

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 2nd May, 2001

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

BILL TO CONTROL PUBLIC ASSETS AND DIVESTURE

Mr. N. Nyagah: Mr. Speaker, Sir, in compliance with Standing Order No.43(1), on behalf of Prof. Anyang'-Nyong'o, I beg to give Notice of the following Motion:-

THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled the State Corporations and Public Assets Reform and Divesture Bill to create a legal framework that brings about the transfer of ownership in asset organizations, commercial enterprises, institutions or body corporate presently vested wholly or partially in the sovereign State of Kenya.

ORAL ANSWERS TO QUESTIONS

Question No.058

PAYMENT OF TERMINAL DUES TO RETIRED ASSISTANT CHIEF

Mr. Speaker: Question No.058 by Mr. Murungi is deferred to tomorrow!

(Question deferred)

Mr. Sambu: Mr. Speaker, Sir, I have not received a written reply.

Question No.154

ACREAGE OF NYAYO TEA ZONES

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

PROVISION OF SECURITY TO FISHING COMMUNITIES

(a) what the total acreage of Nyayo Tea Zones Corporation in Nandi District is;

(b) whether he is aware that these tea zones were carved out of the Trust Land forest of North Nandi, South Nandi and South Tinderet Forest; and,

(c) whether he could allow these tea zones to be managed by Nandi County Council, which owns the land.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, this Question was directed to the wrong Ministry because the Nyayo Tea Zones Corporation was moved to the Ministry of Agriculture and Rural Development. So, the Question has been directed to the relevant Ministry.

Mr. Sambu: On a point of order, Mr. Speaker, Sir. I took the trouble to know which Ministry is now looking after the affairs of the Nyayo Tea Zones Corporation, but the people at the Secretariat have not instructed me to redirect the Question to the Ministry of Agriculture and Rural Development. I am the Chairman of the Departmental Committee on Agriculture, Lands and Natural Resources and I knew that the Nyayo Tea Zones Corporation is now within the ambit of the Ministry of Agriculture and Rural Development.

Mr. Speaker, Sir, could I seek your guidance on whose business it is to redirect the Question?

Mr. Speaker: Obviously, it is the hon. Member and the Secretariat. Now that we understand it is in the Ministry of Agriculture and Rural Development, I think the fairest thing is for me to defer it and order that it be sent to the Ministry of Agriculture and Rural Development. I am sorry about that, Mr. Sambu.

(Question deferred)

Question No.239

Mr. Munyes asked the Minister of

State, Office of the President, what action the Government is taking to provide security to the fishing communities on the eastern and western side of Lake Turkana.

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

The following security measures have been taken to provide security on the eastern and the western parts of Lake Turkana: On the eastern side, there is a police post and a General Service Unit Company at Illeret; another police post at Loyangalani, and KWS rangers post based at Sibilo. On the western part, there are police posts at Todonyang and Kalokol, and an AP post at Loarengak. In addition, 21 police reservists have been recruited from the fishing community to enhance security.

Mr. Munyes: Mr. Speaker, Sir, this Question is about protection of Turkana fishermen. It is about the second livelihood that we have in Turkana after livestock. For the last two years we have lost many people in Turkana District as a result of foreigners ambushing fishermen inside the water. It is a question of Lake Turkana waters that are not safe. Foreigners from Ethiopia in boats come to attack us while our servicemen are only stationed along the lake. What action is the Government going to take to ensure the most appropriate personnel are put in place to control the security inside the waters?

Maj. Madoka: Mr. Speaker, Sir, as I have stated, we have put security personnel virtually around the Lake Turkana on our side, to ensure that we do maintain security.

Mr. Speaker: He is complaining about the water!

Maj. Madoka: Mr. Speaker, Sir, the water has certain edges, and we ensure that we have people around there.

Mr. Kajwang: Mr. Speaker, Sir, this Question interests me because I also come from a fishing community in Lake Victoria, and one of our biggest problems is that, that lake borders Uganda and Tanzania, and most of these fishermen from Uganda and Tanzania and some pirates also attack our fishermen and steal their fishing gears; engines, boats and fishing nets. What is the policy of Government in protecting our fishermen and the fishing industry in general in Kenya? You cannot claim to be protecting a fisherman who is several kilometres inside the lake by stationing a policeman at the shore. He is prone to attacks at night by pirates.

Maj. Madoka: Mr. Speaker, Sir, we have police patrol boats around Lake Victoria which try to keep these people out of the way. Equally, down at the coast, we have police patrol boats. Lake Turkana is an area which I think we will have to look at more seriously, in terms of looking after the waters.

Mr. Speaker: I think, to be fair to the Minister, the drafting of the Question and the way the subsidiaries have come are totally different. When we talk about the eastern and western sides of the lake, we are actually talking about

the shores, but it does appear Mr. Munyes' problem is inside the waters. Mr. Munyes, how can the Chair help you? I would like to see whether those Kenyans can be happy inside the lake.

Mr. Munyes: Mr. Speaker, Sir, I wanted to know about the security of the fishermen inside the waters.

Mr. Speaker: Would you like me to give the Minister a little more time to go and address that aspect?

Mr. Munyes: Yes, Mr. Speaker, Sir.

Mr. Speaker: Maj. Madoka, I think that is nice. Could I give you time?

Maj. Madoka: Mr. Speaker, Sir, I specifically answered his Question, but this other question of the security inside the waters is something which I will have to look into.

Mr. Speaker: I understand. I think it is quite new; it is not something you would have anticipated, but because it involves the very life of Kenyans, I think you can look at it and, maybe, come back in two week's time.

Maj. Madoka: That is perfectly in order, Mr. Speaker, Sir.

Mr. Speaker: Very well! Question deferred!

(Question deferred)

Question No.155

ADJUSTMENT OF MOBILE TELEPHONE TARIFFS

Mr. Speaker: Mr. Achola not there? We shall come back to that Question later!

Mr. Munyao's Question!

Question No.002

EXCESSIVE IMPORTATION OF SUGAR

Mr. Munyao asked the Minister for Agriculture:-

(a) whether he is aware that the sugar industry and sugar milling factories are holding a lot of sugar which they cannot sell due to the importation of excess sugar;

[Mr. Munyao]

(b) whether he is further aware that sugar-cane growers have not been paid by the millers as the latter cannot sell the produce to the market; and,

(c) what urgent steps he is taking to assist both the millers and the farmers.

The Assistant Minister for Agriculture, Livestock and Rural Development (Mr. Sumbeiywo): Mr. Speaker, Sir, we had answered this Question about

a week ago, and what was in question was the so called STABEX Fund, which we have now discovered is going to be given to coffee, tea and sugar farmers, and those in the fishing industry.

Mr. Munyao: Mr. Speaker, Sir, the reason why this Question was deferred - I wish you could check in the HANSARD - was not because of the STABEX Funds; it was because of the reasons given why the Ministry would have to form a Committee of several Ministers to go around looking for information which could be availed here. This imported sugar is not from the COMESA region, but from other areas.

Mr. Speaker: Very well! I will get the HANSARD, then I will give direction!

Mr. Munyao: Mr. Speaker, Sir, since this Question is very important--- In fact, I have three Questions pending on the same subject. Could I ask the Chair---

Mr. Speaker: Order! There is a dispute between the two of you as to the reason why the Question was deferred. Naturally, the Chair will only be convinced by looking at the HANSARD, and then I will know exactly why it was deferred. Once I know why it was deferred, I will direct what to do. So, we defer it for me to get a copy of the HANSARD. It will be given to me tomorrow.

Mr. Munyao: On a point of order, Mr. Speaker, Sir. I fully agree with your directions, and I will never go against them. But if you recall, and checked in the HANSARD, the same Assistant Minister whom I respect very much, last week said the Minister was coming with the reply, but by the time the Minister arrived we had already passed the Question. There are very important points which we had raised.

Could we have this Question answered as soon as possible because it has been on the Order Paper for a long time? In fact, it was a Question by Private Notice. I do not even know why---

Mr. Speaker: Order, Mr. Munyao! I do not think you are being fair to the House, because you are asking me to look at the HANSARD. I cannot look at it now. So, I will ask the Clerk to give me a copy of the HANSARD and then I will make the necessary direction and ask them to put it in the Order Paper as soon as possible.

Mr. Twaha: On a point of order, Mr. Speaker, Sir. The Assistant Minister has just made a very alarming statement that sugar-cane farmers are going to be provided with STABEX funds whereas Kenya is a net importer of sugar, but exports cashew nuts, bixa and cotton which have not been included.

Mr. Speaker: Wait until the Question comes.
Next Question!

(Question deferred)

Question No.132

CONSTRUCTION OF SIDE-WALKS

Mr. Muchiri, on behalf of **Mrs. Mugo**, asked the Minister for Roads and Public Works, in view of the large population in areas such as Kawangware, Kangemi, Mathare and many others in the outskirts of Nairobi, when the Ministry will construct sidewalks to prevent loss of life among pedestrians.

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

The Ministry has incorporated pedestrian sidewalk designs in the road construction, rehabilitation and maintenance plans. With regard to the sidewalk constructions along the roads in Kawangware, Kangemi, Mathare and other densely populated areas of Nairobi, this will be implemented when the roads in question are attended to.

Mr. Muchiri: Mr. Speaker, Sir, thousands of pedestrians have been involved in road accidents. The Assistant Minister says designs have been incorporated and footpaths will be constructed when the roads are constructed. Does he not think that this will be too late then, and we will have lost thousands of our citizens?

Eng. Rotich: Mr. Speaker, Sir, I appreciate the problem but this programme has already started. In the present recarpeting exercise of Ngong road, the construction of sidewalks has been taken into account.

Mr. Sungu: Mr. Speaker, Sir, this is a very pertinent issue. Yesterday, a bus had a puncture on its rear tyres, lost control and killed four people near Kangemi where I live.

Could the Assistant Minister take this matter seriously and ensure that these constructions are carried out in good time?

Eng. Rotich: Mr. Speaker, Sir, I have stated that we have already started constructing sidewalks. As for the roads we are constructing right now, for instance Langata Road and Ngong Road, we have already constructed sidewalks for pedestrians.

Mr. N. Nyagah: Mr. Speaker, Sir, since the Assistant Minister has admitted that the Government has already started on this work, could he ensure that the same is done in places where the population is extensively high, for instance, Eastlands and Eastleigh?

Eng. Rotich: Mr. Speaker, Sir, we are talking with the Ministry of Local Government and we have told them that this must be done. The roads hon. N. Nyagah has referred to belong to the City Council and not the Ministry of Roads and Public Works. But they have been instructed that when designing these roads, the designs must include pedestrian side walks.

Mr. Anyona: Mr. Speaker, Sir, my understanding is that Langata Road is a one-off. I

understand the World Bank, which is funding it, insisted that there should be sidewalks. Could the Assistant Minister tell us whether on that basis, there is a new policy by the Government to do all the roads in the City, whether they are funded by the World Bank or not? If there is a policy, then where does it start; on which road?

Eng. Rotich: Mr. Speaker, Sir, it is not true that this road is a one-off. All the roads that will be recarpeted will include sidewalks.

Question No.152

SURRENDER OF UNUTILIZED
FUNDS TO TREASURY

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

(a) how much money the Public Works Department in Lamu District returned unutilized to the Treasury in the 1999-2000 financial year; and,

(b) what urgent measures he is taking to ensure that funds meant for the development and maintenance of roads, sea walls and other infrastructure in the district are properly utilised before the end of this financial year.

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

(a) a total of Kshs8,131,692.25 was returned to the Treasury in the 1999/2000 financial year.

(b) The Ministry has opened a Roads Maintenance Levy Fund Account which is separate from the District Treasury, through which the road maintenance funds are being channelled as a measure to speed up utilisation of funds. Sea walls and other infrastructure that have received funding this financial year have been tendered to ensure that speedy implementation is done.

Mr. Twaha: Mr. Speaker, Sir, what specific action has the Assistant Minister taken against the civil servants who caused the return of this money to the Treasury, and can we have the money - Kshs8 million - back?

Eng. Rotich: Mr. Speaker, Sir, the money was not returned because of an individual. It was due to a freeze by the Treasury.

Mr. Twaha: Mr. Speaker, Sir, could the Assistant Minister shed more light on that and elaborate?

Eng. Rotich: Mr. Speaker, Sir, this was the time when the Treasury issued a circular that we had to cut on Development Expenditure. So, it was because of that, that we did not spend the money!

Mr. Muchiri: Mr. Speaker, Sir, could the Assistant Minister ensure that there are zebra crossings on all urban roads as used to be the case before?

Mr. Speaker: What has that to do with the return of money from Lamu to the Treasury?

Mr. Muchiri: Mr. Speaker, Sir, if you look at part (b) of the Question, there is the issue of the maintenance of roads!

Mr. Speaker: That is as a "by-the-way", consequent upon the return of the money. Wait until he knows where the money is first.

Mr. Twaha: Mr. Speaker, Sir, could the Assistant Minister tell us more about the circular?

Eng. Rotich: Mr. Speaker, Sir, at certain points in time, the Treasury orders Ministries to cut down on Development Expenditure. This is because of reasons best known to the Treasury. We do not spend beyond the limits given by the Treasury. So, this problem is not due to an individual who refused to spend the money.

