bunge la Tanzania, ambapo Maswali hujibiwa vizuri. Waziri Msaidizi ambaye amelijibu Swali hili anafaa kutuambia majina ya watu ambao walichukua mashamba hayo kwa sababu amesema yote yako katika ripoti ya Ndung'u. Hii ni dhihirisho kwamba Wizara yake ilihusika na kupeana kwa mashamba hayo. Je, atatupa majina hayo ama tutakubaliana kwamba Swali hili liahirishwe ili lijibiwe na Waziri anayehusika?

Mr. Obwocha: Mr. Deputy Speaker, Sir, I would like to inform my colleague that there is something called "collective responsibility". Any Minister can answer a Question on the behalf of the Government. In any case, I have been kind enough to tell him that these names will be revealed at the right time. If he has any other Question, he should bring it to the House.

Mr. Mwenje: Mr. Deputy Speaker, Sir, Mr. Kalembe said that there are some people who have stolen land. He almost went on to read out their names. Could he substantiate what he was trying to say?

(Mr. Ndile stood up in his place)

Mr. Deputy Speaker: Order, Mr. Ndile. You have been asked to substantiate an allegation you have just made. Is the piece of paper you are holding going to give us substantive evidence that the land you are talking about has been stolen by the individuals mentioned in it?

Mr. Ndile: Bw. Naibu Spika, orodha hii ilichapishwa na Masaku County Council. Ina majina ya watu ambao walipewa mashamba ya Yatta. Moja ya majina haya ni Gen. Mulinge---

Mr. Deputy Speaker: Order, Mr. Ndile. This House cannot allow you to name people who cannot defend themselves here unless it is something that you are sure of. That is why I am cautioning you against calling out names of people in this House.

Mr. Ndile: Bw. Naibu Spika, nimesema kuwa nina ushahidi wa kutosha. Ukitaka nikuletee orodha hii, nitakuletea.

Mr. Sambu: Mr. Deputy Speaker, Mr. Muiruri wanted to table a document here the other day, and the Speaker decided that, as per our Standing Orders, before a document is tabled, it be taken to him through the Clerk of the National Assembly for verification.

That should be the procedure, otherwise, we may start producing any piece of information here and start scandalising each other!

Mr. Deputy Speaker: Mr. Ndile, if you have anything you want to lay on the Table, the procedure is as Mr. Sambu has explained. It is not up to you to read it. You have to lay it on the Table. The Chair will then examine it to verify that it is authentic so as to make a ruling. I believe that I had given you a chance to ask the last question. Mr. Mwenje stood on a point of order and said that you had made an allegation, which you are supposed to defend. I am on your side. Stop debate on the matter and lay your piece of paper on the Table, and I will examine it. Could you do that, please?

(Mr. Ndile handed over the piece of paper to the Clerk-at-the-Table)

Let us move on to the next Question by Ms. Mbarire!

Question No.957

MEASURES TO REDUCE UNEMPLOYMENT

Ms. Mbarire asked the Minister for Labour and Human Resource Development:-

- (a) what the current level of unemployment is;
- (b) how many jobs the Government has created since January 2003, to date, either directly or indirectly; and,
- (c) what steps he is taking to create more jobs. in order to reduce the high level of unemployment.

Mr. Deputy Speaker: The Minister for Labour and Human Resource Development is not here? Do we have somebody to answer that Question? There is nobody to do so. Ms. Mbarire, could I defer this Question to Thursday?

Ms. Mbarire: Mr. Deputy Speaker, Sir, defer it to Thursday this week and not next week because we will be on recess next week. That is what I have heard.

Mr. Deputy Speaker: We do not know about that but I will defer it to Thursday this week.

(Question deferred)

Question No.645

REPAIR OF CHEPKANGA BRIDGE

Mr. Deputy Speaker: Is Mr. Kipchumba not here? The Question is dropped.

(Question dropped)

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. You heard the Assistant Minister for Finance, Mr. Obwocha, when answering hon. Ndile's Question on grabbed NYS land at Yatta, talked about a concept of collective responsibility. I would expect any other Minister to answer Ms. Mbarire's Question on unemployment.

Mr. Deputy Speaker, Sir, I need your guidance on this issue. When does the Front Bench

assume collective responsibility and when does it not? We need to be consistent.

Mr. Deputy Speaker: Yes, that is right!

(Applause)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, it is true that because of collective responsibility, we can reply to these Questions, but we cannot reply to a Question if there is no ready answer.

Ms. Mbarire: Mr. Deputy Speaker, Sir, I have the answer!

Hon. Members: Give it to hon.

Obwocha!

*(Ms. Mbarire gave Mr. Obwocha
a copy of the answer)*

Mr. Deputy Speaker: I believe everyone can see what is happening; that Ministers are unable to answer Questions when they have already supplied answers to hon. Members. However, I do admire Mr. Obwocha's courage. Go on!

(Applause)

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

Mr. Deputy Speaker: Order, hon. Members! I think we had better be serious now! Mr. Obwocha, you can answer that Question.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Deputy Speaker, Sir, I have checked whether the Question has been signed by the Minister and, indeed, it has been signed by him, hon. Dr. Newton Kulundu, and I beg to reply.

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. I feel that this is not favourable to hon. Members because when an Assistant Minister simply picks the answer from the Questioner and reads it, honestly, he will not be able to answer the supplementary questions. So, it will not be fair to the hon. Questioner to get her answer without the Minister having studied the matter so that he is able to answer the supplementary questions. I think this is not fair!

Mr. Deputy Speaker: Order, Mr. Mwenje! Mr. Mwenje, what would you do if you were on the Chair? A Minister can answer any Question. The Chair cannot refuse a Minister to answer a Question. So, Mr. Obwocha, you can proceed and answer the Question. After all, it is an hon. Member who asked that it be answered.

Question No.957

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- (b) how many jobs the Government has created since January 2003, to date, either

directly or indirectly; and,

(c) what steps he is taking to create more jobs

The Assistant Minister for Finance (Mr. Obwocha): Thank you, Mr. Deputy Speaker, Sir. I beg to reply.

(a) The current level of unemployment in the country is estimated at 2.7 million Kenyans who are unemployed.

(b) The number of jobs created by the Government directly or indirectly since January 2003, is estimated at 985,000 to date.

(c) In the Economic Recovery Strategy for Wealth and Employment Creation Policy Paper, employment creation occupies centre stage. In the Paper, the Government is committed to its pledge of facilitating the creation of sustainable and freely chosen employment that guarantees maximum productivity and rewards the entrepreneurs, workers and employers. In pursuit of this goal, my Ministry prepared a Sessional Paper on employment policy and strategies for the country which was approved by the Cabinet on 28th September, 2004. The Paper provides strategies to mitigate and address the problem of unemployment. Among the key interventions proposed in the Paper are:

(i) The promotion of labour-intensive investments.

(ii) Matching skills to labour needs.

(iii) Mainstreaming youth and gender in employment programmes.

(iv) Developing a national labour market information infrastructure.

(v) Promotion of good industrial relations.

(vi) Health and safety at work place through review of the finalised labour rules, and, finally,

(vii) Promotion of foreign employment to absorb excess labour and setting up an independent national employment council for Kenya which will co-ordinate all employment policies, programmes and strategies in the country.

Ms. Mbarire: Mr. Deputy Speaker, Sir, let me first register my disappointment with the way the Minister for Labour and Human Resource Development is dealing with critical issues affecting young people in this country. I think he does not deserve to sit in that office one extra day when he does not think of the young people in this country. Let me move on.

The Assistant Minister has said that they have created 985,000 jobs. Where are these jobs? That is question number one. Question number two is---

Mr. Deputy Speaker: Order, Ms. Mbarire!

Ms. Mbarire: Mr. Deputy Speaker, Sir, it is an additional question.

Mr. Deputy Speaker: Order, Ms. Mbarire! Let me guide you. Ask one question at a time, and then I will give you another chance.

Ms. Mbarire: Mr. Deputy Speaker, Sir, it is not true that this Ministry has taken the considerations of the youth and gender in employment because, they are busy recalling retirees to take over jobs in Government offices.

Mr. Deputy Speaker, Sir, is it true or not that you are actually not mainstreaming the youth, but you are mainstreaming old retired people in employment?

(Applause)

Mr. Obwocha: Mr. Deputy Speaker, Sir, you can appreciate that one of the jobs created for the youth is that of the hon. Member who is a nominated Member of Parliament. That is one of the jobs.

(Laughter)

However, I would like to inform the hon. Member that the Central Bureau of Statistics in this country sends out forms every year for the firms to indicate the number of employees they have; that is, the new and the old ones. Through the Central Bureau of Statistics, we are able to assemble the numbers we have, and I said that the 985,000 are both directly and indirectly employed.

Maj. Madoka: Mr. Deputy Speaker, Sir, I think for this Government to gain credibility, could the Assistant Minister table the figures showing which jobs have been created and where? It is of no use just giving us statistics since they are very misleading.

Mr. Obwocha: Mr. Deputy Speaker, Sir, the hon. Member also knows that we give out quarterly and bi-annual reports from the Central Bureau of Statistics, but if he wants us to table them because they are public reports, the Ministry is willing to table them.

Ms. Mwau: Mr. Deputy Speaker, Sir, could the Assistant Minister table a list of the jobs that they have created in terms of gender? How many jobs have gone to women and men, both young and old because---

Mr. Deputy Speaker: Order, Ms. Mwau! You have already asked your question. Let the Assistant Minister respond.

Mr. Obwocha: Mr. Deputy Speaker, Sir, for those of you who have read that report, indeed, it shows the column for men, women, permanently employed, casuals and the totals. So, she will be able to get this information from that report.

Mr. Serut: Thank you, Mr. Deputy Speaker, Sir. Could the Assistant Minister tell us how many of those jobs purported to have been created are replacements as a result of firing people who were working under the KANU regime?

Mr. Obwocha: Mr. Deputy Speaker, Sir, employment creation is for those vacancies that exist and those in new ventures or enterprises. I do not know what the hon. Member means because when we create employment, we do not label them for KANU, FORD(P) or NARC.

(Applause)

Dr. Galgallo: On a point of order, Mr. Deputy Speaker, Sir. You heard the Assistant Minister saying that they created approximately one million jobs over the last two years. He went on to say in his answer to part "a" of the Question that there are only 2.7 million Kenyans who are unemployed which is less than 10 per cent of the population of this country. Is he in order to give us this kind of rubbish? He knows that it is not true that there are less than 10 per cent of Kenyans who are unemployed. Why is he telling us something that he obviously knows is not true?

The Minister for Roads and Public Works (Mr. Raila): On a point of order, Mr. Deputy Speaker, Sir. Did you hear the hon. Member use the word that we consider unparliamentary? An hon. Member cannot be talking rubbish!

Mr. Deputy Speaker: Indeed, I heard that word and I was waiting for someone to challenge it. Dr. Galgallo, that word is unparliamentary! Would you withdraw it?

Dr. Galgallo: Mr. Deputy Speaker, Sir, I withdraw and apologise. However, is he in order to tell us that less than 10 per cent of the Kenyan population is unemployed? Is he serious?

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, he substituted the word "rubbish" with "lies" and hon. Members do not lie. That is also unparliamentary!

Mr. Deputy Speaker: I did not hear the word "lies".

Dr. Galgallo: Mr. Deputy Speaker, Sir, I did not use the word "lies".

Mr. Obwocha: This is one of the most experienced hon. Members in this House. First of all, he knows that 58 per cent of the Kenyan population is below the age of 16 and he is talking about everybody being employed. The youth in this country is 58 per cent, therefore, we are talking about 2.7 million people out of approximately 10 million people.

Mr. Deputy Speaker: Last question, Ms. Mbarire!

Ms. Mbarire: Mr. Deputy Speaker, Sir, the answer we have received is not adequate. This Government must be accountable for the information it brings to the Floor of this House. I would like this Question to be deferred. I want to see a list of exactly where these 985,000 jobs were created, province by province, and district by district, so that we know whether we are actually creating jobs or not.

(Applause)

Statistics are not enough! I am happy that I am one of those who got the jobs, but that does not mean that I shut up for the rest of the youth. I am here to represent them!

Mr. Obwocha: Mr. Deputy Speaker, Sir, nobody is asking her to shut up, but we want her to appreciate that she got one of the jobs. However, in collecting figures for employment, we do not go by provinces but by enterprises and firms that are in the country; how many jobs have been created in different enterprises.

*(Mr. Mwandawiro stood
up in his place)*

Mr. Deputy Speaker: Order, Mr. Mwandawiro! Will you sit down?
We will now move on to Questions by Private Notice.

(Mr. Shaaban consulted loudly)

Order, Mr. Shabaan! You have this bad habit of talking when the Chair is communicating. I was saying that I have had an opportunity to look at the paper Mr. Ndile laid on the Table of the House. The document is a photocopy of what is purported to be minutes of a committee of Machakos Town Council. It is not certified and, therefore, the Chair rejects it.

(Applause)

QUESTIONS BY PRIVATE NOTICE

MEASURES TO ENSURE TRANSPARENCY IN POLICE RECRUITMENT

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

Mr. Deputy Speaker, Sir, could the Minister inform the House what measures he has taken to ensure that the recently announced police recruitment exercise is fairly and transparently conducted to avoid problems associated with past recruitments?

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Deputy Speaker, Sir, this Question was partly answered. I was requested to table numbers of police recruits

countrywide, district by district. The officers I requested to get me this information are yet to do so, and I seek the indulgence of the House that I give those numbers on Thursday afternoon.

Mr. Deputy Speaker: Very well! Prof. Kibwana, are you are asking that we defer the Question? Is that okay Mr. Mwanzia?

Mr. Mwanzia: That is okay, Mr. Deputy Speaker, Sir, if he can bring the numbers.

Mr. Deputy Speaker: The Question is, therefore, deferred to Thursday.

(Question deferred)

*(Mr. Wanjala stood up
in his place)*

Mr. Deputy Speaker: A point of order on that one? No, Mr. Wanjala! We have deferred the Question at the request of the Assistant Minister and you cannot say that you want to make a comment.

Next Question by Mr. Sambu!

GRAVELLING OF ROAD D288

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

(a) Is the Minister aware that the District Roads Engineer (DRE), Nandi North District, recently gravelled 20 metres of Road D288 at Kapng'ombe?

(b) Is he further aware that after gravelling the 20 metre stretch, the said DRE claimed Kshs200,000 from Mosop Constituency (DRC) Fund?

(c) Is the Minister also aware that at this rate of payment, the gravelling of roads will cost Kshs10 million per kilometre?

(d) What action is the Minister going to take against this DRE?

(Loud consultations)

Mr. Deputy Speaker: Hon. Members! This kind of communication cannot let Ministers and hon. Members hear Questions.

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

(a) I am not aware that the DRE, Nandi North District, recently gravelled 20 metres of road D288 at Kapng'ombe.

(a) The Kshs200,000 was used for gravelling three sections of the D288, totalling 285 metres and not 20 metres. This has been confirmed by a team of senior engineers I sent to the ground on the 2nd December, 2004.

(c) Arising from my response in part "b", there is no basis for this assumption.

(d) I am not going to take any action against the DRE as he has not committed any offence.

Mr. Sambu: Mr. Deputy Speaker, Sir, this is a cover-up by the Ministry of Roads and Public Works for their officers. Thank God the road is not going to move and they did not put murrum so it will be seen. I was there on Sunday and it is 20 metres long. Will the Minister allow the Kenya Anti-Corruption Commission (KACC) officers to accompany him and I this coming Friday, to go and check out the road? It is only 20 metres long and he claimed Kshs200,000. Will he

allow the KACC, the CID and all other investigating officers to accompany us?

Mr. Raila: Mr Deputy Speaker, Sir, I want the hon. Member to relax and know that we take complaints by hon. Members very seriously.

(Mr. Sambu stood up in his place)

Mr. Deputy Speaker: Order, Mr. Sambu! You are a very old hon. Member of this House. You have asked your question and it is time for the Minister to answer!

Mr. Raila: Mr Deputy Speaker, Sir, I know that it is the warrior in him that is compelling him to rise before being answered. However, I was just telling him to be patient and bear with me. I am not taking his allegations lightly. I sent a team, led by Senior Superintendent Engineer, Eng. G.M. Njoroge, from the Ministry's headquarters, accompanied by the District Works Officer and the District Roads Officer. They went to the field and measured the road. There are three sections that were gravelled and, maybe, Mr. Sambu is only talking about one section.