Mr. Mwakiringo: Mr. Speaker, Sir, this was money which was already in the District Treasury for development. Why was the money returned? Was this not a KANU Government ploy to impoverish the Lamu people?

Eng. Rotich: Mr. Speaker, Sir, that is not true. At that particular time, we used to issue AIEs and not cheques. So, they did not have the money but the authority to spend. There was no money in the District Treasury!

Capt. Ntwiga: Mr. Speaker, Sir, could the Assistant Minister clarify whether this was an exceptional case or there were other districts which returned money because of the freeze by the Treasury?

Eng. Rotich: Mr. Speaker, Sir, it depends on whether that district had already spent the money at that particular time or not. All the money that had not been spent was returned to the Treasury.

Mr. Maitha: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister not misleading this House? He knows that the money was not returned because of the reasons he has given. It was returned because the Government and Lamu people disagreed! That is why the Ministry was asked to return the money!

Eng. Rotich: Mr. Speaker, Sir, that is not correct.

Mr. Speaker: Mr. Achola's Question for the second time! Mr. Achola not here? That Question is dropped. So, we move to Questions by Private Notice.

Question No.155

ADJUSTMENT OF MOBILE TELEPHONE TARIFFS

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

WILDLIFE MENACE IN TIGITHI/SIRIMA LOCATIONS

(Mr. Kiunjuri) to ask the Minister of

State, Office of the President:-

(a) Is the Minister aware that elephants are roaming all over Tigithi and Sirima locations of Laikipia District during the day and night?

(b) Is he further aware that as a result, children are unable to attend school and crops have been massively destroyed?

(c) What urgent measures is the Minister taking to control the movement of wild animals in this area?

Mr. Speaker: I have instructions from Mr. Kiunjuri that his Question be deferred. So, we move to the next Question by Eng. Muriuki.

(Question deferred)

REVENUE ALLOCATION TO
CONSTITUENCY BASED-PROJECTS

Eng. Muriuki: Mr. Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Is the Minister aware that on Wednesday, 29th November, 2000, this House resolved that before the next budget statement, the Minister should table proposals for appropriate mechanisms to ensue that 2.5 per cent of the Government Revenue is allocated to Constituency-based development projects?

(b) Could the Minister table the proposals at least before the presentation of the 2001/2002 Budget?

Mr. Speaker: Where is the Minister for Finance?

Hon. Members: Mr. Marrirmoi is here! Ask him to reply!

Mr. Anyona: On a point of order, Mr. Speaker, Sir. If the Minister does not turn up to answer a Question for the first time, that is bad enough. But when the Chair orders that a Question be answered on a particular day and on that day the Minister is not in the House; so the Chair has to order that the Question be answered on another day, I think there is something wrong there!

Mr. Speaker: Mr. Marrirmoi, what is happening? Why did you run away from the Front Bench?

The Assistant Minister for Finance and Planning (Mr. Marrirmoi): Mr. Speaker, Sir, I think my colleague will be coming with the answer.

Mr. Speaker: At what time?

The Assistant Minister for Finance and Planning (Marrirmoi): Mr. Speaker, Sir, I am very sure that given ample time, he will be here.

Mr. Speaker: Order, hon. Members! Quite frankly, I think it is the business of Ministers to answer Questions. It is their duty to come to this House to answer Questions. I think it is about time everybody took the Chair seriously. When the Chair orders that a Question will be put on the Order Paper on a certain day, the Minister must be

here.

Mr. Marrirmoi, will you proceed and tell the Minister that I have ordered that this Question be answered tomorrow? If no representative of the Ministry of Finance will be present here, then the Chair will have to deal with them. You will find it extremely difficult to transact your Ministerial business if you incur the wrath of the Chair. So, this Question must be answered tomorrow.

(Applause)

The Assistant Minister for Finance (Mr. Marrirmoi): I will do so, Mr. Speaker, Sir.

Mr. Munyao: On a point of order, Mr. Speaker, Sir. Last week, the same thing was experienced. The Chair directed that the Leader of Government Business should take serious note of the fact that Ministers were not available to answer Questions. We intended to name the concerned Ministers and the HANSARD can bear witness to that fact. I drew the attention of the Chair to the fact [**Mr. Munyao**]

that the Leader of Government Business, Prof. Saitoti was in the House----

Mr. Speaker: Mr. Munyao, I have made a ruling on this issue. Just wait until tomorrow!

Mr. Muturi: On a point of order, Mr. Speaker, Sir. My point of order is with respect to the ruling you have just made; that the Question be answered tomorrow by the Minister for Finance and that if there will be no representative of that Ministry, then the Chair will take further action. Is Mr. Marrirmoi considered not to be a representative of that Ministry?

(Laughter)

Mr. Speaker: Order, hon. Members! Mr. Marrirmoi was here and he said he was not properly briefed. I have directed him---

Eng. Muriuki: In fact, he has run away!

Mr. Speaker: Order, Eng. Muriuki! You may suffer the wrath of the Chair! Although I am sympathetic to you, I am not sympathetic to indiscipline. So, please, relax.

It is true that Mr. Marrirmoi is an Assistant Minister in that Ministry, but the Minister is the ultimate person responsible to this House. His Assistants come to answer on his behalf and he has to sign that answer himself. If the poor Assistant Minister is not assigned the answer, how does he come to answer? Let us see whether he will comply with the order of the Chair. I hope he does. I will defer that Question to tomorrow. Eng. Muriuki, is that all right with you?

Eng. Muriuki: Yes, Mr. Speaker, Sir. This is the fourth time this Question has appeared on the Order

Paper, but it has not been answered!

Mr. Speaker: All right. It will be put on the Order Paper tomorrow afternoon.

(Question deferred)

Next Question, Mr. John Munyasia!

OPERATIONS OF TAWFIQ BUS COMPANY

(Mr. Munyasia) to ask the Minister for Information, Transport and Communications:-

(a) Is the Minister aware that the Tawfiq Bus company has been involved in numerous road accidents in the past two years?

(b) Is he further aware that all the drivers and conductors of the company's buses are non-citizens?

(c) What urgent measures has the Minister taken to bring discipline in the operations of this company to spare lives of passengers?

Mr. Speaker: Is Mr. Munyasia here?

An hon. Member: Mr. Munyasia is not here!

Mr. Speaker: Since Mr. Munyasia is absent, the Question is dropped.

(Question dropped)

Next Question, Eng. Toro!

THEFT OF DOCUMENTS AT KANDARA TOWN COUNCIL

Eng. Toro: Mr. Speaker, Sir, I have a written answer here which is not signed. However, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that the offices of Kandara Town Council were broken into on the night of Tuesday, 3rd April, 2001, and various important files and documents stolen?

(b) What steps is the Minister taking to ensure safety of the remaining documents and files?

Mr. Speaker: Where is the Minister for Local Government?

An hon. Member: He is not here!

Mr. Speaker: Order! Order! Why are Ministers not in the House?

Maj. Madoka, what is the position? What is happening?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I am sure my colleagues might have been caught up by unexpected Government

business. But that is something we will certainly follow up.

Mr. Wamae: On a point of order, Mr. Speaker, Sir. This morning, when there was a Motion on the Promotion of National Unity and Reconciliation Bill, to establish a Truth and Reconciliation Commission, all Ministers in the KANU Government were here to block that Motion. Now that they are supposed to work, they do not appear here!

Mr. Anyona: On a point of order, Mr. Speaker, Sir. That is one issue. The other issue is the one on which the Chair ruled recently, that answers can only be considered answers when they are signed. Eng. Toro has piece of paper which has not even been signed. So, it is not simply a question of the Minister not being here, because he has not even bothered to sign the answer that he has sent through the Chair as an answer to this Question.

Mr. Speaker: Maj. Madoka, what is happening?

The Minister of State, Office of the President (Maj. Madoka): Thank you, Mr. Speaker, Sir, for giving the assignment of the Leader of Government Business. I really do not know what has happened, but we will ensure that these Questions are answered tomorrow.

Mr. Speaker: Order! Order! Maj. Madoka, will you do the following:-

Bring it to the attention of your colleagues in the Cabinet that the House will not tolerate this behaviour because it is contempt of Parliament.

(Applause)

So, take that message across; that we will not tolerate Ministers who are contemptuous of the House. Please, take that message to them and take it seriously. I do think the House is here at the sufferance of Ministers. It is their duty to be here. What are we going to do? Right now, we are going to the next Order; the Supplementary Appropriation Bill, and the Minister for Finance is not even here!

The Assistant Minister for Information, Transport and Communications (Mr. Keah): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Order, Mr. Keah! What is it, Mr. Keah?

The Assistant Minister for Information, Transport and Communications (Mr. Keah): The sentiments of the House have been noted and we will duly do the best we can to bring the attention of your ruling to the entire Government. In the same vein, I was here to answer two Questions, but the Questioners were not here. I would like your intervention in that matter also, so that those Ministers who were here can have the privilege of answering those Questions.

(Loud consultations)

Mr. Speaker: Order! Order! As I have said in the past, the Chair does expect every Member to be present to discharge his or her duty. Whether you are in the Government or in the Opposition, it is your duty to come to the House. If you are asking Questions, you should ask those Questions; if you were to answer Questions, you should answer them. It is very easy for me to punish the Back-benchers because I will simply drop their Questions and refuse to reinstate them on the Order Paper. But it is about time also, the Front-benchers who refuse to answer Questions felt the wrath of the House, somehow.

Mr. Munyao: Mr. Speaker, Sir, this Government is tired. Will I be in order to ask this House to pass a vote of no confidence against this tired Government?

(Applause)

An hon. Member: It should be done now! Let us do it now!

Mr. Speaker: Order! Order, all of you! Order! Mr. Munyao, you know that moving a vote of no confidence against the Government is not casually made in the way you are trying to do it. So, Mr. Munyao, you have a duty to this House to know what are the procedures in proposing such vote and then follow those procedures to the letter. Do not take the time of the House unnecessarily because, then, you will be in the same boat as they are.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I would like the hon. Member to know that the Government is very vibrant. Apart from that, the Assistant Minister for Local Government is now here and, maybe, you can give him an opportunity to respond to that Question.

Mr. Speaker: Very well. Where were we before?

Hon. Member: We had moved to the next Order!

Mr. Speaker: Order, Eng. Toro! Order! I do not think I had made any order in relation to Eng. Joshua Toro's Question. I was still asking where the Ministers are? Where is the Minister for Local Government?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, I am here. I am sorry that I came in a minute or so late after you had called the Question.

An hon. Member: Give your excuse and then start answering the Question!

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, I was coming in faithfully, running to the House, and then I met a colleague of this House----

(Loud consultations)

Mr. Speaker: Order! Order, Mr. Assistant Minister! Order Members! Have you ever heard of the

principle: "Do not hang me before you have heard me?" Let us hear him.

Proceed, Mr. Assistant Minister!

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, I met a colleague of this House who was in some kind of problem which required my assistance, and it took me five minutes to assist him. I am so sorry that I have come to the House late. I would have been in the House in time to answer this Question as usual.

Mr. Speaker: Now proceed and answer the Question.

The Assistant Minister for Local Government (Mr. Kiangoi): Having apologized---

Eng. Toro: On a point of order, Mr. Speaker, Sir. I do not seem to have a written answer! What I have here is a piece of paper which is not signed.

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, if the hon. Member has no answer, I undertake to have the same signed. It must have been an oversight, but I have an answer here which I wish to read out.

Eng. Toro: Where is that signed answer?

The Assistant Minister for Local Government (Mr. Kiangoi): It is here with me!

Mr. Speaker: Order! Order, hon. Members! Eng. Toro, would you like to hear what he has to say?

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

(a) I am aware that the offices of Kandara Town Council were broken into on Tuesday, 3rd April, 2001. However, no files and documents were stolen.

Mr. Michuki: On a point of order, Mr. Speaker, Sir. I think it is evident from the past HANSARD--- You have ruled that, even when papers have been tabled here, without a signature, they are not acceptable to the House. How do we accept a copy of a written answer to a Question which has not been signed?

Speaker: Order! Last time, I said that copies of written answers to hon. Members must be signed so that the Minister can own to his authenticity. But you see, he is giving an oral answer and you cannot sign an oral answer, can you?

(Laughter)

Mr. Michuki: He is reading!

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, I will answer the Question without reading from a copy of the written answer.

(a) No documents were stolen from that particular office.

(b) The Town Council has instituted several measures, including deploying two night watchmen, to boost security.

Eng. Toro: Mr. Speaker, Sir, with your indulgence, we would like to get a ruling from the Chair because the Assistant Minister has said that he will give an oral answer, but he is reading the same paper which I have, and yet it is not signed. So, should we proceed, or what should we do? The paper he is reading his answer from is also not signed. Suppose the Minister says later on that the copy of the written answer was erroneously brought before the House, what will we say?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, the Minister is not different from me. This is because I am an Assistant Minister, properly appointed under the Constitution to assist the Minister in his duties. I would like to inform the House that the Minister will not come here and deny what I am reading.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I think the Chair is right that an oral answer cannot be signed. So, for purposes of the record of the House, what you have said is correct, but the Standing Orders require him to sign a copy of the written answer that he gives the Chair and the hon. Member. That is the issue we are raising because we do not want Ministers to assume that they can continue to flout the law, when it is very clear.