The first section is 15 metres long; the second, 130 metres long, and the third, 140 metres long. All of them are gravelled. The road is on the Nandi/Uasin Gishu Districts boundary. The first mark is 3.1 kilometres from the second mark, while the third mark is 1.8 kilometres away from the second mark. So, these are sections which are at different locations of the road. The hon. Member is talking about only one particular section.

Mr. Sambu: Mr. Deputy Speaker, Sir, I was in my constituency headquarters in Uasin Gishu. This is the road from Rivertex to Kipkaren and Chepteruai. It is good that the Minister is talking. The people of Kenya, particularly those in that particular area, can hear him. They are the people who use that road. It takes one hour to cover ten kilometres.

Mr. Deputy Speaker: Ask your question!

Mr. Sambu: Mr. Deputy Speaker, Sir, what is the difficulty in the Minister visiting that area on Friday, to investigate the matter, in the company of officers from the Criminal Investigations Department and the Kenya Anti-Corruption Commission (KACC)? We have given the CID and the KACC the mandate to investigate such matters. Therefore, I would like officers from the two bodies to accompany me and the Minister to that road, so that we can measure the said section and establish who is telling the truth.

Mr. Raila: Mr. Deputy Speaker, Sir, we are not against sending officers from the CID and the KACC to investigate the matter. I just want to inform hon. Members that we have an Inspectorate Department within the Ministry, which carries out road works inspection. If it will please the hon. Member, I am willing to send the head of the Roads Inspectorate Department to the field with him to go and verify the matter, so that he can satisfy himself that, indeed, the work was performed as indicated.

Mr. Deputy Speaker: Very well. Next Question, Mr. Munya!

SALE OF CIVIL SERVANTS' HOUSES

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

(a) Is the Minister aware that civil servants who recently retired are threatened with eviction from Government houses to pave way for sale of houses they have occupied for many years to other civil servants?

(b) Why is the Ministry not giving them first priority to buy these houses?

(c) Could the Minister table a list of houses so far sold and those in the process of sale, their location, a list of buyers and the price paid for each house?

The Assistant Minister for Lands and Housing (Mrs. Tett): Mr. Deputy Speaker, Sir, parts (a) and (b) of this Question were answered. Only part (c) remained unanswered. Therefore, in response to part (c), I table the list of all the beneficiaries, which contains all the information the hon. Questioner requested.

(Mrs. Tett laid the document on the Table)

Mr. Munya: Mr. Deputy Speaker, Sir, I wanted to know whether the Assistant Minister is satisfied that the Ministry is getting value for the property when we have houses in Kileleshwa being sold for Kshs1.7 million?

Mrs. Tett: Mr. Speaker, Sir, we are very satisfied.

(Laughter)

Mr. Deputy Speaker: Hon. Members, this Question was dealt with extensively. What remained was just a matter of tabling the list of beneficiaries, which the Assistant Minister has just done.

Mr. Muite: Mr. Deputy Speaker, Sir, could we have the assurance of the Assistant Minister that the allocation of these houses is not the selective implementation of the Ndung'u Report?

Mrs. Tett: Mr. Deputy Speaker, Sir, it is not. Before one is allocated a house, we verify all his/her personal details. We verify his/her personal number, job group, his/her basic salary and house allowance entitlements, and other income.

All those details are indicated in the list I have just tabled. If he cares to take a look at it, he will see that the houses are fairly distributed.

Mr. Deputy Speaker: Very well. Next Question, Mr. Korir!

Mr. Munya: On a point of order, Mr. Deputy Speaker, Sir. You have not given me a chance to ask the last question.

Mr. Deputy Speaker: Mr. Munya, you had asked your last question on this matter, last time. Today, I gave you an opportunity to ask another question.

Mr. Munya: Mr. Deputy Speaker, Sir, I never asked any question.

Mr. Deputy Speaker: Okay, you may ask one more question.

Mr. Munya: Mr. Deputy Speaker, Sir, the Assistant Minister is not an expert in property valuation, but she said that she is satisfied that the Government has had value for its houses. Could she table reports of valuation, indicating the actual values of the houses before they were sold?

Mrs. Tett: Mr. Deputy Speaker, Sir, the houses were valued by experts. If the hon. Member wants me to table the reports, I do not have them here, because that was not part of the Question. I would have brought that information if he had included the request in the Question.

Mr. Deputy Speaker: I agree with you, Madam Minister.
Next Question, Mr. Korir!

GOVERNMENT EXPENDITURE
ON NSHIF WORKSHOPS

(Mr. Korir) to ask the Minister for Health:-

(a) How much money did the Ministry spend on the NSHIF workshop held between 12th and 14th November, 2004, at the Whitesands Hotel in Mombasa?

(b) How much money has the Ministry spent on related workshops since January, 2003?

(b) What was the source of the funds spent on these workshops?

Mr. Korir not here? The Question is dropped!

(Question dropped)

TERMINATION OF CONTRACT OF KWS CEO

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

(a) Could the Minister confirm whether the Chief Executive Officer (CEO) of the Kenya Wildlife Service, Mr. Evans Mukolwe's contract has actually been terminated?

(b) If the above is in the affirmative, what were the terms of his contract, and when will he be paid his terminal benefits?

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

(a) Mr. Mukolwe is on suspension.

(b) This part of the question does not arise.

Mr. Owidi: Mr. Deputy Speaker, Sir, on 17th November, 2004, the Minister told the House that Mr. Mukolwe was on leave. However, on the same day, there was a correspondence from Dr. Leakey, after a discussion between him and the Minister, proposing new KWS Board members and a new CEO. Was there a conspiracy between the Minister and Dr. Leakey to sack Mr. Mukolwe?

Mr. Tuju: Mr. Deputy Speaker, Sir, I would like to assure the hon. Member that there was no conspiracy of any type between myself and Dr. Leakey. Dr. Leakey has, indeed, said that the purported letter was a forgery. I would like to go on record that under no circumstances am I, or this Government, going to be influenced by Dr. Leakey, or anybody else, on matters of the KWS affairs.

The KWS is a very difficult organisation. It earns income in the region of about Kshs1 billion in a year. So, the stakes are high. There are various vested interests in its affairs. There are various people who have approached me for all kinds of things. As a Cabinet Minister, I listen, but it does not mean that I will necessarily do as one requests.

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

Mr. Deputy Speaker: Order! Order! That is a way of asking another question.

Mr. Wanjala!

Mr. Wanjala: Mr. Deputy Speaker, Sir, Dr. Leakey is one of the people who are well known to have been interfering with the KWS. He is one of those who ran down the KWS. He even drew a salary of Kshs1.7 million per month while working as the Head of the Public Service and Secretary to the Cabinet. So, he earned twice. On 17th November, 2004, he wrote a letter, in which he said---

Mr. Deputy Speaker: Order! Order! The issue of the letter was raised by Mr. Owidi, and the Minister said that it was a forgery.

Mr. Wanjala: But---

Mr. Deputy Speaker: Order! Order! That is what the Minister said. I heard him very clearly. So, I want you to ask the Minister a question, and not read out a letter that is alleged to have been forged.

Mr. Wanjala: Mr. Deputy Speaker, Sir, even the KWS Board of Trustees has been dissolved, and this letter proposes a new board of trustees. Could the Minister come out clearly and assure the House that there was no link between his actions and this letter? Could he further assure us that Dr. Leakey will not be a member of the new board of trustees, or even its chairman?

Mr. Deputy Speaker: That is a good question, Mr. Wanjala! Could you respond, Mr. Minister?

Mr. Tuju: Mr. Deputy Speaker, Sir, I understand how much stressed Mr. Wanjala is over this matter. Other Kenyans are equally stressed over the KWS. I would like to assure him, and the House, that we will do the right thing. We will not be intimidated by anybody, based on tribe or race or anything like that.

Mr. Ethuro: Mr. Deputy Speaker, Sir, you have heard the Minister saying that he is not going to be influenced by anybody, but what is happening to KWS is of major concern to everybody in this country. Here is a Chief Executive Officer who has been suspended for issues beyond his control, and when the Board disagrees with the Minister on procedure, it is dissolved.

Mr. Deputy Speaker: What is your question?

Mr. Ethuro: Mr. Deputy Speaker, Sir, could the Minister tell us who is responsible for the suspension of the Chief Executive Officer; is it the Board or the Minister?

Mr. Tuju: Mr. Deputy Speaker, Sir, the Government is responsible for suspending Mr. Mukolwe and dissolving that Board. I take full responsibility on behalf of the Government.

Mr. Owidi: Mr. Deputy Speaker, Sir, since the Minister has said that the letter was a forgery, would I be in order to lay it on the Table so that it can be authenticated?

Mr. Deputy Speaker: Could you repeat, please?

Mr. Owidi: Mr. Deputy Speaker, Sir, since the Minister has said that the letter is a forgery, could I lay it on the Table so that you can investigate?

Mr. Deputy Speaker: Give it to Clerk at the Table.

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

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. As has been said, this is a very serious matter of concern to Kenyans. As you know, close to 1,000 young Kenyans are at home, having been suspended from training for a mistake which is not of their making.

In fact, that mistake was made by the Minister and some hon. Members of Parliament, including myself. We are punishing the wrong people. Is the Minister in order to mislead this House that he cannot be intimidated into doing certain actions when he was intimidated by the media and took action before he did a probe on KWS?

Mr. Tuju: Mr. Deputy Speaker, Sir, I would like to assure this House that I am aware of the vested interests and the problems at KWS. We are doing investigations. We have acted, and some of our actions may have been mistaken or not, but we have to take the right action at the right time. Failure to act would be a failure in itself. I would like to assure the House that when I say we will not be intimidated, I mean we will not be intimidated by the vested interests in the wildlife sector.

Mr. Deputy Speaker: Very well! Hon. Members, that is the end of Question Time! I have a number of requests for Ministerial Statements, but before that, the hon. Prof. Maathai would like to make a statement.

PERSONAL STATEMENT

DEPARTURE TO OSLO FOR THE
NOBEL PEACE PRIZE AWARD CEREMONY

The Assistant Minister for Environment and Natural Resources (Prof. Maathai): Mr. Deputy Speaker, Sir, I have requested for this opportunity so as to inform you and my colleagues, the hon. Members, that I will depart tonight for Oslo to receive the Nobel Peace Prize at a ceremony scheduled for 10th December, 2004.

(Applause)

Since this award was announced by the Norwegian Nobel Peace Committee two months ago, I have received an overwhelming expression of goodwill, support and congratulations from Kenyans of all walks of life and also from friends and well wishers from all over the world. Here at Parliament Building, the women hon. Members of Parliament and all the hon. Members and staff gave me an unforgettable expression of love, deep appreciation and solidarity. The gifts from all of you, the extended family of the National Assembly, will forever remind me of the historic moments we have shared in this building; rejoicing, celebrating and enjoying this wonderful honour that came to us at our National Assembly.

It was, indeed, a historic event for all of us. As representatives of our people, I send you with many thanks for all your constituents. Let them know that I am very proud of the work we have done together, and the honour we have brought to the country and ourselves. I hope that we shall all strive to live up to the high expectations the world expects from us as Kenyans. We have reached those heights and there is no reason why we cannot sustain these high standards of performance, especially in protecting our environment and creating democratic space for ourselves and others.

At a very personal level, I have been humbled by the reaction of all people and I remain overjoyed at the centre of solidarity and inspiration the Nobel Peace Prize has generated here at home. I was particularly struck at the sense of unity of purpose it has symbolised in the House from both sides. My winning the Nobel Peace Prize seemed to re-unite us with our earlier sense of national mission for the benefit of all our people and country. I hope that this spirit of unity will find expression elsewhere in our work, as we strive to deliver our promises to Kenyans and face up to their expectations. I feel reassured that I may have been wrong in thinking that some Kenyans' silence over the years meant that they were not listening to us at all. Most people have now come forward to congratulate me and re-affirm their support and future commitment to our country and our environment.

For all the encouragement and the growing recognition of our work and the work we are doing to protect our environment and enlarging the democratic space, I wish to thank the President, our entire Government, the administration, Mr. Speaker and all the hon. Members of Parliament and, indeed, all our constituents. I have received a truly touching send-off from different groups of Kenyans, and I know that many are praying that our journey will be safe, fruitful and truly blessed. Much work remains to be done, hon. Members of Parliament, and I am confident that, together, we can achieve whatever we set ourselves to accomplish. I will see you when I return from Norway, and I wish you peaceful blessings.

Kwaheri ya kuonana.

(Applause)

Mr. Deputy Speaker: Once again, on behalf of the House, we wish again to congratulate

the hon. Prof. Maathai and wish her *bon voyage*, and wish to see her back.
Now, let us start with Mr. Angwenyi!

POINTS OF ORDER

RAISING OF ENTRY POINTS TO PUBLIC UNIVERSITIES

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. I stand to seek a Ministerial Statement from the Ministry of Education, Science and Technology.

Mr. Deputy Speaker: Is the Minister for Education, Science and Technology here? Mrs. Mugo is here.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement with regard to the entry points for admission to the public universities in Kenya.

Mr. Deputy Speaker, Sir, entry points are publicised for candidates before they sit for examinations. Therefore, once they attain those points, they are assured of a place in the public universities. But, as you are aware, the Ministry, in conjunction with public universities, raised entry points way above what was known by the candidates before they sat for their exams. What steps is she going to take to revert to the entry points which were announced to the students before they sat for their examinations, and which will be used during the admissions to the universities?

STAMPEDE AT THE CARNIVORE RESTAURANT

Mr. Deputy Speaker, Sir, I also rise to seek a Ministerial Statement from the Office of the President with regard to the stampede that occurred at the Carnivore Restaurant over the weekend. What measures is the Minister taking to ensure that we do not lose lives of our young people through those kinds of extravaganzas, which are not organised and managed properly? What other measures is he taking to control the consumption of liquor by youths?

CONTRAVENTION OF THE CODE OF ETHICS ACT BY HON. MEMBERS

Finally, Mr. Deputy Speaker, Sir, this Parliament passed the Code of Ethics Act and we are supposed to adhere to that law, or repeal it if we cannot. As you know, Members of Parliament who passed that Act contravene it week in, week out. I would like to seek a Ministerial Statement from the Minister for Justice and Constitutional Affairs as to whether we are committing crime by contravening that Act, and if so, whether we can repeal it.

Mr. Deputy Speaker: Order, hon. Members! I want to be sure that the Assistant Minister for Education, Science and Technology has taken note. Mrs. Mugo and Dr. Mwiria, have you done so?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Very well! Prof. Kibwana, have you taken note for the Office of the President?

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

Mr. Deputy Speaker: Who is taking notes for the Minister for Justice and Constitutional Affairs?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, it was with regard to Harambees. I would like to put it very clearly.

Mr. Deputy Speaker: Who is going to take note of that? Mr. Wetangula will do that.

GOVERNMENT STAND ON THE
GOLDENBERG INQUIRY

Mr. Ndile: Bw. Naibu Spika, Jumanne iliyopita, niliuliza Wizara ya Haki na Maswala ya Katiba kuhusu msimamo wa Serikali kuhusu uamuzi wa korti kuhusu Kashfa ya Goldenberg. Waziri Msaidizi aliahidi ataleta taarifa hiyo leo. Kwa hivyo, anaweza kutoa taarifa hiyo leo?

Mr. Deputy Speaker: That is very true. Mr. Ndile sought a Ministerial Statement and I remember Mr. Githae was here. He promised to issue the Statement today, but nobody from the Ministry is here now.

Mr. Wetangula, could you remind the Minister for Justice and Constitutional Affairs about that?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Yes, Mr. Deputy Speaker, Sir.

PHONE THREATS TO HON. NDILE

Mr. Ndile: Bw. Naibu Spika, anapoenda kumkumbusha Waziri kuhusu jambo hilo, ningependa kuliambia Bunge hili kwamba nimepokea vitisho. Nataka kujua ikiwa nina haki ya kuuliza kitu chochote hapa Bungeni. Watu walinipigia simu wakaniuliza kwa nini nilitaja jina la Prof. Saitoti. Siyo mimi nilimtaja! Unakumbuka, ni Bw. Pattni.