Mr. Speaker: Order! I think it is two weeks ago that I made this ruling and only three things could have happened; either Ministers do not attend the House; they do not read the HANSARD, or they totally ignore the ruling of the Chair, and I hate to think any of the three. So, I assume that it is an oversight, but may it now be understood clearly that the Chair will demand the best of every hon. Member because we serve the nation through this House, and we must do so thoroughly. Everybody must earn his or her keep, and your keep is to perform your duty properly to the House and to the country. So, please, sign those documents, send them to the House as prescribed by the Standing Orders and be here punctually to answer the Question. I had sent Maj. Madoka to his colleagues generally, again, I would like to request Maj. Madoka to pass that message. Let us all be serious now.

Mr. Wamae: On a point of order, Mr. Speaker, Sir. In order to proceed and not to waste the time of the House, could this Question be deferred so that we can have a copy of the written answer signed?

Mr. Speaker: This Question is deferred so that the Minister can sign a copy of the written answer and come in the House prepared.

(Applause)

(Question deferred)

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

Mr. Speaker: I hope it is not on this Question because it is already deferred.

Mr. Katuku: On a point of order, Mr. Speaker,

Sir. In order to ensure that we do not have the same problem being repeated in this House, I would like to request the Chair to further direct that the office of the Clerk shall not receive copies of written answers which are not signed.

(Applause)

Mr. Speaker: I decline to give that directive.

Mr. Sungu: On a point of order, Mr. Speaker, Sir. Now that my good friend the Minister for Finance is already here, could we, perhaps, ask the indulgence of the Chair for him to answer Question by Private Notice No.2.

Mr. Speaker: He will not because I have already said that it will come tomorrow.

Mr. Sungu: Thank you, Mr. Speaker, Sir.

Mr. Speaker: I hope he has already been told by Mr. Marrimoi, Maj. Madoka, Mr. Kiangoi and Mr. Keah. I think he has heard.

Eng. Muriuki: On a point of order, Mr. Speaker, Sir. Since there is still time left for Questions, although you have already made a ruling and the Minister for Finance has come, maybe, the Chair can review its ruling so that we can have an answer to this Question.

Mr. Speaker: Order! You see, that is how the Chair is trivialised. Once the Chair has made a ruling, everybody must respect it.

(Applause)

Once I have made an order, it is an order and it stands until otherwise overruled by the Chair, and I am not convinced to overrule myself every five minutes because I will be a pendulum.

(Laughter)

So, I will be firm. The Question will be answered tomorrow.

So, that ends Question Time!

POINTS OF ORDER

REHABILITATION OF MTWAPA AND NYALI BRIDGES

Mr. Maitha: Mr. Speaker, Sir, I rise to seek a Ministerial Statement, first, from the Minister for Roads and Public Works. We thank the Japanese Government for giving us money for the repair of Mtwapa and Nyali Bridges, which has already commenced. I would like to inform this House that we are facing problems of traffic flow. Could the Minister order the consultants on the ground to do the work in the morning and evening? Could he issue a comprehensive statement detailing how

our people will be served, bearing in mind that the two bridges are under construction and rehabilitation?

INCREASE OF KONGOWEA MARKET STALL CHARGES

Mr. Maitha: Secondly, there was a very big problem in my area yesterday, when the Mombasa Municipal Council decided to increase stall charges within Kongowea Market. I would like to inform this House that there was a very big fight, and even now, people are still parking their lorries outside the market because of this. I would like to say that the decision to increase these rates was not arrived at in the full council meeting. Could the Minister issue a comprehensive statement to show why this was done because they are losing a lot of money now?

The Minister for Roads and Public Works (Mr. W.C. Morogo): Mr. Speaker, Sir, I will issue a Ministerial Statement tomorrow afternoon.

Mr. Speaker: Very well. Thank you.

POLICE HARASSMENT AT KIBUGU MARKET

Mr. Ndwiga: Thank you, Mr. Speaker, Sir. I would like to seek a Ministerial Statement from the Office of the President on the following issue.

Sometime last year, heavily armed gangsters raided Kibugu Market in my constituency and killed two watchmen. I would like to inform this House that these gangsters terrorised the residents of the market for three hours and later on the police stationed six police officers in the same market. Later on, the OCPD, Embu, through the market committee asked the community to assist construct a police post at the market. I would like to point out that the community organised itself and sometime this year, it decided to hold a Harambee on 28th last month, which was a Saturday. I would like to inform this House that the Committee approached me and requested me to ask Mr. Karume to be the guest of honour at this function. I would like to inform this House that Mr. Karume acceded to the request and the Harambee was to be held on Saturday. Later on, it transpired that Mr. Karume and myself were committed elsewhere and we postponed the Harambee to Sunday, 29th of last month.

In accordance with the law, we went to the police station and gave a notification for the Harambee to be held on Sunday, last week, which was received and acknowledged. I have the original copies of those receipts. To my surprise, on Sunday, all the police stations in Embu Town were closed and the policemen camped at the market on Saturday night and throughout the whole of Sunday. Sunday is a market day at Kibugu Market. The policemen beat up innocent women and ordered the entire market, shops and hotels and other businesses to be closed.

Mr. Speaker, Sir, Kibugu Market is in my home area and I had to go home somehow. Road blocks had been placed on all the three main roads which lead to Kibugu

market. When we learned about what had happened, we asked Mr. Karume not to attend the function. We were not looking for [Mr. Ndwiga] confrontation. When we got to Kibugu Market we found that the police had continued to harass innocent citizens. They had arrested women who had come to the market to sell their wares.

Mr. Speaker: Make your request short because you are taking too long!

Mr. Ndwiga: Thank you, Mr. Speaker, Sir. We are now wondering what crime we had committed. We are out here talking about assisting the police in community policing. What crime did the innocent citizens commit? They had come with their few shillings to---

Mr. Speaker: Order, Mr. Ndwiga! What are you doing now? What is before the House that you are debating? If you want to request for a Ministerial Statement, request for it, but you cannot take the whole day debating.

Mr. Ndwiga: Mr. Speaker, Sir, we are merely wondering how the police can harass poor innocent citizens who had gone to the market to contribute money towards the construction of a police post. I request for a Ministerial Statement on that issue.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I have noted the remarks of the hon. Member and I will prepare the appropriate statement in response by Tuesday, next week.

POLICE HARASSMENT IN KANDARA CONSTITUENCY

Eng. Toro: On a point of order, Mr. Speaker, Sir. I stand on a point of order to seek a Ministerial Statement from the Minister in charge of Internal Security in the Office of the President on the following.

On Saturday, 28th April, 2001, three drunk policemen from Githumu Police Station in Kandara Constituency went to a shopping centre called Gichagini and entered into a shop belonging to Mr. Elisha Muigai Mbaka. The three policemen started harassing the owner of the shop, Mr. Muigai, and his wife who was holding a six-month-old baby. There was a disagreement as the policemen were soliciting for a bribe. When the owner of the shop refused to pay it, he was arrested and put in the police Land Rover, registration number GK 1352 where he was chained at the back of the Land Rover. The wife was also arrested and put in the Land Rover together with the six-month-old baby.

When they drove off a short distance from the shopping centre, the Land Rover overturned and rolled three times. The police, together with Mr. Muigai and the wife, were injured and taken to Githumu Mission Hospital. The baby went with the mother to the hospital.

As we talk now, the police and the wife of Mr. Mbaka are still in hospital.

This is a very serious issue and we would like the Minister go give a comprehensive Ministerial Statement on it because, apparently, the Officer Commanding Police Station (OCS), Githumu, did not even know that his policemen were going out on any patrol. The wife of this businessman suffered a hand injury after the accident and we understand that on one hand, the flesh has peeled off and only the bones are left.

Mr. Speaker, Sir, luckily the baby did not die. If it had died, we would be talking about the death of a six-month-old baby. We wonder why a baby should also be arrested and taken a police station! What crime could such a baby have committed? We would like the Minister to take this case seriously. It has become a habit in Kandara Constituency for the police to harass everybody, solicit for money and establish kangaroo courts. We have complained many times but it appears as if the Minister is unable to discipline his Police Force.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I will issue a comprehensive Ministerial Statement on this matter next week, on Thursday.

MURDER OF NINE FAMILY MEMBERS

Mr. Khamasi: On a point of order, Mr. Speaker, Sir. I stand on a point of order to request for a Ministerial Statement from the Minister in the Office of the President, in charge of Internal Security, on the following.

On Sunday morning, 29th April, 2001, a man from Shibuye Location in my constituency murdered his pregnant wife. He went on to murder four of his own children and then turned on to neighbours and very close relatives, murdering four of them instantly, in very suspicious circumstances. I want to request the Minister in the Office of the President in charge of Internal Security to give a comprehensive Ministerial Statement on this particular incident.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, that is a very sad story, and I will give the appropriate statement next week, on Thursday.

FAILURE TO ANSWER A QUESTION

Mr. Donda: On a point of order, Mr. Speaker, Sir. Last week, on Tuesday, I asked a Question to the Minister of State, Office of the President, regarding the Kenya Airports Authority's privatisation of a parking area. The Question was deferred until today. I have not been given the answer to this moment.

Mr. Speaker: It does not appear as if the Question is listed on the Order Paper. I will ask the Clerk of the National Assembly to revisit that issue and list the Question

as quickly as possible on the Order Paper.

MINISTERIAL STATEMENT

COST OF RELIEF FOOD

The Minister of State, Office of the President (Mr. Nassir): On a point of order, Mr. Speaker, Sir. I was asked to come and give full information about relief food and the money we have spent on it for my colleagues to know about it, so that they can, in turn, inform their constituents about it. So, I will table this document which contains the information.

(Mr. Nassir laid the document on the Table)

BILLS

First Reading

THE SUPPLEMENTARY APPROPRIATION BILL

*Order for First Reading read -
Read the First Time - Ordered to be read
the Second Time today*

Second reading

THE SUPPLEMENTARY APPROPRIATION BILL

The Minister for Finance (Mr. Okemo): Mr. Speaker, Sir, I beg to move that The Supplementary Appropriation Bill be read a Second Time. While moving the Motion on the Supplementary Estimates of 2000/2001, I appraised hon. Members of the reasons that have occasioned the need for additional supply under certain Votes, and a reduction in others. Therefore, I do not wish to devote more time on that.

But, instead, I will go straight to the contents of the Bill before the House. The Supplementary Appropriation Bill, 2001, seeks additional supply for the following Votes: Under Recurrent Expenditure, we have Vote R01, Office of the President; Vote R02, the State House; Vote R04, Ministry of Foreign Affairs and International Co-operation; Vote R10, Ministry of Agriculture, Livestock and Rural Development; Vote R11, Ministry of Health; Vote R12, Ministry of Local Government; Vote R21, Ministry of Environment and Natural Resources; Vote R27, Public Service Commission; Vote R28, Office of the Controller and Auditor-General; and Vote R29, National Assembly.

Under Development Expenditure, we have Vote D01, Office of the President; Vote D04, Ministry of Foreign Affairs and International Co-operation; Vote

D07, Ministry of Finance and Planning; Vote D11, Ministry of Health; Vote D14, Ministry of Information, Transport and Communications; Vote D15, Ministry of Labour and Human Resource Development; and Vote D30, Ministry of Energy.

Mr. Speaker, Sir, the Bill also seeks a reduction in supply under the following Votes: Under Recurrent Expenditure, we have Vote R03, Directorate of Personnel Management; Vote R05, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports; Vote R07, Ministry of Finance and Planning; Vote R08, Department of Defence; Vote R13, Ministry of Roads and Public Works; Vote R14, Ministry of Information, Transport and Communications; Vote R15, Ministry of Labour and Human Resource Development; Vote R16, Ministry of Tourism, Trade and Industry; Vote R25, Office of the Attorney-General; Vote R26, Judicial Department; Vote R30, Ministry of Energy; Vote R31, Ministry of Education, Science and Technology; Vote R33, Electoral Commission of Kenya; Vote R36, Ministry of Lands and Settlement; and Vote R45, National Security Intelligence Service.

Under Development Expenditure, we have Vote D03, Directorate of Personnel Management; Vote D05, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports; Vote D10, Ministry of Agriculture, Livestock and Rural Development; Vote D12, Ministry of Local Government; Vote D13, Ministry of Roads and Public Works; Vote D16, Ministry of Tourism, Trade and Industry; Vote D21, Ministry of Environment and Natural Resources; Vote D25, Office of the Attorney-General; Vote D26, Judicial Department; Vote D31, Ministry of Education, Science and Technology; and Vote D36, Ministry of Lands and Settlement.

Mr. Speaker, Sir, let me comment briefly on those Votes seeking additional supply, and those with substantial reduction in supply. First, on Votes seeking additional supply, starting with Vote R01, Office of the President, hon. Members are aware of the severe drought that ravaged the country recently, causing serious food and water shortages. As hon. Members will recall, that was one of the worst droughts to be experienced in this country for many years. The Government had to take some urgent measures to ensure that no loss of life was occasioned due to lack of food. It is for that reason that the budgetary provision for famine relief has [**The Minister for Finance**] been increased from Kshs1.5 billion to Kshs4.8 billion.