Mr. Deputy Speaker: Mr. Ndile, you asked for a Ministerial Statement and I was just intervening for you, so that the Minister could bring it.

Capt. Nakitare, it is your turn now.

CRISIS AT KENYA WILDLIFE SERVICE

Capt. Nakitare: Mr. Deputy Speaker, Sir, I rise to seek a detailed Ministerial Statement from the Minister for Tourism and Wildlife concerning the following---

Mr. Deputy Speaker: Order! Is the Minister for Tourism and Wildlife here? Yes, he is. Continue!

Capt. Nakitare: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Tourism and Wildlife concerning the following:-

- | | | |
|-----|------------------------------|-----------------|
| (a) | The crisis at Kenya Wildlife | Services (KWS). |
| (b) | The sacking of the Director. | |
| (c) | Closure of Wildlife Training | College. |
| (d) | Dissolution of the Board of | Directors. |

This House would like to know whether that is intended to dismantle KWS with a view to ruining the tourism industry in this country.

The recruits who were admitted at the KWS Wildlife Training College were trained to use arms. They are now capable of using firearms. They are now jobless. I think this country is at risk because those boys are going to be dangerous. Secondly, we would like to know when the college will be opened. We also want an assurance from the Government that, that fiasco is not going to happen again in future.

KWS cannot run without a Board of Directors. We would also like to be assured that a Board of Directors will be appointed to run KWS, so that the Ministry does not get discouraged. Even the donors themselves are concerned about it!

Mr. Deputy Speaker: That is a request for a Ministerial Statement to the Minister.

ISSUANCE OF CONDITIONS ON
HORTICULTURE BY EU

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Agriculture. A while ago, I requested for the same Statement. As you are aware, the European Union (EU) is the second market after the Common Market for Eastern and Southern African countries (COMESA). The EU has given us conditions regarding our horticulture. I would like the Minister for Agriculture to tell us the effective date, the conditions and which horticultural products are affected? We have been reading that in the newspapers. Some people in the Government have said that those conditions have been cancelled. We are still hearing from the EU that from 1st January, 2005, no horticultural produce will enter their market, and every farmer is concerned. Could the Minister for Agriculture come out and tell Kenyans what is happening, what is required from them and whether it is true that the deadline is 31st December, 2004?

Mr. Deputy Speaker: The Minister for Agriculture is not here? Who will brief him on that issue? Mr. Wetangula will. That is all I had as far as requests for Ministerial Statements are concerned.

INVASION OF MOYALE BY
ETHIOPIAN MILITARY

Dr. Galgalo: On a point of order, Mr. Deputy Speaker, Sir. Last week but one, I requested for a Ministerial Statement from the Minister of State, Office of the President in charge of internal security, concerning the invasion of my constituency by Ethiopian military personnel. They had abducted the Assistant Chief for Kate Location along with three other elders. They are still being held captive.

Mr. Deputy Speaker: I remember that. Mr. Assistant Minister, do you have the Statement?

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Deputy Speaker, Sir, we discussed with the hon. Member and I said that some of my officers who were supposed to give me the feedback are attending an official function outside Nairobi. Could I be allowed to issue that Ministerial Statement, together with the one on rape, on Wednesday afternoon?

Mr. Deputy Speaker: That is tomorrow. I do not have any requests for Ministerial Statements. What is it, Mr. K. Kilonzo?

CANCELLATION OF THIRD MOBILE
PHONE PROVIDER'S CONTRACT

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I also requested for a Ministerial Statement from the Minister for Information and Communications, regarding the issuance and subsequent cancellation of the contract of the third mobile provider, Econet Wireless. I was promised that the Ministerial Statement would be issued today. That is what I am asking for.

Mr. Deputy Speaker: Mr. Minister, do you have the Ministerial Statement?

The Minister for Information and Communications (Mr. Tuju): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: The Minister has the Ministerial Statement. So, I will give him an

opportunity to read it just now. The last point of order is by Mr. Ethuro!

STATE OF AFFAIRS AT HARAMBEE SACCO

Mr. Ethuro: Mr. Deputy Speaker, Sir, I requested for a Ministerial Statement from the Minister for Co-operative Development and Marketing two weeks ago, on the situation at the Harambee Co-operative Society, where members are about to lose money because of corruption. I was promised that the answer would come last Thursday, but I am yet to receive it.

Mr. Deputy Speaker: Hon. Members, we must finish now. If you want to ask something, it is good to discuss with the Chair before, so that we can know what you want to ask. I will now allow only one point of order from Mr. Raila. If you want to ask something, you can do so tomorrow.

MEMBERS ENTITLED TO COMPREHENSIVE WRITTEN RESPONSES
TO QUESTIONS

The Minister for Roads and Public Works (Mr. Raila): Mr. Deputy Speaker, Sir, my point of order is with regard to Standing Order No.39 which provides for written answers to Questions. It reads as follows:-

"If an hon. Member indicates that he desires a written answer to his Question, six copies of the answer shall be delivered to the Clerk within 14 days after the day on which it was forwarded to the Minister and the Clerk shall cause it to be circulated in the Official Report of the House debates on the next sitting day following the day on which the answer is received or as soon as possible thereafter."

This Standing Order enables hon. Members to receive comprehensive written responses to their Questions. Our hon. Members here have never made use of this particular provision in our Standing Orders. Hon. Members insist only on oral answers which are usually very brief and do not actually ventilate the issues properly. That is also the reason why we spend too much time on Question Time instead of the serious business of the House. I would like the Chair to direct that hon. Members make use of this provision in the Standing Orders and request written answers to their Questions rather than these oral answers?

Mr. Deputy Speaker: Very well. I think that is a very valid point. I can disclose to hon. Members that, that is what I do because I do not ask Questions on the Floor of the House. I ask for written answers from Ministers and I do get satisfactory answers. So, I will ask hon. Members to also explore that avenue. All Questions do not have to come to the Floor of the House. You can ask your Questions to the Ministers in writing and get satisfactory answers. This is at the discretion of hon. Members, but the Chair encourages you to follow that avenue if you desire. It is a good point.

Hon. Members, your attention is drawn to the Supplementary Order Paper that has already been circulated. That means that we have attached the notices of Amendments that have already been received by the Office of the Clerk in relation to the Finance Bill and the Banking (Amendment) Bill.

The Minister for Information and Communications (Mr. Tuju): Mr. Deputy Speaker, Sir, after a request for a Statement by Mr. K. Kilonzo, the matter was taken to court by one of the concerned parties. I am keen to bring a Statement, but I need to consult with the Attorney-General who has to defend our position which I would like to assure hon. Members is a very strong one. I am not able to present the Ministerial Statement until after due consultation with the Attorney-General.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, while I am willing to accept that, I hope the Minister will not hide under the guise of the Attorney-General to sack the chief executive of CCK and dissolve the Board of CCK in the same way he dissolved the KWS Board. There has been

pressure from this Minister for that cancellation to be done by the Board.

Mr. Deputy Speaker, Sir, I want the Minister to give an undertaking here that nothing will befall that Board and the chief executive of CCK until he brings a Statement to this House.

The Minister for Information and Communications (Mr. Tuju): Mr. Deputy Speaker, Sir, I am perplexed that I am expected to give an undertaking of how I will run the Ministry. So, I am not able to give such an undertaking.

Mr. Deputy Speaker: Next Order.

**COMMITTEE OF THE
WHOLE HOUSE**

(Order for Committee read)

*[Mr. Deputy Speaker
left the Chair]*

IN THE COMMITTEE

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

THE FINANCE BILL

(Clauses 2, 3 and 4 agreed to)

Clause 5

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 5 and substituting therefor the following new clause:-

Amendment of Section 20 of Cap.472

5. Section 20 of the Customs and Excise Act is amended in Sub-section (4) by deleting the words "destination" and "status" wherever they occur.

(Question of the amendment proposed)

The Assistant Minister for Regional Development Authorities (Mr. Odoyo): On a point of order, Mr. Temporary Deputy Chairman, Sir. There is an amendment on Clause 1 in the Supplementary Order Paper. It appears to me---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Odoyo! You are the one who is out of order! If you recall clearly, I only dealt with Clauses 2, 3 and 4. We go through the others and then Clause 1 is usually the final one. So, be advised!

*(Question, that the words to be left out
be left out, put and agreed to)*

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

Clause 5 as amended agreed to)

Clause 6

The Temporary Deputy Chairman (Mr. Ethuro): Is Mr. Kipchumba not here?

The Assistant Minister for Regional Development Authorities (Mr. Odoyo): On a point of order, Mr. Temporary Deputy Chairman, Sir. In the event that the hon. Member is not here to move his amendment, could we seek your guidance that we move on?

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Odoyo, you run the risk of being thrown out for no reason! When an hon. Member is not in the House, we proceed. We wanted to be sure that he is not here.

(Clause 6 agreed to)

Clause 7

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 7 and substituting therefor the following New Clause-

Amendment of
section 37 of
Cap.472.

7. Section 37 of the Customs

and Excise Act is amended by deleting Subsection (4), and substituting therefor the following new subsection -

(4) Subject to Section 39, all goods entered to be warehoused shall be removed to the warehouse for which they were entered and deposited therein within seven days from the date of release, or within such further period as the Commissioner may allow for bonded warehouses situated away from the port of importation.

(Question of the amendment proposed)

Mr. Kagwe: On a point of order, Mr. Temporary Deputy Chairman, Sir. I need your guidance. I thought the procedure should have been that we go through the amendment and then we amend the amendment. Is that the correct procedure or should I move the amendment now?

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Kagwe, you may proceed.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, on behalf of Mr. Oparanya, I beg to move:-

THAT, the Bill be amended by deleting Clause 7.

New Clause

THAT, the Bill be amended by inserting the following New Clause immediately after Clause 41:-

Amendment of the
Fifth Schedule to
Cap.476

41A. The Fifth Schedule to the Value Added Tax Act is amended in the manner specified in the Sixth Schedule.

Mr. Temporary Deputy Chairman, Sir, the proposed reduction period from 21 days to seven days is short, especially for the upcountry industries given the fact that certain procedures, indeed, take place from the day the goods arrive. These are the preparation of the Customs entry, verification of goods, payment of duty and port charges; and containers have to be lifted from the port to the bonded warehouses. Complaints have been received to the effect that seven days are not adequate for all these procedures to be carried out in an orderly manner and hence the need to revert to the current 21 days.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kagwe! If you look at page 655, you will find that your amendment, through Mr. Oparanya, was meant to delete Clause 7 and now you are talking about the number of days.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I am talking about Clause 7, which refers to Section 37. It should be amended by deleting Clause 7 and inserting a New Clause.

The Temporary Deputy Chairman (Mr. Ethuro): I now understand why you were seeking clarification. We will deal with the amendment in two phases. We will deal with the deletion first and the procedure to insert the New Clause will come at the end.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, that is what I thought.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I am informed that the seven days come after the 21 days are over. So, we are not really moving from 21 days to only seven days. The section of the Bill that we are seeking to amend provides that warehoused goods should take 21 days and, thereafter, you are supposed to remove them. Before, you were supposed to remove the goods within 21 days; but now, we are reducing that period to only seven days, to stop the abuse of the privilege of keeping goods in bonded warehouses.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I would like the Minister to clarify whether the issues that I have raised in the amendment are addressed in what he has said. The amendment to Clause 7 is supposed to address the problem of people who are suffering just because of the contrary reason. Could he clarify the issue? At the moment, you will agree with me that we are slightly confused on this matter. If there is confusion, I will go with my amendment.

The Temporary Deputy Chairman (Mr. Ethuro): Before the Minister clarifies, I also want to get a clarification from you, Mr. Kagwe. You will notice that the amendment is that the Bill be amended by deleting Clause 7. You have gone ahead to propose a new clause, which is affecting Clause 41. So, we have a procedural problem here.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, may I propose that we proceed with the Minister's amendment and then we can deal with my proposed amendment after that? This is creating confusion.

The Temporary Deputy Chairman (Mr. Ethuro): The procedure is that we deal with the clauses in their sequential order, except Clause 1. We leave the New Clause until the end because this involves adding something. We delete and insert words at the time when we are dealing with a particular clause. The only way out for us is to deal with the deletion at this stage, and then we will deal with the New Clause at the end of the Bill.

Mr. Kagwe: Very well, Mr. Temporary Deputy Chairman, Sir.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I need to explain exactly what is happening here. The hon. Member, who is the Chairman of the Departmental Committee on Finance, Planning and Trade, has proposed that because of the need for the preparation of Customs entry, verification of goods, payment of duty and port charges and the fact that the containers have to be lifted from the port to the bonded warehouse, seven days will be too short.

We are seeking to amend the law from the date of the release of the goods from the bonded warehouse.

After you have gone through all this, goods are taken to the bonded warehouse, but you enter into discussions with the Commissioner. Once he agrees, then you will take only seven days to remove your goods. This means that the problem which he hon. Member has foreseen will not come into play.

Mr. Kagwe: Very well, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Kagwe, does that imply you are now withdrawing your amendment; the deletion aspect?

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, assuming that I am holding in truth what the Minister has said, and that these issues come after the 21 days, and that is in the HANSARD, I have no problem with it.

The Temporary Deputy Speaker (Mr. Ethuro): Well done. Let us proceed.

Mr. Moi: Mr. Temporary Deputy Chairman, Sir, my question regards this amendment that says: "Delete the words 21 days wherever they appear and substituting therefor the words seven days."

But again, I will agree with the Chairman of the Committee on Finance, Planning and Trade if it is clear in the HANSARD that, it is only after 21 days; then the seven days period kicks in after clearing the court charges *et cetera*.

*(The Minister for Finance
stood up in his place)*

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Minister! I think you really explained clearly and Mr. Kagwe agreed. Mr. Moi has only agreed further. I do not think we need further explanation to that.

Let us proceed with the Minister's amendment.

*(Question, that the words to
be left out be left out,
put and agreed to)*

*(Question, that the words to be
inserted in place thereof be
inserted, put and agreed to)*

(Clause 7 as amended agreed to)

(Clauses 8, 9, 10, 11, 12 and 13 agreed to)

Clause 14

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 14 be amended by deleting the proviso to the proposed paragraph 138(2)(c) and substituting therefor the following new proviso -

Provided that remission under this paragraph may be granted in respect of-

- (i) all goods (excluding passenger motor vehicles of a seating capacity of less than fourteen persons, building materials, audio and audio-visual electronic equipment, spare parts, office furniture and other office equipment and stationery) donated or purchased for donation by any person to registered homes for poor and needy persons, subject to approval by the Minister; or,
- (ii) maize, wheat, sugar, milk, edible vegetable fats and oils, rice, textiles, new and used clothing and footwear imported during periods of civil strife, national calamity or disaster declared under any law for the time being in force, or where they are intended for use in officially recognized refugee camps in Kenya.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 14 as amended agreed to)

Clause 15

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 15 and substituting therefor the following new Clause-

Amendment of
section 139 of
Cap.472

15. Section 139 of the Customs and Excise Act is amended in Subsection (1) by inserting the following new paragraphs-

(g) that in the case of petroleum oils, they were refined in Kenya:

Provided that

remission under this paragraph shall be granted subject to such limits as the Minister may by notice in the Gazette, specify.

(h) that in the case of alcoholic beverages, remission shall be granted to such extent as the Minister may, by notice in the Gazette, specify.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 15 as amended agreed to)

(Clauses 16, 17, 18, 19, 20, 21 and 22 agreed to)

Clause 23

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the existing Clause 23 and substituting therefor the following new clause -

Amendment of
First Schedule to
Cap.472

23. The First Schedule to the Customs and Excise Act is amended -

- (a) in the manner specified in the First Schedule to this Act;
- (b) in the manner specified in paragraph (b) of the Second Schedule to this Act.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 23 as amended agreed to)

(Clause 24 agreed to)

Clause 25

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 25 and substituting therefor the following new Clause -

Amendment of
Third Schedule to
Cap.472

25. The Third Schedule to the Customs and Excise Act is amended -

(a) in Part A by deleting item
15 and substituting therefor
the following new item-

15. Disabled, blind and physically handicapped persons.

Materials, articles and equipment, including motor
vehicles, which -

(a) are imported by and are specially designed for sole use by disabled or physically handicapped persons;

or

(b) are intended for the educational, scientific or cultural advancement of blind persons for the use of an organization approved by the purpose of this exemption.

Provided that -

(i) the exemption in paragraph (a)
shall only apply -
(AA) once in every four years;

(BB) to a person who has not enjoyed another exemption under the provisions of this Act.

(ii) paragraph (b) does not apply to
the motor vehicles.

(b) in Part B -

(a) by deleting the expression "fifty percent of" appearing in item 15;

(b) by inserting

the words "diapers for adults" in item 38 immediately after the expression "urine bags" wherever it appears.

(Question of the amendment proposed)

*(Question, that the words to be left
out be left out, put and agreed to)*

*(Question, that the words to be
inserted in place thereof be inserted,
put and agreed to)*

(Clause 25 as amended agreed to)

(Clause 26 agreed to)

Clause 27

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 27 and substituting therefor the following new Clause -

Amendment of the
Fifth Schedule

27. The Fifth Schedule to the Customs and Excise Act is amended -
- (a) in the manner set out in paragraph (a) of the Fourth Schedule; and,
 - (b) in the manner set out in paragraph (b) of the Fourth Schedule.

*(Question of the amendment
proposed)*

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, there is a further proposed amendment on the same Clause 27 on the Fifth Schedule. I do not know whether you want us to take care of the Minister's amendment first or you want me to explain why I am opposing that amendment and proposing---. Can I have some guidance there? May I suggest that we take care of the Minister's amendment as it were, then I move my amendment against whatever will be the new amendment?

The Temporary Deputy Chairman (Mr. Ethuro): We will deal with the Minister's amendment then we come to your amendment when we are dealing with the Schedule, according to Standing Order No.105.

*(Question, that the words to be left
out be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

(Clause 27 as amended agreed to)

Mr. Kagwe: On a point of order, Mr. Temporary Deputy Chairman, Sir. We are dealing with the same Fifth Schedule. Are you proposing that we will come back to it again? I wanted to address the issue of Clause 27. Now that the Minister has moved, there are further amendments to the same. I am referring to Clause 27.

Mr. Khamasi: Which page?

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Kagwe's amendment is on page 656.

Mr. Kagwe: That is correct, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kagwe! Maybe, it might help just to refer to Standing Order No.105 which says:-

"In considering a Bill in Committee the various parts thereof shall be considered in the following sequence-

- (a) Clauses as printed, excluding the clause providing for the citation of the Bill;
- (b) new Clauses;
- (c) Schedules;

- (d) new Schedules;
- (e) Preambles, if any;
- (f) Titles;
- (g) the Clause providing for the citation of the Bill."

That is why we will consider your amendment to the Schedule at that particular time.

Mr. Kagwe: I stand guided, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): Well done, Mr. Kagwe!

*(Ms. Abdalla stood up
in her place)*

What is it, Ms. Abdalla?

QUORUM

Ms. Abdalla: On a point of order, Mr. Temporary Deputy Chairman, Sir, I just want to bring to your attention the fact that, unless you are counting the representatives from the Ministry of Finance, we do not have a quorum!

The Temporary Deputy Chairman (Mr. Ethuro): Order, Ms. Abdalla! Just make your point! You do not have to exaggerate it!

(Laughter)

We do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! We now have a quorum!

(Ms. Abdalla interjected)

Order, Ms. Abdalla! Your request has been satisfied! Let us proceed!

*(Clauses 28, 29, 30, 31, 32,
33, 34, 35, 36 and 37 agreed to)*

Clause 38

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 38 of the Bill be amended by deleting the proviso to the proposed paragraph 23(3)(b) and substituting therefor the following new proviso-

Provided that the remission under this paragraph may be granted in respect of-

- (i) all goods (excluding passenger motor vehicles of a seating capacity of less than fourteen persons, building materials, audio and audio-visual electronic equipment and stationery) donated or purchased for donation by any person to registered homes for

- poor and needy persons, subject to approval by the Minister; or
- (ii) maize, wheat, sugar, milk, edible vegetables fats and oils, rice, textiles, new and used clothing and footwear, imported or purchased locally during periods of civil strife, national calamity or disaster declared under any law for the time being in force, or where they are intended for use in officially recognised refugee camps in Kenya.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 38 as amended agreed to)

(Clauses 39, 40, 41, 42 and 43 agreed to)

Clause 44

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 44 be amended by deleting paragraphs (a) and (b) and substituting therefor the following new paragraphs-

(a) in Part A:-

(i) By deleting item 11 and substituting the following items-

11. Disabled, blind and physically handicapped persons

Materials, articles and equipment, including motor vehicles, which-

(a) are specifically

designed for sole use by disabled or physically handicapped persons; or,

(b) are intended for the educational, scientific or cultural advancement of the blind for the use of an organization approved by the Government for the purpose of this Zero-rating;

Provided that-

(i) The zero-rating in paragraph (a) shall only apply-

(AA) once in every four years;

(BB) to a person who has not enjoyed another zero-rating under the provisions of this Act;

(ii) Paragraph (b) does not apply to motor vehicles;

(ii) By deleting item 20;

(b) in Part B-

(i) by deleting item 19 and substituting therefor the following new item-

19. Urine bags, diapers for adults, and hygienic bags

Urine Bags, diapers for use by adults and hygienic bags for medical or hygienic use, in such quantities as the Commissioner may allow.

(ii) by inserting the following new items immediately after item 27-

28. Electronic Tax Register

Electronic tax registers of such type and description as may be prescribed, imported or purchased locally prior to 30th, June, 2006 on the recommendation of the Commissioner and subject to such conditions as the Commissioner may specify.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 44 as amended agreed to)

Clause 45

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Section 2(1) of the Income Tax Act is amended by deleting the definition of the words 'Commissioner' and 'Officer' and substituting therefor the following new definitions respectively-

"Commissioner" means-

- (a) the Commissioner-General appointed under Section 11(4) of the Kenya Revenue Authority Act; or
- (b) with respect to powers or

functions that have been delegated under Section 11(4) of Kenya Revenue Authority Act to another Commissioner, that other Commissioners;
"Officer" means the Commissioner and any other member of staff of the Kenya Revenue Authority appointed under Section 13 of the Kenya Revenue Authority Act.

(Question, that words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 45 as amended agreed to)

Clause 46

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, paragraph (b) of Clause 46 of the Bill be amended -

(i) in subparagraph (i), by inserting the following words immediately after the word "scheme" -

"unregistered provident fund or unregistered individual retirement fund",

(ii) in subparagraph (ii), by inserting the following words immediately after the word "scheme" -

"a registered provident fund or a registered individual retirement fund".

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 46 as amended agreed to)

(Clauses 47, 48, 49, and 50 agreed to)

Clause 51

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 51 be amended in paragraph (a) by deleting the words "within thirty days of the date on which deduction was made or ought to have been made" appearing in the proposed subsection 6(b) and substituting therefor the words "on or before the twentieth day of the month following the month in which the deduction was made or ought to have been made".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 51 as amended agreed to)

(Clauses 52, 53, 54, 55, 56, 57, 58, 59 and 60 agreed to)

Clause 61

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 61 be amended in paragraph (b)(iii)

(a) by inserting the word

"registered" immediately before the words "pension fund" appearing in the

proposed paragraph (d)(i);

(b) by inserting the following subparagraph immediately after subparagraph (bb)

-

(cc) by deleting the table appearing in subparagraph (d) (ii) and substituting therefor the following new table -

"10% on the first shs121,968

15% on the next shs114,912

20% on the next shs114,912

25% on the next shs114,912

30% on any amount over shs466,704 of the amount in excess of the tax free amount".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 61 as amended agreed to)

(Clauses 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, and 85 agreed to)

New Clause

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, this is the New Clause that we had discussed earlier on unless; we are now discussing the Fourth Schedule. However, I beg to move:-

THAT, the Bill be amended by inserting the following New Clause immediately after Clause 41:-

41A. The Fifth Schedule to the Value Added Tax Act is amended in the manner specified in the Sixth Schedule.

The Temporary Deputy Chairman (Mr. Ethuro): Do you have any justification to make?

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, the proposed amendment to that Clause seeks to delete the figure "10 per cent" and inserting in place thereof "5 per cent".

Mr. Temporary Deputy Chairman, Sir, are we on the Fourth Schedule?

The Temporary Deputy Chairman (Mr. Ethuro): We are on Clause 41.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, that is the Clause we had withdrawn earlier on. We withdrew the amendment!

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! We are now going on to the Schedules, and the procedure is as per Standing Order No.105, which I had read earlier.

First Schedule

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, the First Schedule to the Bill be amended

(a) by renumbering the current provision under the heading "CHAPTER 21" as paragraph (a) and inserting the following new paragraph- (b)insert the following tariff numbers, descriptions, rates of duty, SITC and units of quantity:-

<i>Heading No.</i>	<i>HS Code</i>	<i>Tariff No.</i>	<i>Amendments to Text</i>	<i>Import Duty</i>	<i>SITC</i>	<i>Unit of quantity</i>
		2106 9040	<i>Other food preparation of a kind used in the manufacture of Alcoholic beverages.</i>	5%	11243000	Kg
		2106 9091	<i>Other beverages whether or not containing vitamins and other food supplements.</i>	35%	09899970	Kg
		2106 9099	<i>Other</i>	35%	09899990	Kg

(b) by inserting the following material in proper sequence -

CHAPTER 40

Delete chapter note(1) and renumber the remaining chapter notes.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(First Schedule as amended agreed to)

Second Schedule

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Second Schedule to the Bill be amended by -

- (a) renumbering the existing provision as paragraph (a); and
- (b) inserting the following new paragraph -
- (b) Delete the existing rates of duty in respect of the Tariff numbers and descriptions on the first and second column and substitute therefor the rates of duty respectively set out in the third column.

Tariff No.	Tariff Description	New rate of duty
5806.31.00	Other woven fabrics of cotton	<i>Shs.20.00 Per Kg or 25%</i>
5806.32.00	Other woven fabrics of Manmade Fibres	<i>Shs.20.00 Per Kg or 25%</i>
5806.39.00	Other woven fabrics of other textile materials	<i>Shs.20.00 Per Kg or 25%</i>
5807.10.00	Labels, badges and similar articles of textile materials, in the piece, in strips or cut to shape or	<i>Shs.20.00 Per Kg or 25%</i>
5807.90.00	Other Labels, badges and similar articles of textile materials, in the piece, in strips or cut to shape or	<i>Shs.20.00 Per Kg or 25%</i>
5808.10.00	Braids in the piece	<i>Shs.20.00 Per Kg or 25%</i>
5808.90.00	Ornamental trimmings in the piece, without embroidery, other than knitted or crocheted,	<i>Shs.20.00 Per Kg or 25%</i>
5901.10.00	Textile fabrics coated with gums or amylaceous substances, of a kind used	<i>Shs.20.00 Per Kg or 25%</i>
5901.90.00	Other textile fabrics coated with gum or amylaceous substances, tracing cloth, prepared painting canvas;	<i>Shs.20.00 Per Kg or 25%</i>

Tariff No.	Tariff Description	New rate of duty
5902.10.00	Tyre cord fabric of high tenacity yarn of nylon or other polyamides	<i>Shs.20.00 Per Kg or 25%</i>
5902.20.00	Tyre cord fabric of high tenacity yarn of polyesters	<i>Shs.20.00 Per Kg or 25%</i>
5902.90.00	Tyre cord fabric of high tenacity yarn of viscose rayon	<i>Shs.20.00 Per Kg or 25%</i>
5906.10.00	Rubberised Adhesive tape of width not exceeding – 20 cm	<i>Shs.20.00 Per Kg or 25%</i>
5906.91.00	Rubberized textile fabrics, knitted or crocheted	<i>Shs.200.00 Per Kg or 25%</i>
5906.99.00	Other rubberized textile fabrics, other than those of heading 5902	<i>Shs.20.00 Per Kg or 25%</i>
5908.00.00	Textile wicks, woven paited or knitted, for lamps, stoves, lighters, candles or the like; incandescent	<i>Shs.200.00 Per Kg or 25%</i>
5909.00.00	Textile hosepiping and similar textile tubing, with or without lining armour or accessories of other	<i>Shs.200.00 Per Kg or 25%</i>
5910.00.00	Transmission or conveyor belts or belting, of textile material, whether or not impregnated,	<i>Shs.200.00 Per Kg or 25%</i>
5911.10.00	Textile fabrics, felt and felt-lined woven fabrics, coated, covered or laminated with rubber, leather	<i>Shs.200.00 Per Kg or 25%</i>
5911.20.00	Bolting cloth, whether or not made up textile fabrics and felts, endless or fitted with linking	<i>Shs.200.00 Per Kg or 25%</i>
5911.31.00	Textile fabrics and felts, endless or fitted with linking devices of a kind used in paper-making or	<i>Shs.200.00 Per Kg or 25%</i>
5911.32.00	Textile fabrics and felts, endless or fitted with linking devices of a kind used in paper-making or	<i>Shs.200.00 Per Kg or 25%</i>
5911.40.00	Straining cloth of a kind used in oil presses or the like including that of human hair	<i>Shs.200.00 Per Kg or 25%</i>
5911.90.00	Other textile fabrics and felt, endless or fitted with linking devices, of a kind used in paper-making or	<i>Shs.200.00 Per Kg or 25%</i>
6001.10.00	Pile fabrics, including "Long Pile" fabrics	<i>Shs.200.00 Per Kg or 25%</i>
6001.21.00	Looped pile fabrics of cotton	<i>Shs.200.00 Per Kg or 25%</i>
6001.22.00	Looped pile fabrics man-made fibres	<i>Shs.200.00 Per Kg or 25%</i>
6001.29.00	Looped pile of fabrics of other textile materials	<i>Shs.200.00 Per Kg or 25%</i>
6001.91.00	Other pile fabrics of Cotton	<i>Shs.200.00 Per Kg or 25%</i>
6001.92.00	Other pile fabrics of man made fibres	<i>Shs.200.00 Per Kg or 25%</i>
6001.99.00	Knitted or crocheted fabrics of a width not exceeding 30cm, of other textile materials	<i>Shs.200.00 Per Kg or 25%</i>
6002.40.00	Containing by weight 5% or more elastometric yarn but not containing rubber thread	<i>Shs.200.00 Per Kg or 25%</i>

Tariff No.	Tariff Description	New rate of duty
6002.90.00	Other knitted or crocheted fabrics, of a width not exceeding 30cm, containing by weight 5% or more	<i>Shs.200.00 Per Kg or 25%</i>
6003.10.00	Knitted or crocheted fabrics of a width not exceeding 30cm, of wool or fine animal hair	<i>Shs.6.00 per Kg or 25%</i>
6003.20.00	Knitted or crocheted fabrics not exceeding 30cm of cotton	<i>Shs.6.00 per Kg or 25%</i>
6003.30.00	Knitted or crocheted fabrics not exceeding 30cm of synthetic fibres	<i>Shs.6.00 per Kg or 25%</i>
6003.40.00	Knitted or crocheted fabrics not exceeding 30cm of artificial fibres	<i>Shs.6.00 per Kg or 25%</i>
6003.90.00	<i>Other Knitted or crocheted fabrics not exceeding 30cm</i>	<i>Shs.6.00 per Kg or r 25%</i>
6004.10.00	Knitted or crocheted fabrics of a width exceeding 30cm, containing by weight 5% or more of	<i>Shs.6.00 per Kg or 25%</i>
6004.90.00	Knitted or crocheted fabrics, of a width not exceeding 30cm, containing of elastometric yarn	<i>Shs.6.00 per Kg or 25%</i>
6005.10.00	Warp knit fabrics (including those made on galloon machines), of wool or fine animal hair	<i>Shs.6.00 per Kg or 25%</i>
6005.21.00	Warp knit fabrics (including those made on galloon machines), of cotton	<i>Shs.6.00 per Kg or 25%</i>
6005.22.00	<i>Dyed warp knit fabrics (including those made on galloon machines), of cotton</i>	<i>Shs.6.00 per Kg or 25%</i>
6005.23.00	<i>Warp knit fabrics (including those made on galloon machines), of cotton of yarns of cotton of</i>	<i>Shs.6.00 per Kg or 25%</i>
6005.24.00	Printed warp knit fabrics (including those made on galloon machines), of cotton	<i>Shs 6.00 per Kg or 25%</i>
6005.31.00	Warp Knit fabrics (including those made on galloon knitting machines) of synthetic fibres,	<i>Shs 6.00 per Kg or 25%</i>
6005.32.00	Warp Knit fabrics (including those made on galloon knitting machines) of synthetic fibres,	<i>Shs.6.00 per Kg or 25%</i>
6005.33.00	Warp knit fabrics (including those made on galloon knitting machines)	<i>Shs.6.00 per Kg or 25%</i>
6005.34.00	Warp Knit fabrics (including those made on galloon knitting machines), of synthetic fibres, printed	<i>Shs. 6.00 per Kg or 25%</i>