With regard to Vote R02, State House, the additional funds requested for that Vote are to cater for the operational expenses of the State Houses and Lodges. Under Vote R04, Ministry of Foreign Affairs and International Co-operation, the additional funds sought for the Ministry are to meet expenses of increased presidential visits abroad, and to cater for the shortfall in the provision of foreign service allowances and payment of rents and rates both for residential and non-residential properties in respect of our Missions abroad.

On Vote R10, Ministry of Agriculture, Livestock and Rural Development, the additional funds sought are to cater for drought-related expenditures such as purchase of veterinary drugs, sprays, vaccines and seeds. An emergency allocation has also been made for the purchase of chemicals to contain an invasion of army worms. With regard to Vote R11, Ministry of Health, the additional funds sought are to be used for payment of adjusted house allowances, purchase of drugs, medical equipment, rehabilitation of health facilities and procurement of power generators for use in health institutions during power shortages. Additional funds are also required for the promotion, sensitisation and expansion of epidemic control activities, grants to medical institutions and provision of food and rations to hospitals and other health institutions. Regarding Vote R12, Ministry of Local Government, additional funds are required to finance drilling of boreholes and procurement of generators and water tankers to alleviate shortage of water in various urban centres during the drought period.

Mr. Speaker, Sir, in Vote R21, Ministry of Environment and Natural Resources, additional funds are required by the Ministry to finance drilling of 100 boreholes in 30 drought-stricken districts, purchase of water tankers, provision of mobile water treatment units and disinfection chemicals. Under Vote R29, National Assembly, additional funds reflected in the Vote are for financing the expenses of the Constitution Review Commission of Kenya. The funds were earlier voted under the Vote of the Office of the Attorney-General, but that has been changed through an amendment to the Act, which now places the Commission under the Vote of the National Assembly.

Mr. Speaker, Sir, on the Development Votes, Vote D01, Office of the President, the additional funds reflected in the Vote are for the procurement of famine relief food. The funding is mainly from donors and will be channelled through the World Food Programme and disbursed directly to the affected communities. With regard to Vote D04, Ministry of Foreign Affairs and International Co-operation, additional funds are required by the Ministry for maintenance of buildings and stations, and for financing a study on the effects of asbestos used in the construction of one of our mission buildings in Washington DC. Under Vote D07, Ministry of Finance and Planning, the additional funds required are for the use in securitisation and settlement of the pending bills. With regard to Vote D11, Ministry of Health, the additional funds are required to cater for public health and preventive care needs, precipitated by the recent drought. Funds are also needed for the rehabilitation of mortuaries and district hospitals. In respect of Vote D14, Ministry of Information, Transport and Communications, the additional funds are required to meet the contract obligation relating to locomotives

supplied to the Kenya Railways Corporation (KRC) by M/s General Electric Company Inc.

Mr. Speaker, Sir, as I informed the House while moving the Motion on the Supplementary Estimates, 2000/2001, the additional funds being sought under Vote D30, Ministry of Energy, are for the financing of the Emergency Power Project, which was crucial in alleviating the power shortage that was caused by the drought. The project is jointly financed by the Government and the World Bank.

With regard to Votes seeking reduction in supply, as I informed hon. Members while moving the Motion on these Supplementary Estimates, it has become apparent that some of the donor support fund, which were factored in the Budget may not be realised due to delays in the fulfilment of certain conditionalities. Also, due to poor performance of the economy, the revenue target set at the time the Budget was formulated cannot be achieved and, therefore, had to be adjusted downwards. In order to reduce the anticipated financing shortfall, it has become necessary to effect reduction in some Votes as specified in the Third Column of the Second Schedule.

Mr. Speaker, Sir, let me now comment briefly on the Votes affected by reduction in supply. In respect of Recurrent Votes, the reduction under Vote R03, Directorate of Personnel Management, was mainly due to the Government's inability to meet the retrenchment target. Reduction on other items was mainly intended to reduce the financing gap resulting from a decline in anticipated revenue. Most of the reductions in respect of Vote R05, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports, were part of the general reduction effected in all Ministries in order to reduce the financing gap due to decline in anticipated revenue receipts.

The reduction in supply under Vote R07, Ministry of Finance and Planning, was occasioned [**The Minister for Finance**]

by re-distribution to other Ministries of allocation for house allowances originally factored as adjustment for allowances in the Printed Estimates of the Ministry of Finance and Planning. The reduction in supply under Vote R08, Department of Defence, is part of the general reduction in expenditure effected by the Government across the board for the reasons I have already given. The reduction in supply in Vote R13, Ministry of Roads and Public Works, is also part of the expenditure reduction effected across the board to reduce the financing gap created by anticipated decline in revenue.

Mr. Speaker, Sir, the huge reduction in Vote R14, Ministry of Information, Transport and Communications, is accounted for by savings on personnel costs and over-realisation of Appropriations-in-Aid (A-in-A). The reduction reflected in Vote 15, Ministry of Labour and Human Resource Development, and Vote R16, Ministry of Tourism, Trade and Industry, is due to the reasons I have given in respect of reduction in other Votes - decline in

revenue receipts.

The huge reduction in respect of Vote R25, Office of the Attorney-General, reflects the transfer of provision for the Constitution Review Commission from the Office of the Attorney-General to the Vote of the National Assembly. Again, the reasons for reduction in respect of Vote R26, Judicial Department, are the same as those given in respect of reduction in other Votes. The main reduction in Vote R31, Ministry of Education, Science and Technology, is accounted for by a reduction in the provision for salaries and other allowances for the Teachers Service Commission, which had been over-estimated at the time of preparing the Budget. The reduction in supply under Vote R33, Electoral Commission, came from the savings realised from the reduced expenses on some items such as petitions, review of electoral boundaries, election expenses and provision for replacement of motor vehicles. Reduction in supply under Vote R36, Ministry of Lands and Settlement, is attributed to across the board Budget cuts, which I alluded to earlier.

Mr. Speaker, Sir, under Development Votes, the reduction in supply in Vote D03, Directorate of Personnel Management, is attributed to withholding of disbursement of funds by our development partners. The reduction in Vote D05, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports, is attributed to withholding of Budget support funds and decline in anticipated revenues meant to support Government of Kenya-funded programmes. The reduction in the Development Vote of the Ministry of Agriculture and Rural Development is due to the same reasons I have given in respect of reductions in other Votes. With regard to the Development Vote for the Ministry of Local Government, the reduction in provision is due to the withholding of donor-funded revenues. So, the commitments have been scaled down to reflect the anticipated absorption of donor funds.

Regarding the major reduction in provision for the Road 2000 Project under the Ministry of Roads and Public Works, donors have asked for the postponement of implementation of the programmed activities to the next financial year. The reduction reflected in Vote D36, Ministry of Lands and Settlement, is due to reasons similar to those I have given in respect of reductions in other Votes - withholding of support funds by our development partners.

Hon. Members will notice in their copies of the printed Supplementary Estimates that the revised gross estimates amount to Kshs211.2 billion compared to Kshs189.7 billion in the original printed Estimates. This reflects an increase of Kshs21.5 billion. Out of this amount, Kshs15.8 billion is A-in-A, leaving a net increase of Kshs5.6 billion. Most of the A-in-A, amounting to about Kshs12.7 billion, is in the form of famine relief grants from donors, which is being

channelled through the World Food Programme. I intend to finance the net expenditure of Kshs5.6 billion by borrowing from the domestic market.

Mr. Speaker, Sir, the Bill before the House is important. Once enacted, it will give me the statutory authority to withdraw funds from the Consolidated Fund, to enable Ministries and Departments to continue implementing programmes and giving services to the public for the period ending 30th June, 2001.

With those few remarks, I beg to move.

The Vice-President (Prof. Saitoti): Mr. Speaker, Sir, I rise to second the Bill. In doing so, I would like to draw the attention of hon. Members that it is only in the previous week that we debated and passed the Motion on the Supplementary Estimates, 200/2001. It is a fairly known fact that the Minister cannot draw funds we approved by passing that Motion without us enacting the appropriate Act of Parliament as stipulated in the Constitution. So, the Minister has rightly brought here the Supplementary Appropriation Bill for enactment, so that he can draw the required resources. While moving both the Motion of the Supplementary Estimates and the Supplementary Appropriation Bill, the Minister gave an account of the current economic situation and what led to the cuts in the various Votes. He said that while formulating the Budget for the current financial year, he factored in certain substantial resources that were supposed to be availed by our development partners, particularly the International Monetary Fund (IMF), World Bank and other core financiers.

[The Vice-President]

Unfortunately, not all the external inflows have actually been realised. Although some resources were, indeed, disbursed by our development partners in the first quarter of the current financial year resources, the amount was not more than Kshs10 billion. We have, however, experienced various difficulties lately, leading to the withholding of funds by our development partners. One of those difficulties is the fact that a number of Bills relating to governance issues were not passed by this House. As hon. Members are aware, one of those Bills is that about the declaration of wealth by public servants, including Members of Parliament. That particular Bill was rejected by this House after several legal questions were raised. As we are all aware, one of those questions was the fact that Members of Parliament felt that if they are to declare their wealth, they should not do so alongside civil servants. Also, hon. Members felt that they cannot be accountable to civil servants.

Mr. Ndwiya: On a point of order, Mr. Speaker, Sir. Is it really in order for the Vice-President, while seconding this Motion, to continue giving the impression that it is this House which has caused the problem with the donors, while we know that this House actually did pass the Bill on Kenya Roads Board and this Government went to court---

Mr. Speaker: Order! I am ruling that you are giving your own opinion, which you are entitled to. Now sit in silence and suffer his own opinion as well.

Proceed.

The Vice-President (Prof. Saitoti): Mr. Speaker, Sir, the hon. Member is trying to give his own views, but let me also inform him. Many of us do not talk out of ignorance. We talk out of our deliberations and interaction with the donors. We know exactly where the complaints are. The main constraints are the two Bills. There is, of course, the problem of KACA. When talking about the problems of KACA, it is not the Government. Every Kenyan has a right to go to court. It is his constitutional right to question a certain illegality. I am saying this because this is the background to explain why this particular Bill has got certain shortfalls. This has led to substantial shortfalls. This is why a number of Ministries will not be able to obtain all the resources that were reflected in the initial budget.

At the same time, even though the Minister for Finance did effect major cutbacks there was still an unfinancible gap. Last time the hon. Minister was able to explain how he will cover the gap which will result in borrowing from the commercial side because that is the only way we can do it. The most fundamental thing I want to say is this: We need to commend the Minister for Finance because in arriving at the present situation, he has had to do a lot of work. There have been problems like the drought. There are hon. Members who may want to say that the drought is not the only problem. Once again, let us remember that agriculture which was badly hit by the drought, accounts for more than 30 per cent of the gross domestic product of the Kenyan economy. These are facts and they are available.

The same drought was even much more damaging because it also affected the availability of water which is important in terms of generating electricity and power. That made it extremely difficult for the productive areas especially industries, to manufacture and operate at full capacity. Production also became expensive. The net effect, therefore, is a major shortfall of revenue to be generated here locally. There was, of course, the inflow from outside. As far as I can remember on the economy of this country, I cannot think of a much more difficult and uneconomic year as the one we have gone through. We faced the worst kind of drought and it came in all sorts of ways. This has given us the biggest challenge. If it were not for the resilience of Kenya's economy, I can assure the hon. Members here that there would have been major queues all over. Even our civil servants would not be paid at all.

In making this statement, I am trying to convey this message, especially to our friends on the other side of the Bench. The problem of the economy is not only for the Government. It is a problem for all of us. The only way we can revert back to be on track is not by

issuing counter-accusations. It is for us to understand that the problem of the economic recovery is one that must be faced by all Kenyans. We will not be able to put the economy back on track unless certain fundamentals are in place. There is no doubt that Bills will be brought here; one addressing KACA and the other dealing with matters of disclosure and ethics. As a Government, we have nothing to hide on matters of governance because we do realise that governance is absolutely important in matters of production. All of us must understand that governance, openness and transparency are integral parts of the economy. The economy cannot grow without those fundamentals.

We will be discussing those issues and I hope that we will do so honestly. It is not a question of looking at somebody and if I see an hon. Member like my friend, Mr. Wamae, driving a car, I come here and say that he must have stolen it. That mentality must end. We must recognise those who work hard. At the same time, with this shortfall in resources, there is one lesson that we ought to learn from the lack of disbursement of donor resources. It is a fact that in the long term, the development of this economy will depend crucially on us. Kenyans must be the ones to chart out the economic destiny [**The Vice-President**]

of this nation. We must understand the global trend today. As far as donor money is concerned it is on the slopes. I will give an example. As far as Sub-Sahara Africa is concerned, in 1992 the money which was given out by the donors was US\$61 billion ODA. By 1998, that amount had come down to US\$48 billion. In fact, today it is not even US\$48 billion. It is coming down.

The message that is coming out to the developing world is that we should not keep on depending on donor money. Yes, we need donor money for the purpose of infrastructure, but in the long term, the African economy and those of developing countries will grow through trade. We must improve our competitiveness to penetrate into the industrial economies, in the hope that they too will allow us to get into their markets. The AGOA is important and I commend the Minister for Tourism, Trade and Industry who has worked on that. The Cotonou Agreement of the European Union is important. That is how we will be able to get the resources to expand this economy. Further more, we must be competitive in order to attract direct investment to ensure that our own traders, industrialists and farmers who export, invest their resources locally. We must check against capital flight and in so doing look for more of it to come. This is the phenomenon for us to adopt in order to address globalisation.