Tariff No.	Tariff Description	New rate of duty
<i>6005.41.00</i>	Warp knit fabrics (including those made on galloon knitting machines) of artificial fibres	<i>Shs.6.00 per Kg or 25%</i>
<i>6005.42.00</i>	Warp knit fabrics (including those made on galloon knitting machines) of artificial fibres	<i>Shs.6.00 per Kg or 25%</i>
<i>6005.43.00</i>	Warp knit fabrics (including those made on galloon knitting machines) of artificial fibres, of	<i>Shs.6.00 per Kg or 25%</i>
<i>6005.44.00</i>	Warp knit fabrics (including those made on galloon knitting machines) of artificial fibres	<i>Shs.6.00 per Kg or 25%</i>
<i>6005.90.00</i>	Other warp knit fabrics (including those made on galloon knitting machines)	<i>Shs.6.00 per Kg or 25%</i>
<i>6006.10.00</i>	Other knitted or crocheted fabrics of wool of fine animal hair	<i>Shs.6.00 per Kg or 25%</i>
<i>6006.21.00</i>	Other knitted or crocheted fabrics of cotton unbleached or bleached	<i>Shs.6.00 per Kg or 25%</i>
<i>6006.22.00</i>	Other knitted or crocheted fabrics of cotton, Dyed	<i>Shs.6.00 per Kg or 25%</i>
<i>6006.23.00</i>	Other knitted or crocheted fabrics of cotton of yarns of different colour	<i>Shs 6.00 per Kg or 25%</i>
<i>6006.24.00</i>	<i>Other knitted or crocheted fabrics of cotton printed</i>	<i>Shs.6.00 per Kg or 25%</i>
<i>6006.31.00</i>	Other knitted or crocheted fabrics of synthetic fibres unbleached or bleached	<i>Shs.6.00 per Kg or 25%</i>
<i>6006.32.00</i>	<i>Other knitted or crocheted fabrics of synthetic fibres dyed</i>	<i>Shs.6.00 per Kg or 25%</i>
<i>6006.33.00</i>	Other knitted or crocheted fabrics of synthetic fibres of yarns of different colour	<i>Shs.6.00 per Kg or 25%</i>
<i>6006.34.00</i>	Other knitted or crocheted fabrics of synthetic fibres printed	<i>Shs.6.00 per Kg or 25%</i>
<i>6006.41.00</i>	Other knitted or crocheted fabrics of artificial fibres unbleached or bleached	<i>Shs.6.00 per Kg or 25%</i>
<i>6006.42.00</i>	<i>Other knitted or crocheted fabrics of artificial fibres dyed</i>	<i>Shs.6.00 per Kg or 25%</i>
<i>6006.43.00</i>	Other knitted or crocheted fabrics of artificial fibres of yarns of different colour	<i>Shs.6.00 per Kg or 25%</i>
<i>6006.44.00</i>	<i>Other knitted or crocheted fabrics of artificial fibres printed</i>	<i>Shs 6.00 per Kg or 25%</i>
<i>6006.90.00</i>	Other knitted or crocheted fabrics of artificial fibres	<i>Shs.6.00 per Kg or 25%</i>

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted,

put and agreed to)

(Second Schedule as amended agreed to)

Fourth Schedule

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I propose that---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kagwe! I have not proposed the Question!

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I propose that the Fourth Schedule be amended by deleting the expression 10 per cent appearing in the third column against the tariff number 2106.90.70 and substituting therefore the expression "5". By deleting the 10 per cent and inserting thereof the 5 per cent under that tariff on concentrated beverages which are ready for consumption by simple dilution, for example, groups of syrups and so on, and so forth. My reason for bringing this amendment is because basically, syrups, cordials and squashes are considered to be essential products.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Kagwe, I thought that your amendment has sections (a) and section (b).

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, indeed, Section (b) proposes that we delete the expression 10 per cent appearing in the third column against the tariff number 2201.10.00 and substituting therefor the expression "0 per cent".

The reason for this amendment is because this is the Excise Duty levied on water, and as you know, in this day and age, especially in this City of Nairobi, you cannot drink tap water; it has gone way down and it is unhygienic. I, therefore, propose that juices and soft drinks, which are basically food items, should not be taxed. These are essential products for the common person. Excise Duty on soft drinks discriminate against low income consumers by placing those products out of their income reach. Furthermore, drinking clean water is important from a medical viewpoint and, therefore, bottled water cannot be considered to be a luxury.

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, the hon. Member is proposing an Excise Duty reduction on locally produced juices, beverages, carbonated drinks and bottled water. But he has not specified the tariff numbers under which this product falls.

Mr. Temporary Deputy Chairman, Sir, the proposal by the hon. Member covers a wide range of beverages, juices and bottled water which are not covered in the Finance Bill (2004). The proposal, therefore, cannot be allowed for the following reasons.

Mr. Kagwe: On a point of order, Mr. Temporary Deputy Chairman, Sir. Did I hear the Minister say that I have not said the tariff numbers? Indeed, those tariff numbers are even there on the Order Paper!

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Minister, I am also reading in the second sentence: "against the tariff number 2106.90.70".

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg your pardon. That tariff number still includes many products and the proposal is that, for instance, Excise Duty reduction on drinking water be from 10 per cent to 0 per cent. I have difficulty in accepting this proposal because, in the Bill, we have reduced the Excise Duty on drinking water from 15 per cent to 10 per cent. Now, I am being asked to reduce the Excise Duty on some items from even the 10 per cent to 0 per cent.

While I agree that clean water is essential for good health and good living, may I point out that, as a Ministry, we allow water purification chemicals to come into the country free of duty, and that it is really the duty of the municipalities, like Nairobi City Council and even individuals, to purify their own water using the privileges which have already been made available to them.

Mr. Temporary Deputy Chairman, Sir, if we were to allow the proposed reduction of Excise Duty, this will have serious implications on revenue at a time when we really need almost every penny that we can get because as you know, we have experienced a drought and we have had to feed over three million Kenyans; an expense which was not budgeted for. In addition, we have had our own problems with some of the development partners who have delayed the release of funds which we had taken into account in the Budget, and all this will really complicate matters.

So, I want to plead with the hon. Minister to--- I mean the hon. Member of Parliament.

Mr. Kagwe: On a point of order, Mr. Temporary Deputy Chairman, Sir. He is the Minister and I am just an hon. Member of Parliament!

(Laughter)

The Minister for Finance (Mr. Mwiraria): I corrected that one very quickly!

The Temporary Deputy Chairman (Mr. Ethuro): The Minister does not use the word "colleagues" to refer to other Members of the Cabinet.

The Minister for Finance (Mr. Mwiraria): Well, maybe, I dreamt that he was a colleague.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): What is it, Mr. Angwenyi?

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the Minister in order to tell us that we must get every penny we can get because our development partners have reneged on some of their pledges when, in fact, the Minister has not brought to this House, for discussion and conclusion, some Bills which are conditionalities to accessing funds from the same donors?

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Angwenyi! That is an argument! The Minister is only explaining that if what we expected might not be forthcoming, then if we do this, we shall be worsening the situation.

Proceed, Mr. Mwiraria!

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I just wanted to conclude by saying that Excise Duty is applicable to locally-produced goods as well as imported goods. It is, therefore, impossible to reduce Excise Duty on locally-produced juices and bottled water and other beverages, without reducing it for similar goods being imported into the country. So, the effect would even be more than what one would read from the figures here. I

would, therefore, appeal to the hon. Member to drop his amendment.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I sympathise with the Minister. But a litre of water in this country is more expensive than a litre of milk! It is even more expensive than a litre of beer, which has a lot of ingredients in it. I believe that we stand to gain a lot more from the volumes that we can sell, if water was much cheaper and, therefore, the companies were making more profits, than the little that we can sell. Only a few years ago, there was no bottled water in this country. It is a very recent development and we must encourage and push it so that from the volumes consumed, we make our money and people get more jobs via the production of more volumes of water.

The Temporary Deputy Chairman (Mr. Ethuro): While on it, Mr. Kagwe, if you look at (b), the second line, tariff number, you referred to 2201, but the Bill reads "2202; water, including mineral waters and aerated waters containing added sugar or other sweetening matter or flavour." Is that the same item? It is just for accuracy, it does not affect your argument.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I am a bit lost. I am referring to (b), which is 00--- No, that is the correct--- It is the second line.

The Temporary Deputy Chairman (Mr. Ethuro): It is 2202 rather than 2201.

Mr. Kagwe: Yes, that is correct. So, I would like to urge that we take advantage of volume consumed instead of Excise Duty on something very small at the moment.

The Temporary Deputy Chairman (Mr. Ethuro): I think you have made your point, Mr. Kagwe.

Mr. Maore: Mr. Temporary Deputy Chairman, Sir, I think the issue of water having to cost more than milk, or even more than a litre of beer, is even more incentive for the Government to actually levy a tax on it. You will find that the people who make the bulk of the money from the water we drink here are not ordinary villagers. You will find actually that they are multi-millionaires who have ventured into this business because they know it is lucrative. So, if you levy some 10 per cent, I do not even actually think it is enough. The Government should do more research and tax more. The Government can also plough back those funds to the Ministry of Water and Irrigation in order to ensure that there is clean water for everybody; so that we do not have to crave for bottled water.

Mr. Khamasi: Mr. Temporary Deputy Chairman, Sir, I want to support the Minister's argument here. The majority of Kenyans do not drink bottled water. Over 80 per cent of Kenyans, who live in rural areas, drink either river water or tap water; where they are lucky. It is, therefore, unnecessary to remove this tax which is going to give the Government some revenue to improve the quality of water which Kenyans take. In any case, who are the manufacturers of this bottled water? A handful of people in this country! Even if you reduced that tax, it would not be passed on to the consumer. They will retain it in the same way the cartels in the oil industry do; whereby you pass on the remission and they do not pass it on to the consumer. So, it is unnecessary to remove that tax from bottled water.

(Applause)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I just wanted to conclude by saying that if you were to remove 10 per cent taxation from the price of bottled water, it would still be more expensive than milk and beer. So, the cost is really not based on taxation. But I thank the hon. Khamasi for coming to my defence and putting in a very strong point; that these manufacturers do not necessarily pass on the remission of duty even if we gave them.

(Question, that the words to be left out be left out, put and negatived)

(Fourth Schedule agreed to)

Fifth Schedule

The Minister for Finance (Mr. Mwiraria) Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT the Fifth Schedule be amended by deleting all references to tariff

No.48.1840.11 and 5601.10.10.

Mr. Temporary Deputy Chairman, Sir, I really would like to say that the Fifth Schedule should be amended as indicated in the Order Paper.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Mwiraria! Is that your amendment or the Committee's amendment?

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I am wondering why the Minister is moving our amendment.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Kagwe, you are right! Are you wondering why you are being called a Minister? Obviously, you are not! So, the Minister cannot do your job!

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, exactly! I beg to move:- THAT, the Fifth Schedule be amended by deleting the references and tariff numbers, 48.1840.11 and 5601.10.10.

In this case, I am suggesting that duty for locally-produced juices, beverages and carbonated drinks be 5 per cent in 2004 and 0 per cent in 2005. The rate of duty on locally produced---

The Temporary Deputy Chairman (Mr. Ethuro): We are on pages 490 of the Bill and 656 of the Order Paper.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, therefore, I am proposing---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kagwe! I want everybody to be on board. Tariff No.48.1840.11---

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, could I help? I am proposing that we have a new Schedule, which we are calling the "Sixth Schedule" on Zero-Rated Goods. All I am trying to propose in part "b" is that we zero-rate sanitary towels---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kagwe! My problem concerns the way you are numbering these items. When you look at Tariff No.48.1840.11, in our case it is No.48.1840.10. So, it is not 4011. The other tariff is correct. It is No.5601.10.10. I wanted to draw to you that small correction, so that we are together.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I apologise.

The Temporary Deputy Chairman (Mr. Ethuro): Knowing the many numbers, it could be very significant.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, that is correct!

The Temporary Deputy Chairman (Mr. Ethuro): Very well!

Let us proceed!

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, the rationale is that as far as sanitary products are concerned, they should be zero-rated instead of exempting duty on them. Basically, what this means is that when these sanitary products are zero-rated, the manufacturers can claim Value Added Tax (VAT), but against imports. However, when they are exempted, which is basically the case, there has been a problem in that industry. Indeed, this has been going on.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! I would like us to be clear on what Mr. Kagwe is suggesting on the last two items on the Fifth Schedule which is mainly on exempt goods; sanitary towels and tampons. Different tariff numbers are to be excluded, so that we create a new schedule, the Sixth Schedule.

(Question of the amendment proposed)

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, I would like to support the amendment moved by Mr. Kagwe. The exemption proposal was actually in a sense punishing local producers of sanitary towels. This was making local production uncompetitive against

imports. As we all know, we must make our laws such that they promote local production and creation of jobs.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, may I thank Mr. Angwenyi for saying exactly what we need to do with our laws to protect local industries. Unfortunately, the proposal being put to this House is to zero-rate imports. This, in fact, would completely destroy local industries because they have to buy many things locally and pay taxes on them. This means, in fact, they start off worse than the imported goods. So, as much as I sympathise with what is being proposed, I would like to inform the House that when His Excellency the President took a decision to waive these taxes, we used a Legal Notice to take care of this general matter. However, we need a bit of time to look at how to zero-rate everything to make local manufacturers competitive with imported goods. Otherwise, we will completely kill any local manufacturer if we do what is proposed here.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, unless the Minister could explain himself better, I fail to see how that works. My understanding is that the sanitary products industry for locally-manufactured products is currently duty exempt. This means that when they import items or goods that go into making these sanitary products, they cannot claim the VAT that they pay on those imported items because they are exempt. Therefore, they do not fall in the list. What I am suggesting is not an increase in this. The proposal for exempting sanitary towels from VAT is because it has greatly disadvantaged local manufacturers in favour of imported sanitary towels because they have to pay VAT on raw materials and other imports which go into making finished sanitary towels. However, due to the exempt status, manufacturers cannot claim input tax on their industrial inputs. Therefore, the exemption of taxes on sanitary towels favours importers, but adversely affects local manufacturers as they have to bear the additional tax burden on taxable industrial inputs that go into making their final products. The dilemma facing manufacturers currently is that they are expected to absorb this extra cost and, at the same time, lower their prices. The proposed way out of this problem is zero-rating of sanitary towels for VAT purposes, which will allow local manufacturers to claim against their input tax.

Mr. Angwenyi: On a point of clarification, Mr. Temporary Deputy Chairman, Sir. I would like the Minister to clarify to us because we are not all experts in these matters and he has got experts who could advise him. Does zero-rating mean that if a local manufacturer imports raw materials which will be used as inputs in the local production process, he will seek a rebate on those raw materials if they have been taxed?

The Temporary Deputy Chairman (Mr. Ethuro): Actually, you are right Mr. Angwenyi. We need the Minister to clarify the statement by Mr. Kagwe, that it is cheaper to zero rate goods. The bottom line question is what the cost of the goods would be at the end.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, the Minister should clarify if zero-rating of imported goods would be in the same position as goods which have been exempted from duty tax. My understanding is that when imported goods are zero-rated, the importers of goods are unable to pay Income Tax.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, if you look at the proposal which is before this House, sixth Schedule, Zero-Rated Goods, part (b), the goods which have been inserted there for zero-rating are sanitary towels and tampons, although under different tariff numbers. I have been trying to say that when you favour outside goods and do not allow our manufacturers to claim back the taxes that they pay on some raw materials, you deny them the competitive edge which they require to compete with imported goods. I need to check on the actual status of this with my officials before I give a final verdict.

*(The Minister for Finance moved to consult
with his Ministry officials)*

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, as the Finance Minister consults, we could have someone else contributing to this matter.

Mr. Angwenyi: Mr. Temporary Chairman, Sir, I am surprised that since the Budget Speech was made, our local manufacturers of these products have been against the introduction of taxes. Therefore, I thought that our Government and the Ministry would investigate the matter to know how much damage would be caused to our local manufacturers by the same. Secondly, let us not create a culture of accepting goods which have been produced in other countries. By doing so, we will be exporting our job opportunities to other countries. We will also be denying our youth, as hon. Mbarire would put it, jobs which would have been available to them. We would be creating a situation where the crime rate would rise, and the peace we have in our country would not be sustained.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Angwenyi! I appreciate the ability you have to take advantage of any opportunity you get! However, time is not on our side. We also have to deal with another Bill by the same Minister.

The Assistant Minister for Trade and Industry (Mr. Miriti): Mr. Temporary Deputy Chairman, Sir, if we zero-rate imported goods, that will sabotage our local industries. We need to encourage our local manufacturers to continue manufacturing goods, because this will create employment. It will also create a basis for earning foreign currency. If imported goods are zero-rated, this will undermine our own industries.

The Assistant Minister for Gender, Sports, Culture and Social Services (Mrs. Chelaite): Mr. Temporary Deputy Chairman, Sir, I thought that the particular items we are talking about; the sanitary towels and tampons, are mostly imported. I would like to ask hon. Members who have argued against their importation to know that I agree that it is good to promote our local manufacturers. However, could they clarify how many local industries produce these products at the moment?

As far as I am concerned, most of these products are imported. We do not have local industries manufacturing these products. That is why the women of this country asked the President to zero-rate them for the sake of women; who are low income earners.

Mr. Kagwe: On a point of information, Mr. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Mr. Ethuro): Who are you informing?

Mr. Kagwe: Mr. Temporary Deputy Chairman, I am informing the current speaker, who is also my friend and needs my information.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kagwe! You will appreciate that we were soliciting for views while waiting for the Minister for Finance to consult. He will clarify some of the issues which hon. Members have raised.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I want to state that the only reason we have not zero-rate these items is because once we do that, all taxes payable can be claimed back. However, when we have an outsider bringing in sanitary towels which are zero-rated, he might not even want to pay taxes on petroleum, electricity and many other products. At the moment, we have allowed all the imported raw materials for making sanitary towels and tampons to come in duty-free. I think we may need to find out the best way to ensure that we only allow the purchase of locally-manufactured or home-grown, items. So, I appeal that we leave this as it is for the time being. I will look at it with the Departmental Committee on Finance, Planning and Trade. If we find that there is a way in which we can make our products more competitive without opening ourselves to abuse, then we will come back to this House as soon as possible and report the same.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, I want to declare that Mrs. Chelaite and Mr. Kagwe were both right; that by zero-rating these products, we will be assisting

our local manufacturers of these products. I would want to implore the Minister to be sympathetic to these manufacturers since, after all, the taxes they may avoid to pay are negligible. So, if the Minister would indulge himself with our proposal that we zero-rate these products which are manufactured locally, we would not make much loss.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I think the Minister has made a reasonable proposition. Even though, the way out of this Bill, if you do not zero-rate sanitary products, then the only way out is to make the raw materials "unvatable". In which case there is no VAT on them but that is an issue that we can discuss later.

Mr. Temporary Deputy Chairman, Sir, I know that my friend, Mr. Angwenyi, is on this case because it has got good reason. However, given what the Minister has said and given the fact that this Minister has never been known to tell lies, I, therefore, move that we withdraw it.

(Amendment withdrawn)

Mr. Khamasi: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Khamasi! I understand your point of order. The hon. Member has used unparliamentary language. The Minister is completely incapable of uttering such words.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I simply wanted to say that the Minister is known for keeping his promises.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Chairman, Sir. It looks like the Chair seems to be setting some precedents day in, day out. Last week, an hon. Member contributed and said that one of the hon. Members who was contributing was "cheating" and when we raised the matter we were asked: "What would you call cheating?" Now, I want to know what we will call "lies". What word would you use for "lies" if they are actually lies?

Hon. Members: And "truth"!

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Angwenyi! You know very well you do not challenge the Chair and it is obvious, going by the mood of the House, that we do not use certain words. We have a lot of consent on that. Let us proceed!

(Fifth Schedule agreed to)

(Title agreed to)

Clause 1

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, Clause 1 be amended by (a) inserting a new paragraph immediately before paragraph (a) as

follows -

- (a) section 56, on the 1st of January, 1992;
- (b) by renumbering the existing paragraph (a) as paragraph (aa);
- (c) by deleting the expressions "56" and "61" (b) (iii)" appearing in paragraph (c);
- (d) by inserting a new paragraph immediately after paragraph (c) as follows -
 - (cc) section 61(b)(iii), on the 1st January, 2004;
 - (e) by inserting the following new paragraph immediately after paragraph (d)-
 - (dd) section 23(b), on the 1st January 2005;
 - (ddA) section 25, on the 1st January 2005;
 - (ddB) section 27(b), on the 1st January 2005

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 1 as amended agreed to)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Finance Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE BANKING (AMENDMENT) BILL

Clause 2

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT Clause 2 be amended in the proposed definition of "significant shareholder" in Section 2 by deleting the word "five" and substituting it therefor with the word "ten".

Mr. Temporary Deputy Chairman, Sir, the argument here is that five is a bit on the lower side and there will be a lot of work to be done on a fairly small shareholding particularly when the bank itself is not a significant bank as such. In consultation with others, we felt that a "significant shareholder" should really be somebody with at least 10 per cent instead of 5 per cent.

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I wish to draw the attention of this House to the fact that the significance of 5 per cent ownership of a bank is sizeable. Now, under the Central Bank regulations, they have to look at all people who own more than 5 per cent critically and I think it would be unfortunate if we were to change that level to something higher. I believe anybody who has 5 per cent or one-twentieth of the value of the bank is really significant and I would prefer to leave it at 5 per cent instead of moving it to ten per cent.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, if you can recall what happened during the Goldenberg Scandal, the banks which were owned by five to ten people were the ones which were used as conduits for the looting of public coffers in this country. In fact, if I had realised earlier, I would have reduced this percentage to 2 per cent. So, I am opposing the amendment being proposed by Mr. Kagwe. Let it remain at 5 per cent if not less.

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, I certainly was once associated with a bank that was put under receivership for some particular reasons and not for bad management and I do support the Minister that to have 5 per cent of the shareholding in a bank is certainly

very significant and it ties up with the practice of the CBK. I would appeal to hon. Kagwe, the Chairman of the Finance, Planning and Trade Committee to withdraw the proposed amendment.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I moved this amendment because I thought 5 per cent seems to increase the amount of work. I, therefore, withdraw it.

(Amendment withdrawn)

(Clause 2 agreed to)

(Clauses 3 and 4 agreed to)

Clause 5

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 5 be amended by deleting the proposed Subsection (II) of Section 5 and substituting therefor the following new subsection:-

(II) Any party aggrieved by the decision of the Minister under Subsection 9 may appeal to the High Court.

We simply put it because it was not clear whether that is the final decision or, under common law, an individual could in any event go to the High Court.

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I would like to call upon any legal expertise here but I was advised that whether or not we include it in the law, anybody aggrieved by the decision of the Minister would have recourse to the courts. I really do not, therefore, think that it is necessary to make the amendment.

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, we need to be careful in order to draw a distinction between the Executive and the Judiciary. As I understand it, the Minister here is exercising some discretion and he should be left to make the final decision. Unless one moves to court to demonstrate that, in fact, in exercising that discretion, the Minister took into account some factors that he should not have taken into account or acted contrary to the laws of natural justice, that right is provided for, anyway, under the law.

However, the proposed amendment is wrong because it is saying that in some matters, the Minister should have the final say. If the Minister says "no", then the Judge of the High Court is the final person to exercise the discretion and powers that the Minister is properly seeking. Let the situation be governed by the law as it is. If the Minister does not act in accordance with the law, then one can go to the High Court to challenge his decision on the basis that he has not acted within the law. However, it is wrong to place a judge above the Minister in terms of the decision-making process.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, my view was, and still is, that it is only fair and right in all other matters and decisions that are taken in this country, to move to court when we are not satisfied. I feel that this is no exemption. If one is not satisfied with the Minister's decision, he should go to court.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Kagwe, I thought the argument was that there should be provision for any aggrieved party to seek redress.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, obviously, if the law has been breached, one can seek redress in a court of law. However, the point is, if one's rights are also breached, whether or not the Minister acted within the law, one should have recourse to a higher

court.

An hon. Member: So, what is the problem?

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, this clause does not say that the Minister's decision shall be final. Therefore, the door is still open for any person wishing to challenge his decision. As my colleague has properly said, there is remedy in judicial review. If the Minister acts in excess of his powers under the Act, the door is open for one to challenge his decision. We do not need to amend this provision. It should remain as it is.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Kagwe, I believe that you agree with Mr. M. Kariuki's view?

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I agree. If, indeed, Mr. M. Kariuki's explanation is correct, I withdraw.

(Amendment withdrawn)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, there is another proposal to amend this clause, by Mr. Kipchumba.

An hon. Member: He is not here! He has withdrawn it!

(Clause 5 agreed to)

(Clauses 6, 7 and 8 agreed to)

Clause 9

The Minister for Finance (Mr. Mwiraria) Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 9 be amended in the proposed Section 9A-

(a) by deleting the words "chief executive" appearing in Subsection (1) and substituting therefor the word "senior";

(b) by

inserting a new sub-section immediately after Subsection (2) as follows-

(2A) For the purposes of certification under Subsection (2), the Central Bank shall vet a significant shareholder-

(a) when the shareholder initially becomes a significant shareholder after the commencement of this Act;

(b) when a new institution is applying for a licence to commence business under the provisions of this Act;

(d) when new evidence becomes available to the Central Bank indicating that an already existing significant shareholder does not fulfil the fit and proper criteria as set out in Part B of the First Schedule;

(d) by inserting a new sub-section immediately after Subsection (2A) as follows-

(2B) A significant shareholder, upon being determined by the Central Bank as not fulfilling the fit and proper criteria as set out in Part B of the First Schedule, shall-

(i) cease to exercise all his voting rights immediately upon the institution being notified by the Central Bank in writing that the shareholder does not fulfil the fit and proper criteria as set out in Part B of the First Schedule;

(ii) reduce the holding of shares to five per cent or less of the share capital in the institution within twelve months, or such longer period as the

Central Bank may determine.

- (d) by deleting subsection (3) and substituting therefor the following new subsection-
- (3) The Central Bank may determine that a person who is already a director or senior officer of an institution is not a fit and proper person to manage or control the institution and upon the institution being notified in writing of that determination, the person shall, if he is a director or senior officer, cease to hold office.
- (e) by deleting Subsection (4).
- (f) by deleting Subsection (5) and substituting therefor the following new subclause-
- (5) For greater certainty, the Central Bank may, in the course of the annual renewal of a licence under Section 5 of this Act, make a determination under Subsection (3) of this section that a director or senior officer is not fit and proper to manage or control an institution notwithstanding any previous certification given by the Central Bank.
- (g) by deleting Subsection (7) and substituting therefor the following new subsection-
- (7) For the purposes of this section and of the First Schedule, "senior officer" means a person who manages or controls an institution licensed under the Act and includes-
- (i) the chief executive officer, deputy chief executive officer, chief operating officer, chief financial officer, secretary to the board of directors, treasurer, chief internal auditor, or manager of a significant unit of an institution licensed under this Act;
- (ii) a person with a similar level of position or responsibilities as a person described in paragraph (i).

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, there is a proposal by Mr. Kagwe, to further amend Clause 9.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 9 be amended in the proposed Section (9A) in the following manner-

- (a) by deleting Subsection (1) and substituting therefor the following new subsection-
- (1) an institution shall ensure that no person is appointed or elected as a director or senior officer of the institution unless the person has been vetted in accordance with the criteria set out in Part B of the First Schedule;
- (b) by deleting Subsection (2) and substituting therefor the following new

sub-section-

- (2) an institution shall ensure that no person shall become a significant shareholder of the institution unless the person has been vetted and has been qualified in accordance with the criteria set out in Part B of the First Schedule;
- (c) by inserting a new sub-section immediately after Subsection (2) as follows-
- (2A) for the purposes of this Subsection (2) the Central Bank shall vet a significant shareholder when the shareholder initially becomes a significant shareholder after the commencement of this Act; and,
- (2B) when evidence becomes available to the Central Bank indicating that an already existing significant shareholder does not fulfil the fit and proper criteria as set out in Part B of the First Schedule;
- (d) by deleting Subsection 3 and substituting therefor the following new subsection-
- (3) The Central Bank may determine that a person who is already a director or senior officer of an institution is not a fit and proper person to manage or control the institution in accordance with the First Schedule and upon the institution being notified in writing of that determination, the person shall, if he is a director or senior officer, cease to hold office.
- (e) by deleting Sub-section (5) and substituting therefor the following new sub-section-
- (5) For greater certainty, the Central Bank may, in the course of the annual renewal of a licence under section 5 of this Act, make a determination under Sub-section (3) of this section that the director or senior officer is not fit and proper to manage or control an institution notwithstanding any previous approval given by the institution.
- (f) by deleting Sub-section (7) and substituting therefor the following new sub-section-
- (7) For the purposes of this section and of the First Schedule, "senior officer" means a person who manages or controls an institution licensed under the Act and includes -
- (i) the Chief Executive Officer, Deputy Chief Executive Officer, Chief Operating Officer, Chief Finance Officer, Secretary to the Board of Directors, Treasurer, Chief Internal Auditor or manager of a significant unit of an institution licensed under this Act;
- (ii) a person with a similar level of position or responsibilities as a person described in Paragraph (1).
- (g) by inserting the following new sub-section immediately after Sub-section (8)-
- (9) The provisions of this section shall apply only to a person or corporate entity that becomes a significant shareholder after the commencement of this Act.
- (e) by inserting the following new sub-section immediately after Sub-section (9)-
- (10) Any institution which contravenes the provisions of this section shall be guilty of an offence.

Mr. Temporary Deputy Chairman, Sir, the idea here is that, an institution shall vet and ensure that all persons are appointed or elected as directors, chief executive officers or other officers, according to the Central Bank of Kenya guidelines and regulations as per public schedule. The Act proposes that the Central Bank itself is the one that shall vet these individuals. However, our view is that the Central Bank should produce, in a nutshell, guidelines and schedules which institutions must follow.

In other words, rather than send names and so on to the Central Bank, which constitutes

a lot of work, we believe that what we should do is to provide clear guidelines on it by deleting Sub-section 9(2) and inserting therefor:-

"That an institution shall ensure that no person shall become a significant shareholder of the institution unless the person has been vetted and has qualified..."

Again, it is argued in the same manner.

Mr. Temporary Deputy Chairman, Sir, when a person initially becomes a significant shareholder - originally we were talking of 10 per cent shares, but clearly now we are on 5 per cent - unless there is new evidence from the Central Bank, then there is no need of going.

Mr. Temporary Deputy Chairman, Sir, the rationale for the proposed amendment is to take cognisance of the fact that shareholders, depending on the level of shareholding, can influence and exercise control.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Kagwe, I think you have done service to your amendment, could we go ahead?

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): Let the Minister respond to that. I do not remember proposing this amendment.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Chairman, Sir, I thought we disposed of this Clause. We said "Ayes" and there were "Noes" including my friend there. He never said "No".