Mr. Speaker, Sir, Kenya and the Africa Continent will not make a dent on the economic growth, especially on poverty, given the current difficulties, if we do not become competitive. Transparency is important in the competition.

The other thing which is very important for the growth of the economy is liberalisation. We will not grow by shutting the Kenyan economy from the outside world. The economy cannot grow in a state of political instability.

General elections will be held sometime next year. A lot will depend on us, hon. Members, whether we will propel a state of instability or not. If we do so, we will be in difficulties.

Mr. Wamae: On a point of order, Mr. Speaker, Sir. I do not like interrupting my friend, the Vice-President. However, is he in order to emphasise the fact that the withholding of donor funds is what has created a problem, whereas we know that during the period between 1991-1997, Kshs475 billion was stolen through corruption by this Government? These are documented facts!

Mr. Speaker: Order! Hon. Members must understand what language is parliamentary and which is not. Mr. Wamae, the terms "stealing" and "theft" are not parliamentary. You must withdraw and use an appropriate term.

Mr. Wamae: Mr. Speaker, Sir, I withdraw the word "stolen" and substitute it with "misappropriated."

The Vice-President (Prof. Saitoti): Mr. Speaker, Sir, the motivation behind my touching on those aspects is the fact that the economy is a configuration. The growth and the lack of growth of our economy is determined by a number of parameters. It is important that we understand them. Let me put it this way: Statements that are just made for political reasons will not contribute to the development of the Kenyan economy. It must be understood that in many democratic countries today - we hope to be one when we develop - you will never hear or read about the kind of exchange of cheap politics we normally indulge in. We want to hear very constructive criticism. We are willing to listen to it. You can tell us where we have gone wrong. Do not just denounce us. Instead, give us constructive suggestions. That is what Kenya needs today. It is not just blaming us as failures. What we want are practical solutions. We are in an extremely difficult situation today. We have to reverse the trend of this economy. We have to ensure that we deal with poverty and create jobs. Those jobs will be created by traders, industrialists and farmers, among others. The time when the Government was the only sole provider of job opportunities is long gone. This is a global trend. Today, it is the private sector that is the agent of growth. Let us get that one clear.

Mr. Speaker, Sir, at this particular stage, I beg to second this Bill. I would like to urge hon. Members to also support it. We need to encourage the Minister for Finance so that, come June, he will be able to provide a proper Budget for us to move ahead.

(Question proposed)

Mr. Mwiraria: Mr. Speaker, Sir, I rise to comment on this Bill. I want to start my contribution by saying that the Supplementary Estimates which have

been introduced by this Government can only be introduced by a collapsing, archaic, dishonest, insensitive and very secretive Government. Why do I choose to use these rather harsh words on the KANU Government? This is because when the Minister for Finance brought his Budget to this House, we told him in no uncertain terms that he was being over-optimistic because we were already facing drought and the Minister knew about it. Secondly, we have been given reasons which have made these Supplementary Estimates necessary. These are: A decline in revenue and withholding of donor money. The Government went into an agreement with the World Bank and the IMF, fully aware of what document they were signing. Nobody in his normal senses would go and [Mr. Mwiraria] negotiate a loan with a banker, accept terms which he knows from the word go that he will not fulfil. This is what has happened in this instance and that is why donors are withholding funds.

Mr. Speaker, Sir, we have been informed about globalisation and our need to liberalise our economy. One would expect a Government that cares about its people, which is thinking about the welfare of its own people and whose leader always talks about minding the welfare of others to ask itself; what are the economic and social implications of this liberalisation?

Mr. Speaker, Sir, it is not a secret that the Bretton Woods institutions and the World Trade Organisation are now working to serve the developed countries. They are working for the development of the developed countries. What is happening today is that big companies are merging in America and Europe. Their branches here are working for the parent companies. The result is that our countries are getting a very raw deal. Our people are being sacked. Our local industries are collapsing. A good example of this is the textile industry. The Government cannot come to this House and tell hon. Members that they are not aware of these facts.

Mr. Speaker, Sir, I must say I am getting particularly concerned about the goings-on today. We have seen it happen, that just before elections, the Government gets very cross with donors. They then throw them out so that they can get a free hand to loot the economy and get funds for electioneering. After the elections are over, the Government starts correcting things. It goes on its knees, begging the donors for funds.

Mr. Speaker, Sir, while it is true that some of the laws which the donors wanted were thrown out, in fact, only one was thrown out; by this House because of its inconsistency and conflict with the Constitution; it is a known fact that The Economic Crimes Bill which was supposed to come before the House in December last year did not come before the House, not because of any other reason, but because the Government did not want it to come here. Those of us who sit in the House Business Committee know that the Opposition Members of that Committee were pleading with the Government even to extend time so that

we could debate the Bill, but the Government led by the Attorney-General, refused to debate it.

Mr. Speaker, Sir, our economy had negative growth last year of minus 0.5 per cent. The Minister is proposing to make Kenyans even poorer because he has just told us that he proposes to borrow internally to increase internal borrowing by Kshs5.6 billion in order to bridge the gap for these Supplementary Estimates. In his Budget Speech, the Minister promised that he was going to lower internal borrowing by about 5 per cent. In the event internal borrowing has gone up to Kshs177 billion from Kshs160 billion, it is going to be increased to about Kshs183 billion and perhaps more. The Treasury Bills through which the Minister borrows internally are highly priced and the Government pays very high interest rates. We have looked at governments which borrow internally through Treasury Bills throughout the world, and there is no other government which has come anywhere near 10 per cent. We do not understand why our Minister agrees to be exploited by banks which appear to have made up their minds that they are going to exploit Kenyan wananchi and the Kenyan Government. The Government allows them the leeway to operate as though there is no monetary authority in the Republic of Kenya. If the banks did not have money and then, they offered the little they had at very high interest rates, one would understand it. But the banks have excess deposits. They have more than 40 per cent sitting idle. They do not have anybody to lend it to and they buy the Minister's Treasury Bills at whatever rates they fix.

Treasury Bills are known the world over as the best security which any investor would be looking for. What is the difference between Kenya and the other countries? Why should the Kenyan Treasury Bills be treated as though they were very risky investments which belong to very poor people? At least, the banks in the country ought to accept that fact. I think it behooves on the Minister to take action, to make sure that Treasury Bills attract much lower rates of interest. Honestly, I do not understand why the Minister accepts the bids. It is okay, but people can bid between zero and 4 per cent or 6 per cent, and then let the banks bid. They do not have anybody to lend money to because they have out-priced themselves.

My other point, Mr. Speaker, Sir, to the Minister is that the Kenyan economy is collapsing. Companies are winding up, even bodies such as Lonrho are closing down their businesses here. This will have to continue unless and until the Government of Kenya is ready to protect its industries, farmers and traders. Protection is something done by all governments the world over. We have just come back from a tour of the USA and South Africa. The Government of the USA, which is the wealthiest in the world, used to have restrictions on foreign exchange and interest rates.

When they decided to deregulate in 1980, they gave themselves six years to implement their deregulation. Kenya, a poor country which is now being counted among the paupers of the world, did it overnight. Am I wrong, therefore, when I say that the Government is not seriously addressing the problems of this country?

Mr. Speaker, Sir, even today, the Reserve [Mr. Mwiraria] Bank of America influences interest rates. About six years ago, the Head of the Reserve Bank, Mr. Greens Burn(?) lowered the fund rates. He knew by lowering the fund rates, which are equivalent to our discount rates, the interest rates would come down. Much closer to our home, South Africa still practises limited exchange controls. The exchange control in South Africa is against its own citizens so that the *Wazungu* who are fed up with the black Government cannot go away with all the money they have.

More importantly, in South Africa, they use a certain rate which is equivalent to our own discount rate, and that is determined by the Governor of the Central Bank in order to influence the interest rates and bring them down.

Mr. Speaker, Sir, the time has come for the Government to accept this reality: That Kenya is a poor country and can easily be drained dry of its foreign exchange if people lose confidence in us. We do not want to re-introduce controls, but we want the Government to take considered measures, which have been tried elsewhere and have worked; that is, to bring interest rates to a level where credit becomes affordable to Kenyans. Today, it is not affordable. Today, the only way the poor people can survive is by going to the shylocks and pay 20 to 30 per cent interest rate per month. We do not have another way of extending credit to our poor people. While I sympathise with the Minister, I must say that the problems that he is suffering from are self-inflicted. These are problems which have come about because of the actions of the Government.

Let me address a few points in the Bill. The Minister went through a list of Ministries which will be benefitting from increased Supplementary Estimates.

(The microphone went off)

Mr. Speaker: Order! What is happening? What is wrong? Mr. Mwiraria, can you see whether it is working now?

Mr. Mwiraria: It is not working, Mr. Speaker, Sir.

An hon. Member: Mr. Speaker, Sir, is that sabotage?

The Minister for Foreign Affairs and International Co-operation (Dr. Godana): Mr. Mwiraria, come and talk from this side!

Mr. Mwiraria: I will do that when I will-- (inaudible).

Mr. Speaker: Order, all of you! There is still order in the House.

(The microphone was switched on again)

Mr. Mwiraria: Mr. Speaker, Sir, I am grateful because the microphone is now working.

I wanted to comment on the Bill itself. I wanted to say that the first Ministry that will get additional money from the Supplementary Estimates is the Office of the President. Under the Office of the President, Kshs3.3 billion will go to Relief and Rehabilitation; food for the people who are starving. That is a welcome gesture; something that we appreciate. Let me state that if people will benefit from that food, then, it should be distributed in such a way that only those who do not have food get it. In the just ended year, and the Minister is here; and I am willing to demonstrate what I mean, some of the chiefs and assistant chiefs did set aside bags of food for the committee members they had appointed. I am prepared to give examples to substantiate that point. So, I am pleading that once the Government gives out food to chiefs and assistant chiefs, let it be distributed fairly in order for it to reach the poorest of the poor, who cannot afford food on their own.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, the rest of the money - more than Kshs1.2 billion - is going to the Office of the President because it has become the nerve centre of all Ministries; where everything that attracts money is put. We must continue pointing out these facts. There is no earthly reason why the Kenya Airports Authority, the National Aids Control Council (NACC) and the Kenya Wildlife Service should be under the Office of the President. If you look at the Development Vote, you will see that the Office of the President is developing roads and water projects. One of the reasons why donors are having problems with us is that they do not understand why we organise our Government the way we do. If we were transparent, we would have put the Kenya Airports Authority under the Ministry of Information, Transport and Communications, where it belongs, and we would have put the NACC under the Ministry of Health, *et cetera*.

Regarding Recurrent Vote 2, that is the Vote where the Government shows conspicuous consumption. That is the Vote where additional money is being given to State House in order to buy additional vehicles. There is also increase in their Votes for transport and travelling expenses, and official entertainment; getting an increase of Kshs8 million when Kenyans are starving and there are no medicines

in hospitals. We must be thinking with our heads upside down. When economies are in [Mr. Mwiraria] trouble, like ours is, presidents in other countries have sacrificed their salaries to show to the public that they are suffering with the rest of the wananchi. Mwalimu Julius Nyerere did cut his salary and asked for reduction in salaries all round. Has the KANU Government thought of any measures, other than increasing the internal borrowing in order to raise more funds?

The time has come for that sacrifice, and the best way of starting it is to stop buying new vehicles. In fact, I thought that the Office of the President and State House have bought new Mercedes Benzes in the past. Why do we need many more when we cannot make ends meet? The Minister must be aware that he is increasing deficit, when he promised to reduce it when he moved the Budget here a few months ago. By increasing the deficit and internal borrowing, he is lowering the chances of getting the economy growing. The reductions which are being made make one sad.

Mr. Temporary Deputy Speaker, Sir, it is understandable when the Minister says: "Yes, we had to reduce the Directorate of Personnel Department and, therefore, we are reducing the Ministry of Home Affairs." However, the question is: What are we reducing? When we take the Children's Department, which is looking after the bereaved of Kenya; the poor children who have no people to look after them; the *chokoras* of Nairobi and all over the country, you will notice that the Minister has reduced their recurrent budget by Kshs30 million. Surely, are we caring for our society? When we reduce Probation Services by Kshs26 million, could we not have found better sources? When we reduce Culture and Social Services Department; the people who finance sports, the only thing left that Kenya could be proud of but which we are now happily killing--- It is my submission that even if we are really hard put and we must reduce the Budget in order to make room for Supplementary Estimates, we should chose carefully where those reductions must come from. Another reduction to the tune of Kshs148 million is coming from the Ministry of Roads and Public Works, a Ministry we were looking up to to improve the roads infrastructure but whose ability is now being crippled.

I was saddened when I looked at the Ministry of Tourism, Trade and Industry. It is my regret that the hon. Minister for that Ministry has gone out. This is because out there, there are many people who want to come and visit Kenya, but Kenya is not being promoted sufficiently. So, when we take away Kshs96 million from that Ministry, what do we expect the Minister to do? We need tourists. If we need foreign exchange, we need tourism and tourism can only be promoted if Kenya goes out and promotes tourism itself. Nobody else is doing it in America. In fact, in America they have reduced the offices. There used to be two consulates, but they have now got only Washington, and that office is totally inadequate; yet the Minister is looking for

sources of revenue to tax next year.

Mr. Temporary Deputy Speaker, Sir, it is also saddening to see that money is being set aside for presidential visits abroad. What do these visits earn for Kenya? Should we as a House, not ask that we get reports on what the presidential visits have earned and brought back to us? It would be useful if the Minister could comment on these few items. I really find it difficult to support this Bill.

With those very few remarks, I beg to oppose.

The Minister of State, Office of the President (Mr. Nassir): Bw. Naibu Spika wa Muda, nimefurahia kwa kunipa nafasi hii nitoe maoni ambayo yako katika roho yangu.

Nataka kumshukuru Mwenyezi Mungu, pamoja na Waziri na maofisa wake katika Treasury. Hii ni kwa sababu niliona ile taabu ya kupata na kutumia watu pesa wakati nilikuwa katika Wizara ya kutazama taabu na chakula katika Kenya. Ilikuwa kila mara nikienda kuomba pesa, nikifanya bidii, kuomba pesa ili ninunue chakula kuwapelekea watu. Katika wakati huo nikizunguka Kenya niliona taabu nyingi ambazo zimekumba Wakenya. Nilienda mahali pengine na nikajuliza: "Je, hii ni Kenya ama pahali pengine?" Ukiweza kuangalia mahali fulani ambapo kumejaa baraka na uende kwengine ambapo hakuna taa, maji, na barabara--- Unajua mtu mwingine akitaka kunichokoza mimi husema ukweli halafu atakasirika bure. Yangu hasa ni kusema kwamba mambo ambayo yako sasa sio yale Waheshimiwa Wabunge wenzangu walipokuwa PS. Kulikuwa watu milioni tisa lakini leo kuna watu milioni 30. Kitu ambacho kinaharibu Kenya sio ufisadi bali ni midomo yetu. Midomo na chuki zetu za ndani ya roho za kuchukiana ndizo zinaharibu Kenya. Kenya inaharibiwa kwa sababu mtu hula nyumbani kwake, ana gari aina ya Mercedes Benz na kila kitu ambacho Mungu alimjalia kupata, na hajui taabu ya wale wengine maskini. Mimi hustaajabu kusikia eti watu wamepigia kura matajiri katika Kenya yetu hii. Mtu haingii vichochoroni; hajui Mathare na mambo mengine, lakini siku ya kura yeye hujifanya ni hodari sana wa kuongea, na anapata kura. Lakini sasa ni wakati wa kuzidi kuweka amani. Uhodari wetu ni tujaribu zaidi kuisifu nchi yetu ili watu wapate kuleta pesa na tuweze kusaidiana.

Bw. Naibu Spika wa Muda, leo tumefika wakati wa kugawanya pesa na zigawanywe kwa njia sawa. Hakuna mtu katika Kenya hii anaweza kusema kwamba Serikali ya KANU imefanya makosa fulani. Hakuna! Hii ni kwa sababu wakati Mtukufu Rais Moi alipochukua usukani, ijapokuwa kulikuwa na vyama vingi, katika ofisi, Upinzani umejaa tele. Kwa [**The Minister of State, Office of the President**] hivyo, kulikuwa na nafasi kubwa ikiwa walitaka kuimaliza nchi hii. Lakini kwa sababu ya imani ya Mtukufu Rais Moi, aliweka Wakenya wote pamoja. Hakujali waliompinga au wako katika chama gani.

Lakini nadhani kumfundisha pongo kula basi atakula chakula chote.

Bw. Naibu Spika wa Muda, lazima tuwe watu wa kupanga mambo yetu vizuri ili pesa zikija zipangiwe vizuri na kuhakikisha kwamba kila kitongoji na mtaa zimepata pesa za kuwaweza watu wa Kenya kupata raha. Lakini huu mwendo tunaokwenda nao wa "mpe aliyenacho zaidi na usimpe kabisa asiyenacho" sio mzuri. Lazima mtindo huu ukome! Lakini mtindo huu hautakoma kwa sababu tumezungumzia habari ya Katiba sana na kusahau mambo mengi kama vile chakula kinaweza kuwafikia watu wote. Walioshiba katika Kenya hii wana midomo mikubwa kwa sababu ya shibe. Wakati wako na njaa wanaongea kuhusu njaa yao tu na watu wote, hata wanasiasa, watanyamaza. Lakini watu wa Kenya ni wazuri; hawataki taabu na ndiyo sababu wananyamaza na njaa yao. Wanaona kwamba wanadhulumiwa kwa sababu hawapewi mashamba. Wana taabu nyingi sana na hata pesa za kuwasomesha watoto wao hawapati.

Katika sehemu nyingine za Kenya hakuna shule za upili wala vyuo vikuu. Watu wamenyamaza kwa sababu wanataka kuwa na umoja katika Kenya hii. Wanataka chakula na pesa zigawanywe sawasawa, lakini chuki inawaharibu.

Bw. Naibu Spika wa Muda, Rais Moi si Rais wa kwanza katika Kenya. Sioni aibu kusema kuhusu yale yaliyofanyika awali kwa sababu ni lazima tuwapatie watu wote heshima. Tunataka kupendana na kusaidiana. Umefika wakati ambapo Wabunge wanawaambia wanaotoa mikopo na misaada: "Msilete pesa katika Kenya". Mtu aliyeshiba ana furaha na hajui kwamba matamshi yake yanamwaharibia maskini ambaye anapata taabu sana kwa sababu hana chakula wala chochote. Kwa sababu ya chuki, kujipenda na ubinafsi, tunaharibiwa mambo na kuletewa taabu katika Kenya.

Yule anayesoma magazeti katika Kenya anajua kwamba maneno yanayoandikwa yanaharibu nchi hii. Katika dunia hii hakuna mtu ambaye hana mwenzake wanayesikilizana. Kila mtu ana yule anayesikilizana naye. Badala ya watu kutafuta njia ya kuishi vizuri, wanamtukana Rais, Serikali na kadhalika. Hii Serikali si ya KANU peke yake! Tumewekwa katika uongozi lakini watu wanadanganywa na viongozi wa Upinzani. Bado watu watazidi kukimbilia Upinzani lakini wengine watabaki. Watu hawapendi ukweli kwa sababu ukweli unauma. Ukisema ukweli watu wengine huona vibaya.

Bw. Naibu Spika wa Muda, tunayakimbiza mambo mengi katika Kenya hii na kufanya nchi yetu kuwa maskini na kuanza kungojea misaada kutoka nje. Mambo yanayotokea katika Bunge hili sio mazuri sana. Mimi ni Muisilamu maskini na sina taabu na mtu yeyote. Juzi Mbunge mmoja alisema kwamba Waisilamu ndio walisababisha baa zifungwe katika Mtaa wa South C. Ikiwa Waisilamu hawana polisi, mkuu wa mkoa wala chochote, wanawezaje kufunga baa ya mtu? Lakini tulisema kwamba tunataka watu wote washirikiane ili watoe maoni yao

kuhusu Katiba. Tunataka mtu anayezuia pesa sizije aangaliwe sana. Kwa nini azuie pesa kuletwa katika nchi hii? Ikiwa ni makosa ya jana na juzi, ninaweza kuelewa. Lakini siwezi kujua yaliyofanyika miaka iliyopita.

Bw. Naibu Spika wa Muda, kulikuwako wakati ambapo mabenki yalikuwa yakimpatia mtu mmoja milioni kumi na anakwenda Ulaya bila kuweka dhamana kwa sababu alikuwa anajulikana. Watu walipeleka pesa nje ya nchi na kukawa na njaa katika nchi hii. Siku hizo wengine walikuwa Makatibu Wakuu. Watu walichukua mashamba na kila kitu ambacho wangeweza kuchukua. Tunashukuru kwamba tunaisaidia nchi yetu ijapokuwa watu wengine wana chuki. Kila kitu ambacho kinafanyika katika Kenya kwa wakati huu lazima kifikiwiwe. Ni lazima pia tuyafikirie yaliyopita na tuyatengeneze ili yasije yakatokea tena. Yale ambayo tunaona sasa na ambayo yalifanyika kati ya 1990 na 2001, ni robo ya yale yaliyofanyika hapo mbeleni. Aibu zetu ndizo zinaharibu nchi hii!

Bw. Naibu Spika wa Muda, ukisema kwamba unataka pesa nyingi, maskini anayeishi katika kijiji cha Mathare atasema nini? Mambo kama haya yakiletwa hapa, tusifikirie mambo ya chuki; tufikirie mambo ya kupendana na kuwafikiria wale maskini wa hali ya chini. Tusifikirie ukubwa na kuchezea bendera na kuwaumiza wenzetu walio maskini.

Kwa hayo machache, nataka kumshukuru Bw. Waziri na ofisi yake. Ninataraji kwamba sisi wote tutazungumza kwa lugha ya kuwasaidia maskini badala ya kutukanana nao na kuonyesha utajiri na nguvu zetu.

Kwa hayo machache, ninaunga mkono.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I understand that the Government has brought a Bill to this Parliament to seek the authority of this National Assembly so that they can get revenue to the tune of Kshs11.5 billion to spend in two months' time, before the end of the financial year. This is not a very substantial sum of money, given our population size, the problems we are facing and the need for the Kenyan Government to invest substantially into infrastructure, in order to stimulate this economy for rapid economic growth.

Mr. Temporary Deputy Speaker, Sir, the rate of growth, as the Minister for Finance will testify at this point in time, is almost negative. But we know **[Prof. Anyang'-Nyong'o]**

that between 1963 and 1972, this country enjoyed the rate of 14 per cent growth per annum. If we had continued to grow at that rate, we could be far ahead than we are now.

If we had continued at that rate, today we could be way ahead of Mauritius, which is perhaps one of the smallest economies in this part of the world. This country has achieved a very high income per capita and has, indeed, dealt with some of the problems we are facing today, of unemployment and poverty, from a very

meagre resource base.

Mr. Temporary Deputy Speaker, Sir, I want to make three important points regarding the Government's request for Supplementary Appropriation and the Government's philosophy of taxation. There are two ways in which we can look at taxation. We can look at taxation as a way of raising revenue or we can also look at taxation as a way of providing incentive to investment. I am afraid that the Government has only been looking at the supply side of taxation; that is raising revenue. The Government has not been very good at looking at taxation as an incentive to investment. If taxation is not used as an incentive to investment, it will be very difficult in the kind of society we live in to have economic growth.

I will give an example of Withholding Tax. I will not mind the Government putting Withholding Tax on anybody who buys a long distance lorry or transporter to transport goods from Mombasa to Nairobi or even beyond because there is very stiff competition in that sector. I would like to inform his House that many people will invest in long distance hauling using the road even if they were to pay Withholding Tax.

Secondly, the Government knows that it has to raise revenue to reconstruct the highway from Mombasa to Busia, and I will speak on that later on. In that regard it needs to raise as much revenue as possible, but it does not make sense for the Kenyan Government to levy Withholding Tax on the leasing of aircraft. This is because what the Kenyan economy or Government should do is to do all it can to ensure that Kenya becomes a service hub for East and Central Africa. We should be able to provide services. This is our comparative advantage.

I would like to point out that anybody who wants to invest in the service sector should be encouraged, and here, taxation should be used as an incentive to encourage investment. Anybody who wants to invest in hospitals, schools, the financial sector and the airline industry, where we have a comparative advantage, should be encouraged to do so by making sure that certain forms of taxation are not levied on these people because this is where Kenya will be at the cutting edge of developing economies in Africa. You have no business to produce nuts and bolts or even razor blades, which can be produced much cheaper in India and imported to this country at half the price of the cost of production in Kenya. Since we have subscribed to the World Trade Organisation (WTO) and we are now members of COMESA, these are the realities we have to deal with. We should make sure that as a Government, in submitting a document like this, and it will be more serious in the Budget, our responsibility is to ensure that there are two aspects of taxation; we use it for raising revenue and as an incentive for investment.

In this regard, in the service sector, there should be as less taxation as possible so that we attract the private sector to invest in this sector because we have a comparative advantage. Kenya must be the hub of providing hospital

services in Africa; Kenya must be the hub of providing education in Africa; Kenya must be the hub of providing financial services in Africa because we have a comparative advantage. That is why I find it very strange for the Government to lay very stiff conditions for indigenous entrepreneurs to invest in the financial sector. It is inconceivable for an indigenous entrepreneur who wants to start an indigenous bank, mortgage house and financial industry to be expected to put such a high capital premium in competition, for example, with multi-nationals. This is because if we do that, it will be very difficult for the Government to get this kind of revenue. I would have been much more pleased if the Minister for Finance came to this House and said that he wants a Supplementary Appropriation Bill for two months for Kshs33 billion. That would be something impressive given the size of our country and our ambition to develop. But to occupy us for a number of days discussing Kshs11 billion, which the Kenya Sugar Authority (KSA) can raise in ten years--- One parastatal can raise this amount of money. Indeed, the KSA has raised Kshs13.2 billion.