The Temporary Deputy Chairman (Mr. Ethuro): Order! There were two amendments and we determined the one by the Minister and we have not yet come to that Clause because there was another amendment by Mr. Kagwe. We want also to propose that amendment and then go to the normal procedure and to the final stage. Therefore, I wish to propose---

The Minister for Finance (Mr. Mwiraria): On a point of order, Mr. Temporary Deputy Chairman, Sir. I apologise for not having consulted with Mr. Kagwe. If you look at the amendments that I proposed, they cover almost every point he has raised, point by point. We are talking about the same amendments and when I got the amendments proposed by the Committee, I took advantage and looked at them, agreed with many of them and then sent them to the Attorney-General for proper drafting. So, I plead with the hon. Member to look at the amendment and see that we are talking about the same thing.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Minister, you also owe this House a bit of time management. That is why those amendments are published so that you could sort out a few things before we come to the Committee of the Whole House. When we are here, everything has to be public.

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, it is true that the substance of the two sets of amendments, with the exception of language here and there, is basically the same. So, I would suggest that since the Minister's amendments have had the benefit of draft in the Attorney-General's office, we should go along with them.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, we cannot call the amendment proposed by Mr. Kagwe, an amendment because he is saying the same things that the Minister has said but in different words. I think it was translated from Kikuyu to English and the other one from Meru to English.

(Laughter)

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Angwenyi! Both hon. Members speak very good English and the Chair is satisfied. The procedure is that once a Member moves an amendment, we propose the question. The Chair is a bit generous because the

substance may not be drastically different from the earlier amendment.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I feel a little bit impotent here, not literally. I am not sure which of the amendments I included and which one are not included. I do not know, for example, whether the Minister's proposals avoid the retrospective application of significant shareholder thereof--- which is significant.

Mr. Temporary Deputy Chairman, Sir, if he could clarify some of the things that he has amended and which one he has left out so that we could address them.

The Temporary Deputy Chairman (Mr. Ethuro): I wish to clarify that both of these amendments would still be subjected to the Attorney-General's office.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, I just want to tell my colleague in supporting the Minister that all the papers he gave us are agreed to. We took it to the Attorney-General to shape it in the legal language. Basically, everything is included. That is why we were pleading with him that we save time.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Obwocha, you did not agree on the five per cent.

The Assistant Minister for Finance (Mr. Obwocha): We have already passed the five per cent. This is Clause 9.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, could the Minister clarify one thing to me so that we can dispense with this?

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kagwe. Let me also follow my procedure. Mr. Kagwe brought an amendment and we have to dispose of it in the normal manner. After the Minister intervenes and the House is satisfied, you know what we will do. So, there is nothing lost there.

(Question of the further amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I have already pleaded that since most of the amendments have already been covered by my amendment, we cannot really repeat the same thing twice. Let us go to page 664, Item F. It is the same as Item G in our amendments.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Chairman, Sir, if it is true that what Mr. Kagwe is proposing to amend is covered by the amendments tabled by the Minister, is it not proper for the Chair to exercise some discretion and direct the hon. Member that whatever he is suggesting has been dealt with to avoid unnecessary repetitions and waste of time so that they are withdrawn? The hon. Member can point out the area where he feels is not covered by the Minister and we will deal with it.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Wetangula, you want to draw the Chair into arguments. The argument is that Mr. Kagwe feels that there are some areas which have not been covered and the Minister feels otherwise.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, these are very important issues we are debating here. These are not just things that we flimsily go over and agree or simply pass them. We are saying here that people can move from being major shareholders of banks and be forced to become very small shareholders of banks. I quite agree with the Minister. If he has taken cognisance of the issues that we sent to him from the Finance Committee, then I am fine with it and we can withdraw the amendment.

(The proposed further amendment withdrawn)

I withdraw the amendment.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Kagwe has withdrawn his amendment. Mr. Wetangula, you will appreciate that the Chair has been encouraging a lot of consensus in these particular meetings. I have no reason to depart from that course.

*(Clause 9 as originally amended
agreed to)*

(Clauses 10, 11 and 12 agreed to)

Clause 13

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended by inserting a new clause immediately after Clause 13 as follows---

The Temporary Deputy Chairman (Mr. Ethuro): Order! Mr. Kagwe! That is a New Clause and I have explained that we will deal with the New Clause at the end of the Bill.

(Clause 13 agreed to)

Clause 14

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 14 be amended in the proposed Section 36(8) by deleting the words "the chief executive of the Board" and substituting therefor the words; "any of its members or employees".

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, Clause 14, as it is, states quite clearly that Section 36(8) of the Banking Act is amended by deleting the words "any member and substituting therefor the words "the chief executive officer of the Board". The reason for proposing this amendment is to make sure that it is only a responsible officer of an institution who can be called upon to perform certain functions. The amendment that is being proposed at the moment is to replace "the chief executive officer of the Board" and substitute therefor with "any of its members or employees". You can make it so open that any employee will be called upon to perform duties that are beyond his capability. That is why we are limiting it to a senior officer.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, to provide for only the chief executive of the Board, you are being very restrictive. You are going to have a situation where only one person makes decisions. Maybe we should have used the words "any of the senior officers or any of the members". I want to support Mr. Kagwe's proposal.

*(Question, that the words to be left
out be left out, put and negatived)*

(Clause 14 agreed to)

(Clause 15 agreed to)

Clause 16

Mr. Arungah: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 16 be deleted.

Clause 16 in effect seeks to delete Section 44 of Cap.488 which, in fact, denies the Minister for Finance any jurisdiction, or role in determining or giving approval to the banking charges or interest rates. In the past, we have known situations where banks have charged four or five times the principal of the money they have lent to various people. What has happened now is that, that loophole has been filled. I can see the banking sector now resorting to seeking other ways of getting extra profit. We must, therefore, give the Minister power to give authority for increases, if any. This is because if the Central Bank of Kenya (CBK) or any banks have a compelling reason to increase any charges then they should be able to convince the Minister, who I am sure, will be able to grant those.

(Question of the amendment proposed)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I really want to say that we have proved through action that interest rates can be controlled without putting it in the law.

Mr. Temporary Deputy Chairman, Sir, now that we are going to establish a Monetary Policy Committee, we are giving the Governor powers to introduce the CBK rates which will assist in controlling interest rates, I do not think it is necessary to continue with Clause 44.

(Several hon. Members stood up in their places)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! I have a problem with managing the time. I think there is really no serious contention.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Angwenyi! You should appreciate that you have had the Floor on many issues. I now wish to put the Question.

Mr. Muite: On a point of order, Mr. Temporary Deputy Chairman, Sir. These are important issues. Therefore, I am appealing that we extend the time, so that we can discuss these things seriously. So, the Minister could move that now and we will support it because we do not want to delete the whole clause.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Chairman, Sir. This is a very important matter. Many Kenyans have been rendered bankrupt by high charges by some of these financial institutions. So, you should give us adequate time to exhaustively discuss this issue. We should not rush this Bill. We should not weigh it against time, but against substance.

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, this is really like the last amendment.

An hon. Member: Let us say something then!

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Whatever I tell you is a considered position by the Chair. Mr. Katuku, you should understand that we have been generous with the Minister, in terms of consultations.

(Mr. Angwenyi stood up)

in his place)

Mr. Angwenyi, do want to say something?

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, I support the Mover of that amendment. Banks in this country have been increasing their charges. The Minister is the only person who is answerable to us. We can pin him down on the Floor of this House and tell him that our people are being charged exorbitantly. Therefore, we want that power to remain with the Minister. He is our eyes and ears.

Mr. Temporary Deputy Chairman, Sir, I am, therefore, pleading with the Minister to allow us to bestow upon him that power.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, I want to support the Motion because the banks have ignored those rules. The rules were not removed in 1993, but they simply ignored them and brought down many serious business people. The Minister did not care. The "Donde" Bill was brought here, we passed it, it was taken to the President, the President brought it back here and we passed it again! But it has not been effected.

So, to tell us that he has a mechanism to control banks without a law, is not right. We want to give him that power and if he does not want it, we will give it to another Minister. However, it should be included in the Bill.

An hon. Member: Put the question!

The Temporary Deputy Chairman (Mr. Ethuro): Order! We have to manage our business within time. Hon.

Members want to debate a bit more. I therefore---

PROGRESS REPORTED

THE BANKING (AMENDMENT) BILL

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Chairman, Sir. Under Standing Order No.107, I rise to move that the Committee do report progress to the whole House, and seek leave to sit again so that we can conclude the business before us.

Mr. Temporary Deputy Chairman, Sir, the provisions of Standing Order No.107 give power to this House to report progress and extend the sitting until we conclude the business of the day. Since we are about to finish the business, I want to move that we do so.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, the Committee of the whole House is considering the Banking (Amendment) Bill and has instructed me to report progress and seek leave to sit again today.

(Question proposed)

(Question put and agreed to)

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

IN THE COMMITTEE

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

THE BANKING (AMENDMENT) BILL

*(Resumption of consideration
interrupted in Committee today)*

Clause 16

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members, we are back in Committee and we will open afresh Clause 16. The amendment was to delete Clause 16, Subclause 1.

Mr. Maore: Mr. Temporary Deputy Chairman, Sir, for clarification purposes, we wanted to delete the whole Clause. I wish to support the amendment that we delete this Clause because if you remember the laws that were flouted in 1992, 1993 and 1994 when we were under financial crisis, it was because the Ministry of Finance ignored implementing those laws that were in our statutes. Therefore, we need them and we cannot allow banks to run amok like they have been doing.

The Kenya Commercial Bank (KCB), The Standard Chartered Bank and The Barclays Bank have been making super profits in an economy where everything else is suffering. It is a very good Clause to have in our statutes.

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Mr. Temporary Deputy Chairman, Sir, while I appreciate the Minister's sentiments that we have controlled interest rates, we are not yet out of the woods. We have a greater responsibility to ensure that Kenyans are fortified from the vagaries of the banks which we have experienced in the past.

I beg to support the proposed amendment.

(Applause)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, to repeat what I said, we will have sufficient powers to influence interest rates through the amendment that we are bringing in the Central Bank of Kenya Act. This will give the Governor power to have a bank rate that he will use to influence interest rates either upwards or downwards. Also, given the fact that we proved during the last year that we do not really need controls to get interest rates where we want them, I would plead that we retain Clause 16 as it is and, perhaps, only amend, when it is safe, Item 3 of Clause 16 (3).

Mr. Maore: Mr. Temporary Deputy Chairman, Sir, I just wanted to plead with you that this is about the Banking Amendment Act and the one the Minister is promising to solve our problems is in the Central Bank of Kenya Act which actually is about regulation. This one is about control.

Mr. Arungah: Mr. Temporary Deputy Chairman, Sir, just to add on that, if we deleted this Clause, it does not in any way complicate the implementation of the proposed amendment

the Minister envisages in the Central Bank of Kenya Act.

Mr. Khamasi: Mr. Temporary Deputy Chairman, Sir, I do not know why the Minister is refusing the residual power we are giving to him. Recently, multinationals in the oil industry did their act and all Mr. Nyachae could do was to threaten that: "Do you know that the law that was regulating prices is still in force? I will go and invoke it!". However, he knew very well that he would not do that. Mr. Temporary Deputy Chairman, Sir, we are now telling the Minister: "We want to give you power so that when these multinationals fool around, you can catch them." Why is he refusing these powers? He should accept them!

(Applause)

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, the sentiments being expressed regarding Clause 16 are good. However, I propose that rather than the Minister being the one to approve these things, we let the law to be our guide in this particular case. That is why we have the proposed Clause 13A, which will basically address matters to do with charges and the particular issues that the Minister is supposed to address. So, I am simply pleading for an understanding of the whole scheme of things in this matter.

(Question, that the words to be left out be left out, put and agreed to)

(Clause 16 deleted)

Clause 17

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 17 be amended in the proposed Section 44A-

(a) by deleting the words "or indebtedness" appearing in paragraph (b) of Sub-Section (5) and substituting therefor the words "credit facility, financial guarantee or any other liability incurred on behalf of any person;

(b) by

deleting paragraph (c)

of Sub-Section (5) and substituting therefor the following new paragraph-

(c) "non-performing" in respect of a loan means "non-payment of instalments for six months or non-payment of six instalments, whichever is longer;

(c) by deleting all the words appearing after the words "loans made before this section comes into operation."

Mr. Temporary Deputy Chairman, Sir, this is a very significant amendment, because it defines a non-performing loan. This is the loophole that we are talking about. If we leave it the way it is, a bank can decide today that you are not a non-performing loanee irrespective of the period during which your loan has not been performing. Secondly, the amendment takes care of people who have been more or less abused by banks in the past. Clause 17B suggests that if you borrow Kshs1 million, and it accumulates interest, we should require you to pay back even Kshs200 million. This is simply not sensible. That is why I propose to amend this Bill.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, the Minister has an

amendment that is similar to Mr. Kagwe's. So, I will give him the first chance.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, once again, my amendments were derived from the amendments suggested by the Departmental Committee on Finance, Planning and Trade. All I did was to submit them, with my concurrence, to the Attorney-General's Chambers. If Mr. Kagwe looks at part (a) of my proposed amendment to Clause 44A, he will realise that I am talking about a loan, including any advance, credit facility, any financial guarantee or any other liability incurred on behalf of any person. So, we are really talking about one and the same thing.

I would have preferred my amendments, but maybe this time I can accept Mr. Kagwe's.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, I do not know why our colleague is not convinced because, if you look---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Obwocha! Mr. Kagwe is very convinced!

*(Question, that the words to be left
out be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted,
put and agreed to)*

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Mwiraria, just to clarify before I conclude, have you withdrawn your amendment?

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, by accepting Mr. Kagwe's amendment, I have withdrawn mine.

(Clause 17 as amended agreed to)

Clause 18

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 18 and substituting therefor the following new clause -

Repeal of the First Schedule.

18. The Banking Act is amended by repealing the First Schedule and replacing it with the following new First Schedule -

FIRST SCHEDULE PART A

CRITERIA FOR DETERMINING PROFESSIONAL AND MORAL SUITABILITY OF DIRECTORS AND SENIOR OFFICERS PROPOSED TO MANAGE OR CONTROL INSTITUTIONS

(a) In order to determine, for the purposes of this Act, the professional and moral suitability of persons, proposed to be directors and senior officers of an institution, the Central Bank shall have regard to the following qualities, in so far as they are reasonably determinable, of the person concerned -

- (i) his possession of adequate professional credentials or experience or both for the position for which he is proposed;
 - (ii) his ability to recommend sound practices gleaned from other situations;
 - (iii) his ability to provide dispassionate advice;
 - (iv) his ability to avoid conflicts of interest in his activities and commitments with other organizations;
 - (v) his ability to absent himself from decisions when he is incapable of providing objective advice.
- (b) For the purpose of and without prejudice to the generality of the provisions of paragraphs (a), the Central Bank, may have regard to the previous conduct and activities of the person concerned in business or financial matters and, in particular, to any evidence that such person-
- (i) has been convicted of the offence of fraud or any other offence of which dishonesty is an element;
 - (ii) has contravened the provisions of any law designed for the protection of members of the public against financial loss due to the dishonesty or incompetence of or malpractices by persons engaged in the provision of banking, insurance, investment or other financial services;
 - (iii) was a director or a senior officer of an institution that has been liquidated or is under liquidation or statutory management under Part VII of this Act;
 - (iv) has taken part in any business practices that, in the opinion of the Central Bank, were fraudulent, prejudicial or otherwise improper (whether unlawful or not) or which otherwise discredited his methods of conducting business;
 - (v) has taken part in or been associated with any other business practices as would, or has otherwise conducted himself in such manner as to cast doubt on his competence and soundness of judgment;
 - (vi) has defaulted in the repayment of any advance or loan made to him by any institution licensed under this Act or a society licensed under the Building

Cap.489. Societies Act for three consecutive months.

- (c) The Central Bank may request any person to furnish such additional information as may be necessary in determining the professional or moral suitability of the person as stipulated under the Act.

PART B

CRITERIA FOR DETERMINING MORAL SUITABILITY OF SIGNIFICANT SHAREHOLDERS PROPOSED TO MANAGE OR CONTROL INSTITUTIONS

- (a) In order to determine, for the purposes of this Act, the moral suitability of significant shareholders of an institution, the Central Bank, shall have regard to the previous conduct and activities of the significant shareholder concerned in business or financial matters and, in particular, to any evidence that such person-
- (i) has been convicted of the offence of fraud or any other offence of which dishonesty is an element;
 - (ii) has contravened the provisions of any law designed for the protection of members of the public against financial loss due to the dishonesty or malpractices by, persons engaged in the provision of banking, insurance, investment or other financial services.
- (b) For the purposes of determining the moral suitability of a corporate entity, its directors

and senior officers shall satisfy the criterion prescribed in paragraph (a) of Part B of this Schedule.