If, indeed, the Government over the last couple of years had used taxation as an incentive for investment, the Minister for Finance would be very happy today, smiling all the way from the Treasury Building to this House coming with Kshs33 billion Supplementary Appropriation Bill. But as it were, the revenue base of the Government is so low because investment is low. So, the generation of that revenue they are asking for taxation is also low. They are trying to tax very few people who are so poor.

Mr. Temporary Deputy Speaker, Sir, I would also like to say that it would be good if the Government could give importers of equipment an incentive, particularly, importers of equipment that are destined for the abattoirs industry. Those, for example, who want to invest in marginal areas, like [**Prof. Anyang'-Nyong'o**] Garissa, Isiolo and so on. This is because it is extremely expensive to transport cattle from Garissa to Athi River. It does not make economic sense. We are also losing a lot of money through these cattle being bought and shipped to Saudi Arabia, rather than adding value, by their being slaughtered here and exported as meat from Kenya. If people were given the incentive to import equipment for purposes of establishing abattoirs in Garissa, Isiolo and all the marginal areas, we would have all those cattle dying in those areas being used productively by Kenyans and the Government would get a lot of revenue from that industry.

There are two ways of looking at taxation. You may compel Mr. Okemo to say that he must raise Kshs180 billion for the Financial Year, 2001/2002. Indeed, if the question is framed like that, he will have to raise the money. But on the other hand, we can tell Mr. Okemo that he has to raise that money, but he

should also think of reducing his demand to Kshs140 billion. But in three years time because he has forgone Kshs40 billion this year by giving that as a tax incentive to investors, he will make five times the Kshs40 billion. This is what is called long term planning.

This is why the central economies used to prefer five-year development plans with budgets to that effect and ten-year development plan with budgets to that effect rather than this one-year development plan and budgets which presuppose that you are an economy with a very sound revenue base. If you are an economy which is still trying to stimulate economic growth so that you can have people with money in their pockets to tax, it is important that we begin thinking or using taxation as an incentive to investors.

The other thing I wanted to say was that it is important at this point in time, as the Minister presents to us this Supplementary Appropriation Bill, and as he prepares for the Budget to be presented here in June, that we think seriously about taxing equipment for an investment in agriculture. I would like the Ministry to encourage agricultural investment in marginal areas, specifically those areas, in which the Government has invested resources for irrigation, but which at the moment are going to waste.

In 1978, the Kenyan Government invested Kshs12 billion in the Bura Irrigation Scheme. If you calculate that money and give it the value of the year, 2000, it could easily amount to Kshs48 billion today.

That money was invested in Bura Irrigation Scheme because we wanted to produce some cotton. If you visit the Bura Irrigation Scheme today, you will see that there is not a single cotton plant. But rather than let that investment go to waste, I would rather the Government uses taxation as a way of encouraging those people who want to invest in agriculture in those marginal areas such as Bura or Kano Irrigation Schemes, by giving such investors subsidised inputs.

Mr. Temporary Deputy Speaker, Sir, let us not make the mistake of believing the World Bank and the International Monetary Fund lock, stock and barrel, that subsidy to agricultural investment is uneconomical. During the early stage of growth, you have to subsidise investments in agriculture. Agriculture is one of those most difficult sectors of the economy to capitalise, even in France and Japan today. Very often you find rice growers in Japan demonstrating because the Government has withdrawn certain subsidies. In France, people who are growing arrow roots and cattle keepers, very often drive their tractors on to the streets because the Government has tampered with certain forms of subsidies. This demonstrates to us a natural truth, that however developed an economy is, agriculture will always remain a very difficult sector to capitalise. So the involvement of the State in this sector must be assumed to be a permanent feature of the development of that economy.

Mr. Temporary Deputy Speaker, Sir, I am pleading specifically with the Minister for Finance to consider

subsidising agricultural inputs, particularly in marginal areas and areas where the Government has already sunk substantial investments which are going to waste such as in the Bura and Kano Irrigation Schemes. It is so important that, that investment should be used to generate revenue, which eventually this Government can tax rather than let it go to waste for ever.

I now turn to another Ministry, which I think is extremely important. On page 631, under Vote D13, the Minister has stated that the amount required during the year ending 30th June, 2001, for the Ministry of Roads and Public Works for capital expenditure, including general administration and planning, consultancy, design expenditure on Government buildings, other building works, Mechanical and Transport Department, Electrical Department, Staff Training Department, Housing Services and Loans to National Housing Corporation, is a mere Kshs337 million. Then we see that there is a deficiency of Kshs2.8 billion in terms of Appropriations-in-Aid.

Mr. Temporary Deputy Speaker, Sir, this is really sad because the Ministry of Roads and Public Works is today one of the most important Ministries in the Republic of Kenya. The opening up of our rural areas to investments depends on the Ministry of Roads and Public Works. On this Ministry depends providing facilities for making Kenya a successful service hub in the COMESA region, if not in Africa as a whole. I hope that this paltry sum will not be used for the kind of Recurrent Expenditure which will not lead to stimulating investment, but will be **[Prof. Anyang'-Nyong'o]**

used for the kind of expenditure that will lead to stimulating investment.

In that regard, I hope that under planning and consultancy, the Minister for Finance has taken into account the fact that the Ministry of Roads and Public Works needs to implement, as a matter of urgency, building a dual carriageway from Mombasa to Busia. This is something that has been on the works for a long time and is so important to the Kenyan economy. If we were to build a dual carriageway from Mombasa to Busia, as a major public investment, the number of people who would get jobs in that project would be enormous. The number of professionals who would be engaged in that project would be enormous. The number of entrepreneurs who would have to supply materials for that project would be enormous. I hope that the Kenyan Government knows that public works of this kind in a developing economy have quite often served as a source of impetus for turning that economy around. Investment in major road works in this country at this point in time, to me, is one of the most important initiatives that the Kenyan Government can undertake in trying to stimulate economic growth in the Republic of Kenya. Rather than coming to the House and saying that we

have established District Roads Boards which have been given Kshs5 million, surely any professional in the Ministry of Roads and Public Works will tell you that Kshs5 million is just enough to recarpet Kirinyaga and Ojijo Roads in Nairobi.

If we are going to deal with reactivating the broken down infrastructure of roads in the rural areas, we have to be more serious than that. We will have to be in a position to vote money to the Ministry of Roads and Public Works as a development Ministry. This is one of the things that the Government needs to do. The Government is supposed to make a distinction between service Ministries and development Ministries. There are certain Ministries such as the Ministry of Tourism, Trade and Industry, which are very important, but do not require as much capital investment as the Ministry of Roads and Public Works. In tourism, you only need to train professionals who can market tourism well. In tourism, the Government is simply providing a service where private investors are the heavy investors. But in the Ministry of Roads and Public Works, you are not going to expect a lot of capital to come from the private sector and build roads. The private sector would like roads to be built and maintained by the State. It can lease roads and railway lines from the State but, in the final analysis, the development of roads infrastructure in any country, is the responsibility of the State.

Therefore, I am trying to plead with the Government that I recognise that there is a deficiency of Kshs2.8 billion, but I hope that in the next Budget, and in the next Supplementary Appropriations Bill that we may deal with in future, the Government will give a lot of emphasis to the Ministry of Roads and Public Works, and that, as a matter of urgency, will ensure that the building of a dual carriageway from Mombasa through Nairobi to Busia, with branches to Kisumu, Nakuru, Eldoret and Malaba will be completed as soon as possible. It can be done if the Government plays its part properly. On Monday evening, as I was travelling from Eldoret to Nakuru, I noticed five big lorries which had over turned between Eldoret and Nakuru. This happened because of one reason, namely, that before you reach Timboroa you go around all kinds of bends that you do not expect a 12-tonne lorry to negotiate successfully, particularly if there is an element of hurry on the part of the driver.

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the fact that the debate on this subject has been exhausted, would it be in order to move that the Mover be now called upon to reply?

Mr. Temporary Deputy Speaker (Mr. Poghiso): Yes, I think it is reasonable for the House to consider that now.

(Question, that the Mover be now called upon to reply, put and agreed to)

The Minister for Finance (Mr. Okemo): Mr.

Temporary Deputy Speaker, Sir, first, I would like to take this opportunity to appreciate the contributions by hon. Members from both sides of the House. They have made very constructive and useful comments. However, I would like to take this opportunity to comment on what I consider to be distortions or inaccuracies in the facts that I have presented before this House.

Mr. Temporary Deputy Speaker, Sir, it is, indeed, true that at the time I presented my Budget, we did have an idea that there would be a drought. But I also wish to add that we did not know how severe that drought would be. The issue is not that we did not know that there would be a drought, but the severity of the drought was much greater than what had been anticipated. Hence, the consequences on the revenue and additional expenditure.

One Member mentioned that we signed conditionalities---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghiso): Order, hon. Members! It is time for the Mover to reply and so, let us give him a hearing. If you want to consult, do so in very low tones and if you want to withdraw from the Chamber, do so [**The Temporary Deputy Speaker** quietly. I think the Minister deserves a hearing.

Proceed, Mr. Okemo!

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, as I was saying, the conditionalities that we entered into between the Government of Kenya and the international development partners were very clear. They were agreed upon between the two parties. However, there were factors which resulted in those conditionalities not being fulfilled. Some of those factors were beyond the control of the Government. I do not think that you can expect the Government to have control over bringing to a constitutional court, a case that declared the Kenya Anti-Corruption Authority (KACA) unconstitutional. If that happened, and the court passed judgement, I do not think that the Government would have done anything about that. In fact, that was the major problem with the fulfilment of the conditionalities.

The fact that we brought the Code of Ethics Bill and Parliament threw it out, was beyond the control of the Government. When that happened, one of the conditionalities was not fulfilled. So, I do not think that all the blame should be apportioned to the Government for the non-fulfilment of some of the conditionalities that we entered into.

I talked to this House very elaborately about the privatisation of Telkom Kenya Limited. I explained the sequence of events from the time the

process began up to today. I think I convinced Members that the process was on course and the reasons for the delay were justified and legitimate.

One of the hon. Members mentioned liberalisation, and said that Kenya should not have accepted liberalisation blindly. I think that is a very naive comment to be made! Kenya does not live in isolation. It is part of the international community and many of those protocols have to be signed, if you want to be part of the international community. The World Trade Organisation (WTO) has got its own rules and protocols that are signed and bind every member. So, if Kenya signs the protocols with the WTO, it must abide by those protocols. We cannot say that we will protect our own industries if that goes against the rules and provisions of the WTO. I do not think that any leader with a sane mind would be able to do that, if he wants to be part of the international community.

Mr. Temporary Deputy Speaker, Sir, there was comment made about the World Bank and the International Monetary Fund (IMF) being frustrated at the last minute, so that the programme could be discontinued when elections were about to take place. In fact, that is totally inaccurate because what is going on right now is a very concerted effort to get the IMF and the World Bank on board, so that we can have the programme. I do not think that, that assertion is accurate. In fact, I think that it is totally inaccurate!

Mr. Temporary Deputy Speaker, Sir, somebody mentioned something about the control of banks. He said that the Government should control the banks. I do not think that, that would be a reasonable thing to do. I think what the Government is expected to do is to regulate the banks. There is a big difference between regulation and control. I think what the Government is doing today is regulating the banking system, but not controlling. I do not think we would go the control route because that would be against the whole spirit of liberalisation.

Mr. Temporary Deputy Speaker, Sir, one hon. Member mentioned taxation, and said that we should not look at taxation from one side; that is merely the supply side. He said that taxation should be used as an incentive to investment. In fact, I am very surprised, and Prof. Anyang'-Nyong'o, you probably should know better; that, if you look at the whole spirit of the Value Added Tax (VAT) Act, that is what it is based on---

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Okemo, who is usually very careful, to breach the Standing Orders of this House by addressing Prof. Anyang'-Nyong'o directly, instead of doing so through the Chair?

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, I thought I was doing it through you, but if I did not, then I will stick to the rules of this House.

I was talking about the VAT, which is a major taxation that we have in this country. I said that if you look at the VAT Act, you will see clearly that it is incentive-

oriented through zero-rating which, therefore, means that you can be able to apply input tax which reduces the tax that you are going to pay at the end of the day, when you get involved in the production process. That is an incentive. But more directly, last year, I reduced taxation on raw materials from 5 per cent to 10 per cent, down to 2.5 per cent and in some products, 0 per cent. That, surely, is an incentive. The incentive is to make production cheaper, in order to make it possible for the manufacturers to make profits.

In this year's taxation measures, we intend to review those rates with a possibility of bringing them further down. That is an incentive.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Minister for Finance to avoid the issue that I raised, which was with regard to the Withholding Tax? I wanted him to review the Withholding Tax, and reduce it as an incentive. I do [**Prof. Anyang'-Nyong'o**]

not dispute the VAT but, is the Minister in order to avoid the issue of Withholding Tax?

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, I am surprised that the hon. Member, who should know better, has raised that point of order. He knows that Withholding Tax is not a final tax. Withholding Tax has only repercussions for cash flow. Otherwise, it is not a final tax. It only helps in terms of improving cash flow. So, in certain cases, the Withholding Tax does not apply. I know that the hon. Member was talking about the leasing of aircraft. That is something the Government is looking into very carefully with a view to making it possible for air line companies to compete internationally. It is not something that we are blind to. I hope that the hon. Member is aware that the Withholding Tax is not a final tax but rather only an initial tax. The final tax is paid at the end of the transaction.