(c) The Central Bank may request any person or corporate entity to furnish such information as may be necessary in determining the moral suitability of the person as stipulated in the Act.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be
inserted in place thereof
be inserted, put and agreed to)*

(Clause 18 as amended agreed to)

New Clause

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting a new clause immediately after clause 13 as follows-

13A. The Banking Act is amended by inserting a new section immediately after section 16 as follows-

16A. (1) No funds deposited in any account in an institution shall accrue any form of charges exceeding the original value of the deposit.

(2) The minimum balance in the account under subsection (1) shall be the original amount deposited less the withdrawals made.

Mr. Temporary Deputy Chairman, Sir, Kenya is the only country in the world where you can deposit money and you go to the bank a month later or two months later and not only find that the money is less what was deposited, but in some circumstances, the money has actually negated, to the extent where you owe the bank money. It is the only nation that I know of that this happens. It is called "figurelised" fraud.

Mr. Temporary Deputy Chairman, Sir, this Clause seeks to ensure that banks can only eat out of interests they have paid, and not out of the savings that the people have made. That is particularly significant in the rural areas where women groups and other groups keep money in a bank, hoping that the money is growing, only to find months later that the money has diminished. Therefore, I ask hon. Members to support this amendment.

Mr. Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members. I now wish to propose that the new Clause be added to the Bill.

*(Question of the new Clause
proposed)*

(New Clause read the First time)

*(Question, that the new Clause be
read a Second Time, proposed)*

Mr. Arungah: On a point of order, Mr. Temporary Deputy Chairman. I seek guidance from the Chair because Section 13(a) is supposed to come after Clause 16, which we have just decided to remove. So, what happens to the numbering?

Mr. Temporary Deputy Chairman (Mr. Ethuro): Mr. Arungah, you will be highly guided. Numbers just follow a particular sequence. So, that is not a problem to us.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, I would like to support the amendment. Some of the banks are becoming unfair to Kenyans. Co-operative societies take their coffee to be sold, but the value for which it is sold is too low. In fact, it even exceeds the expense of selling it. So, farmers are charged for sale of coffee for which they did not receive anything. We would like to curb that. I wish to refer to the Goldenberg Scandal again. In that scandal, this country was looted using banks. They are not the angels that we think they are. Let us support that amendment, so that they do not take away our savings.

Mr. G.G. Kariuki: Mr. Temporary Deputy Chairman, Sir, I rise to support the amendment. It is well known that banks in this country are let so free to make money at will. That is why we are asking the Minister to make sure that the money that is saved by ordinary people is spared. Even in the Constituency Development Fund, if you scrutinise the accounts, some money that has not been spent has been taken by the banks. So, it is important that we pass this amendment.

The Minister for Lands and Housing (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I stand to oppose the amendment because, as much as I appreciate the need to control the bank's appetite for money and protect the savers who have been losing their money through the various charges, we must also look at the local effect on that amendment in terms of the banks refusing to accept deposits from our people. We want to have a situation where people would stop putting money under their mattresses. We want to have people putting their money in banks. We want to encourage people to get their salaries paid through the banks.

(Loud consultations)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Let us listen to the Minister.

The Minister for Lands and Housing (Mr. Kimunya): When I look at this amendment, it is saying that when you open a bank account, be it current or savings, you should be guaranteed of getting that money back. Banks are there for business. We need to encourage people to invest in business. They have created a vehicle where they even charge you money for overnight deposits. If we go by this route, we are telling the banks: "We do not need you. We only need you so long as you can pay people to put money in their accounts. If you charge people even Kshs10 for withdrawing or using a service through the bank, then we do not want you to keep that money." I would like to urge hon. Members to think seriously about this amendment we are putting through, and the effect it will have not only on the banks, but other investors who we are telling: "So long as we perceive you to be making a profit on our people, we do not want you." There are wider implications of this amendment than just the banks. I would really urge hon. Members and the Finance Committee to withdraw that amendment and then we take it on from a different angle.

With those few remarks, I beg to oppose the amendment.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Chairman, Sir, I think this is a good amendment because we need to rein in banks. Banks have made too many windfall profits. If you put money in a savings account in Standard Bank, as long as it is below Kshs50,000 they charge you Kshs500 monthly. How will the ordinary people save money? I think some level of control is desirable and important.

We are trying to help the people of this country to keep some savings in the banks and

develop their businesses.

I want to urge the Minister to support this amendment.

Mr. Khamasi: Mr. Temporary Deputy Chairman, Sir, I have always thought that Mr. Kimunya is very honourable and he thinks about Kenyans. I have just discovered that he does not.

(Laughter)

The Minister for Lands and Housing (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the hon. Member in order to doubt my honourability as an hon. Member and my patriotism to this country?

The Temporary Deputy Chairman (Mr. Ethuro): Order, all of you. Mr. Kimunya is obviously a very honourable Member. Not only does he sit in the House, but he is also on the Front Bench. So, he must be very honourable. But Mr. Khamasi was just making his point when you cut him short.

Mr. Khamasi: I think we shall be judged very harshly as the Ninth Parliament if we cannot pass this new additional clause. Banks are the only institutions in this country where, while everybody else was making a loss, they were making filthy profits all over. This is wrong because they were taking this money from Kenyans unlawfully. It is necessary that we rein them in and control them. That is why we are putting a ceiling. We must control the amount which the banks can get. They are trading with our deposits and at the same time, they are deducting money from us.

The Minister for Energy (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, I think there is a lot of generalisation here. There are fixed deposit accounts where banks do not charge anything. If anything, they pay you interest. As for savings accounts, they will pay you interest depending on the amount you have deposited. With current account, you have to pay for the operation of that account.

Let us be specific on what we want to control here. Let us not just generalise and talk of deposits because with a fixed deposit account, it is for you to earn money. You deposit it in your account and they do not charge you anything. If anything, they give you money for it. The choice is yours as a customer. I think we are discouraging depositors by passing a law here which is generalised.

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Chairman, Sir, the arguments from the two hon. Members are quite substantive. My problem is the way this New Clause has been proposed. It states: "No funds deposited in any account---". It could be a current account. A current account, as we know it, is not a fixed deposit account or a savings account. If we are talking about encouraging Kenyans to save, then we should be specific and talk about a fixed deposit account or a savings account. That way, we will assist Kenyans.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Chairman, Sir. We have made an argument out of nothing. That Clause states: "No funds deposited in any account in an institution shall accrue any form of charges exceeding the original value". This means that banks can deduct up to the amount that was deposited. They should not deduct beyond the amount which was deposited. They should close the account or they may exhaust the amount. That is what we are saying. It does not matter which account it is.

Mr. Kagwe: Mr. Temporary Deputy Chairman, Sir, Mr. Obwocha has just said: "A current account as we know it---". The operative term there is "as we know it". This is because elsewhere, current accounts do not hold negative balances. They remain, at least, positive. They may not earn interest or increase. In other nations, even if a current account goes to zero, it cannot have a negative balance. The reason why this happens in those nations is because it is an area of perfect competition.

Therefore, the competitiveness that a bank needs cannot allow it to charge any charges irrespective of whether the account is current or otherwise.

Mr. Temporary Deputy Chairman, Sir, further, I appreciate the sentiments of Mr. Nyachae, but I am also aware that when banks get money, there is something they call overnight lending. Currently, the overnight lending rate is 7 per cent. Therefore, it is not as if money in a current account is simply sitting there idle and the bank is incurring expenses on it. The bank also benefits from the money. Therefore, they should charge whatever charges they want to charge, raise whatever ledger fees they want to raise, but they should raise all these against what they have paid and not against the savings. I do not see any reason why we should separate any form of account.

The Minister for Energy (Mr. Nyachae): On a point of order, Mr. Temporary Deputy Chairman, Sir. Mr. Kagwe is slightly misleading this House. The overnight lending is not money which is in the current accounts. It is the 20 per cent liquidity, which is deposits money. That is the only amount of money that the Central Bank can allow to be lent overnight to another bank. Overnight lending is just an inter-bank transaction. Let us not mislead this House.

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Temporary Deputy Chairman, Sir, to add to that, it must be understood that the amount of money that is lent out by banks, is the money that they know has a certain time limitation. The money in a current account can be withdrawn any time on demand. That is why by and large, many banks do not pay any interest at all, on the current account. It is true that some banks in the United Kingdom and other international banks, pay some interest, but by and large, interest is not paid on current accounts.

Mr. Temporary Deputy Chairman, Sir, the problem that we are faced with here is that if we do not differentiate between the savings account and the current account, in the long term, we might find that banks will be unwilling to open current accounts. What will happen is that customers will open current accounts. It will then be up to the bank to manage the accounts without levying any charges on them. Therefore, the banks will make losses. The banks will eventually say that they have no obligation at all, to open current accounts. In the case of savings accounts, there may be a very good reason in what is being proposed here because interest accrual is being made. We should differentiate between the current account and the savings account. We may try that proposal on the savings account.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I really do not want to repeat what has been said by other hon. Members. But I must say that we should really guard against going back to the age of controls. We all know that there was a time when we had exchange control, and at that time there was very little foreign exchange. Today, without any foreign exchange control, we have more foreign exchange than we have ever known before. Now, to me, the most important thing is to make sure we get savings from Kenyans. If we appear to be controlling what banks can do with our money once we give it to them, I am afraid, we run the risk of losing the savings which we need for development.

Some hon. Members have talked about these matters. I think Mr. Kagwe knows from the United Kingdom (UK) and the other countries he visited that there are no controls, but the banks do it because it is in their interest. Let me say that, perhaps, the worst mistake we made in Kenya was to kill the local banks, which means, we have left the field to the foreign banks which do not care about the development of this nation. So, rather than do this, I would have preferred that we choose a different route. We should not enter controls. Instead, we should give the Governor the powers which we are going to give him under the other act, and at the same time, we establish regional banks in Nyanza, Western and Central provinces, for example, which will take deposits from those areas and lend money to people in those areas in large percentages, so that we begin really taking

charge of what is happening in the monetary field.

I, personally, do not support these two amendments, good as they may appear. I beg to oppose.

Mr. G.G. Kariuki: Mr. Temporary Deputy Chairman, Sir, I think the Minister has a point. But there is a problem here. I would have expected him to bring an amendment to Mr. Kagwe's amendment, so that the matter is made clear, because it is not clear now. We want specific descriptions of what is "savings" and what is "current", so that we determine which one is to be charged and which one not to be charge. We have no problem with savings accounts. But current accounts need to be put very clear. So, if we pass this law the way it is proposed by the Minister we are going to leave something undone.

If we allow Mr. Kagwe's amendment to go the way it is, then we will also be out of tune with the general investment policy of any bank. Therefore, I suggest that if there is any way the Minister can bring in some amendments for clarification, I think he will do this House a lot of justice.

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Temporary Deputy Chairman, Sir. I think that to strike a balance on this, there is need to move an amendment here. I want to plead with the Chair that we move an amendment to this section by deleting the words "any account" in Clause 16(a) and replacing it with the words, "saving account".

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Assistant Minister! The Chair needs to see your amendment before you move it!

The Assistant Minister for Finance (Mr. Katuku): Mr. Temporary Deputy Chairman, Sir, that is why I will plead with the Chair to give me one minute to write it down.

The Temporary Deputy Chairman (Mr Ethuro): Order, Mr. Katuku! Since the Minister in charge of the Bill is here, and this is a financial matter, we need express authority from him! For the purposes of normal parliamentary business, the Assistant Minister can act as a Minister. But for the purpose of passing a Bill the Minister himself must give the express authority because he is here. In fact, he had opposed the amendment!

The Assistant Minister for Finance (Mr. Obwocha): But they have consulted with each other!

The Temporary Deputy Chairman (Mr Ethuro): Order, Mr. Obwocha!

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the new Clause 13(a) of the proposed Bill be amended by deleting Part (ii) thereof, so that we an only retain Clause 16(a).

The Temporary Deputy Chairman (Mr. Ethuro): Given the arguments, I do not think we need to contribute. Let me just dispose of the amendment.

Mr. Kagwe: On a point of order, Mr. Temporary Deputy Chairman, Sir. Would I be in order to agree with what the Minister has said at this point, and withdraw Clause 2?

The Temporary Deputy Chairman (Mr. Ethuro): Actually, we do not need to agree with the Minister, since he brought [**The Temporary Deputy Chairman**] the amendment. You just withdraw Clause 2. Mr. Kagwe has withdrawn Clause 2. So, the new amendment is Sub-clause 1.

Mr. Angwenyi: Read it for us!

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! I am sure Mr. Mwiraria would like to give full attention to this.

(Question, that the new clause be

read a Second Time, put and agreed to)

*(The new clause was read
a Second Time)*

*(Question, that the new clause
be added to the Bill,
put and agreed to)*

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Banking (Amendment) Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, two Bills have been discussed at the Committee of the whole House: The Finance Bill and the Banking (amendment) Bill. Therefore, there will be two Reports from the Committee of the whole House, beginning with the Finance Bill.

THE FINANCE BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered the Finance Bill and approved the same with amendments.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Water and Irrigation (Ms. Karua) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Finance Bill be now read the Third Time.

The Assistant Minister for Lands and Housing (Mr. Ojode) seconded.

(Question proposed)

The Assistant Minister for Finance (Mr. Obwocha): Mr. Temporary Deputy Speaker, Sir, while thanking hon. Members, I would like to draw their attention to a Clause in the Finance Bill. They may not have understood the Clause and when they go out there they will say that they never saw it.

In the Finance Bill, Clause 62 is dealing with the cheques one issues. Those of us who issue cheques during *Harambees* will find ourselves in problems if we do not honour them. We have passed something that is potentially dangerous. If you issue out a cheque, make sure that there is money in your account.

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, hon. Members! Order! Order!

(Question put and agreed to)

*(The Bill was accordingly read the
Third Time and Passed)*

THE BANKING (AMENDMENT) BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the Whole House has considered the Banking (Amendment) Bill and approved the same with amendments.

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for Lands and Housing (Mr. Ojode) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Mwiraria): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Banking (Amendment) Bill be now read the Third Time.

The Assistant Minister for Lands and Housing (Mr. Ojode) seconded.

(Question proposed)

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, very quickly, I just wanted to remind the Minister that we really supported the Donde Bill when it first came here in 2000. The fact that God provided an opportunity for him and others who were on this side at that time lobbying for it to implement it, it is Godsend, and the country is going to reap the benefits from it.

Thank you.

The Assistant Minister for Trade and Industry (Mr. Miriti): Thank you, Mr. Temporary Deputy Speaker, Sir. This is going to be a major relief for thousands of small scale business people who have been lured into opening bank accounts with the promise of getting loans after six months,

just to find that their accounts are empty. Congratulations, Mr. Minister.

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I also wish to congratulate the Minister on the passing of this Bill. We hope that sanity and order will prevail in the banks.

Mr. Temporary Deputy Speaker, Sir, banks have turned themselves into enemies of the people and we do hope that now, with the regulation of interest rates, we will be able to have sanity once again.

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

I just wanted to congratulate the Minister, and in particular, Mr. Kagwe for bringing this amendment. I come from an area where we encourage women to save, and when they go to a bank after six months, they come and tell me: "*Mheshimiwa, hii benki imekula pesa zetu*".

(Laughter)

Thank you very much for accepting the amendment.

The Temporary Deputy Speaker (Mr. Khamasi): Lastly, Mr. Wetangula!

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Chairman, Sir, I want to thank the Minister for having brought this Bill in the first place. This is the most courageous piece of legislation that this Parliament has ever passed. It is a pro-people legislation and I have no doubt that it is going to engineer economic growth, especially as it relates to the poor people of this country. I want to urge the Minister to make sure that the Central Bank plays the role that we have given it in this Bill.

(Question put and agreed to)

(The Bill was accordingly read

The Third Time and passed)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Order! Hon. Members, it is now time to interrupt our business. The House is adjourned until tomorrow, Wednesday, 8th December, 2004, at 9.00 a.m.

The House rose at 7.25 p.m.