Mr. Temporary Deputy Speaker, Sir, I would also like to comment on the issue of Treasury Bills (TBs) and the interest rate implications. This is a subject we have talked about in this House so much. I think the subject is also of prime interest to Mr. Donde. While debating the issue of controlling bank interest rates, we talked at length about TB rates. The fact of the matter is that the best bench-mark to use in addressing the question of lending interest rates is not the TB rates. Somebody mentioned correctly here that the kind of rates that should be used as a bench-mark for determining bank interest lending rates is the discount rates.

In this country, however, the discount rate has very little meaning, because of the central bank's policy of acting as a lender of last resort to commercial banks. The central banks in the United Kingdom (UK) and the United States of America (USA) deliberately create

shortages, obliging commercial banks to borrow from them as lenders of last resort. In so doing, those countries' central banks have managed to control the interest rates at which commercial banks will be lending. In Kenya, we do exactly the opposite. I hope that, with the Monetary Policy Committee we intend to put in place, we will look into some of these aspects so as to change the whole way in which the Central Bank of Kenya relates to the commercial banks.

Currently, the TB rate is the nearest indicator that can be used, but is certainly not the best we can use as the basis for determining bank lending rates in this country. Despite the fact that the country is experiencing difficult financial problems, we have seen a declining trend in the TB rates; from 14.5 per cent a couple of weeks ago to about 11.9 per cent at the moment. So, this is really an effort. All of us should appreciate that the Government is trying to act as prudently as possible so that TB rates do not go up, thereby affecting the lending interest rates chargeable by commercial banks. Commercial banks are also responding appropriately by adjusting their base interest rates. There is, of course, a relationship between bank base rates and interest lending rates. So, we are seeing some declining trends. We hope that we can keep these rates to as low a level as possible.

Mr. Temporary Deputy Speaker, Sir, I have said that we intend to raise Kshs5.6 billion from the domestic market.

(Loud consultations)

Prof. Anyang'-Nyong'o: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is in order for hon. Members on the Government side to keep on consulting so loudly that they demonstrate that they do not want to listen to their Minister?

The Temporary Deputy Speaker (Mr. Poghio): Order! Order! Hon. Members, we are supposed to listen to the Minister's response to this debate. I think we need to pay attention. Therefore, those of you who would like to continue consulting should do so in very low tones. If you do not want to consult in very low tones, withdraw from the Chamber and consult elsewhere.

Mr. Murathe: On a point of order, Mr. Temporary Deputy Speaker, Sir. I wonder whether it is in order for the Minister to anticipate debate on the "Donde Bill" when the Chair has, properly, communicated the Presidential Memorandum on the Bill. The Minister is now trying to mislead this House that the fall in the TB rates is a result of deliberate Government action. Is the Minister in order for the Minister to anticipate debate on one of the most important Bills that we are waiting to debate this Session?

The Temporary Deputy Speaker (Mr. Poghio): Mr. Murathe, you should remember that Mr. Okemo is the Minister for Finance.

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, I do not know what Mr.

Murathe would like me to do, but I would like to remind him that it is one of the important responsibilities of the Minister for Finance to deal with TBs and interest rates. So, it is very difficult for me to avoid talking about them. In any case, I am responding to earlier speakers who alluded to that fact. So, I cannot avoid responding.

Mr. Temporary Deputy Speaker, Sir, I would like to conclude by assuring hon. Members that we are doing quite well in the agricultural sector. An hon. Member requested that we subsidise agricultural equipment. I would like to respond that we now have incentives in place for the sector. All equipment is currently zero-rated, and all agricultural [The Minister for Finance]

inputs have no taxes of whatever kind chargeable on them. Obviously, our next move may be to consider the hon. Member's request. However, in order for you to give subsidies, you must have the resources with which to do so. At the moment, we are really struggling to balance the Budget. I suppose that when the economy improves and when we can afford some resources, that will certainly be better concept for us to consider in future Budgets.

Finally, one hon. Member said that we are only dealing with short-term plans in our Budgets. I would like to correct that misconception. I have talked many times here about the Medium-Term Expenditure Framework (MTEF). The MTEF is a medium-term plan which actually links up with annual Budgets. So, as we look at an annual Budget, we also look at a three-year rolling period. So, I do not think it is actually correct for one to say that we only look at short-term one-year plans.

With those comments, I beg to reply.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE SUPPLEMENTARY APPROPRIATION BILL

(Clauses 2, 3, 4 and 5 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Supplementary Appropriation Bill and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT AND THIRD READING

THE SUPPLEMENTARY APPROPRIATION BILL

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Supplementary Appropriation Bill and approved the same without amendment.

The Minister for Finance (Mr. Okemo): 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 Information, Transport and Communications (Mr. Keah) seconded.

(Question proposed)

Mr. Murathe: Mr. Temporary Deputy Speaker, Sir, it is alright to pass these Supplementary Estimates, but I do hope that the Minister has heard the sentiments expressed in this House, that we cannot base our budgets on the hope of donor money. We must find a way of generating our own internal resources so that the donor money can come in just to supplement what we are able to raise internally. It is as a result of the donor funds not coming in that we have had to cut the Development budget by about 50 per cent. Similarly, we have not been able to perform most of the tasks which were expected in the Recurrent Expenditure. Let us look for ways and means to raise our own internal resources and manage them correctly.

(Question put and agreed to)

The Minister for Finance (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Supplementary Appropriation Bill be now read the Third

Time.

The Assistant Minister for Information, Transport and Communications (Mr. Keah): Bw. Naibu Spika wa Muda, ninataka kutia nguvu zangu zote kwa kuunga mkono kwamba Mswada huu usomwe kwa mara ya tatu. Ningetaka kumuuliza Waziri kama ataweka jambo lile la ufufuaji wa viwanda vya mnazi katika Bajeti ya 2001/2002.

Asante.

(Question proposed)

The Minister for Public Health (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to thank my colleague, the Minister for Finance, for having brought this Supplementary Appropriation Bill and to ask that he be given enough time to prepare his Budget. I only wish to bring to his attention the fact that one of the issues that was discussed by the OAU Heads of States Summit in Abuja was the deteriorating standard of health in sub-saharan Africa. Therefore, it is important and critical that the issue of health budgets should be considered seriously by our Parliaments. In fact, a declaration was made to the effect that not less than 15 per cent of the national budget should be given to the Health Ministry. Therefore, I want to take this opportunity, because I think this is the appropriate time, to request that we be given that consideration, taking into account the fact that we have a certain burden of disease in this country; HIV/AIDS does take a big toll. If you were to allocate a single line budget for HIV/AIDS alone, it would take about Kshs12 billion to invest in the management of treating the HIV/AIDS patients using the anti-retroviral drugs.

Given the current position of our budget in the Ministry, it only translates to about Kshs9 billion. Therefore, it will not be feasible to deal with such a programme until such a time as we are able to bring about a complete change and methodology in the budgeting for the health sector. I have noted very carefully the concerns raised by hon. Members about the problems of malaria. We are now experiencing the rainy season and these are the kind of problems that we expect. Suffice it to say that about 30 per cent of our population do attend the out-patient clinics as a result of malaria. About 19 per cent of them end up in the hospitals and about 5 per cent die because of malaria. This is a largely preventable situation and I want to thank the Ministry of Finance and Planning for allowing duty-free importation of mosquito nets. It is now up to the Kenyan population to buy the mosquito nets and treat them with insecticide in order to overcome this problem. We do not require huge sums of money to overcome the malaria episodes. It is important that we continue doing so.

It is my hope and expectation that, in the

subsequent Budget, the duty-free element that had been given in this last Budget will also be considered in order to ease out the burden. There is, of course, the urgent issue of what to do with the anti-retroviral therapy considering the cost of drugs currently. It costs about US\$2 a day for triple therapy in order to access those drugs. Currently, the pharmaceutical industry is in discussion with my Ministry. We are looking at ways and means of getting them to accept a reasonable price tag for this triple therapy. We are still holding discussions. I know that hon. Members are equally anxious that we should bring to this House a Bill that will address the issue of generics adequately. I want to assure the hon. Members that the Industrial Property Bill is already before this House. I hope that the House will discuss the Industrial Property Bill and insert appropriate clauses that will allow compulsory licensing and parallel importation of drugs. This will give our people the leeway to access the generic drugs which are much cheaper. Some of them will cost Kshs25,000 per annum, as opposed to about Kshs500,000 per annum, to treat the patient. I am sure the House will be quite keen to pass the Industrial Property Bill urgently, in order to allow Kenyans to have parallel importation.

Once we get to that stage I would like the Minister to address the question of infrastructure in the Budget. Having put the anti-retroviral drugs in place, there is utter need to be able to monitor the patients who are on these drugs. Otherwise, we will get in a much more serious problem of resistance and other complications. Instead of doing good, in fact, we will be sending these people faster to their graves than we had anticipated. Therefore, it is important that the question of infrastructure---

Mr. Donde: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Minister to introduce debate on the Bill when we have already gone through the Second Reading, where he would have raised those particular issues?

The Minister for Public Health (Prof. Onger): Mr. Temporary Deputy Speaker, Sir, I believe HIV/AIDS is such an important issue that it should feature in the main Budget being prepared by the Minister for Finance. I thought this would be the right time to put it in the debate.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to convert the debate on the Supplementary Appropriation Bill into a Bill that will come from the Ministry about HIV/AIDS? The Government declared HIV/AIDS a national disaster and yet, we have not done anything about it. We have not even moved an inch!

The Minister for Public Health (Prof. Onger): Mr. Temporary Deputy Speaker, Sir, I do not see any point of order here because money is being appropriated here and I feel that it is only right that I should discuss about the HIV/AIDS at this stage. This is the most critical point that I want to make. At the end of the day---

The Temporary Deputy Speaker (Mr. Poghiso):

Order! What hon. Donde raised here is right. We cannot start debate all over again. If you [**The Temporary Deputy Speaker**] have something else you want to say, please, do so and wind up.

The Minister for Public Health (Prof. Onger): Mr. Temporary Deputy Speaker, Sir, I was only making a passionate plea that, when the Minister looks into the main Budget, one of the critical factors of ensuring successful treatment of HIV/AIDS victims is really to put in place an infrastructure of laboratory services that will monitor the viral load and also access the efficacy and the quality of the drugs. Otherwise, we will be moving from one danger to another.

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

The Temporary Deputy Speaker (Mr. Poghiso): Yes, Mr. Muite. Just make brief remarks, we should not debate now.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I do appreciate we are in the Third Reading stage of this Bill and I will make very brief remarks.

It needs no gainsaying that the economy of this nation is in very dire straits. It is extremely bad. Therefore, when we ordinary citizens are asked to tighten our belts, it would appear that we have not yet hit rock bottom. However, the economy continues to deteriorate and we think we could not sink any further down, then we discover we are still sinking further down. When that is the situation, symbolism and perception become very important. Sometime ago, the President offered to cut his salary, and I believe he did so. I would like to appeal to those who advise him in terms of perception, symbolism and of setting an example, to also advise him about his official entourage. I have no problem with the President of Kenya riding in a gold car. But have you had occasion to witness the number of vehicles in his entourage? Have you noticed, for instance, all the escort vehicles are the latest models of Mercedes Benz and BMW? I had occasion to count 15 of them. Is this an example of a country that is tightening its belt? There is need to look into that.

Mr. Temporary Deputy Speaker, Sir, I went to DT Dobie and I was horrified to be informed by them that they had just received a consignment of Presidential Escort vehicles. Most of those vehicles are bullet-proof, so they are very heavy. They had been air-freighted from Stuttgart to Nairobi, instead of coming by sea which would have taken three weeks. We need to look into this, so that we show by example that everybody is tightening their belts. Reduce the number of vehicles in the Presidential entourage.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Minister for Tourism, Trade and

Industry (Mr. Biwott): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I was not going to speak, but the hon. Member for Kabete touched on a tangent and I do agree with him. The question of perception as far as the state, direction and the future of the economy of this country is concerned is very important. First, there is a misconception which has created a wrong perception of a donor-driven economy. The days when donors assisted countries to develop are long gone. Today, the emphasis is on trade and direct foreign investment. Therefore, it is the investment climate that is more important. None of the discouraging statements which we hear from hon. Members, or the general public, will help in any way. Those people do not need any education because they know everything about the way our Government runs the country. I believe there is nothing in the books that requires our Government to achieve a system of governance which has not been put in place in this country. However, it is a question of the degree of governance.

Mr. Temporary Deputy Speaker, Sir, when it comes to transparency, the emphasis is on Government procurement. There is a belief in the world that every government is the biggest consumer of goods and services. Its procurement procedures determine the extent to which the private sector can access that market fairly. I believe this House is fully aware that our tendering procedure in this country was rectified last year when Mr. George Mwai and other people were appointed from the private sector to run the Central Tender Board. So, there is nothing we are looking for to create transparency which we have not achieved in this country.

Mr. Temporary Deputy Speaker, Sir, in the world today, gone are the days when---

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Speaker, Sir. As we all know, when a Bill enters the Third Reading we are only supposed to make mere comments on important matters that were not touched on during the debate in the Second Reading. Now we are re-opening debate as if we are in the Second Reading. I do not think this is fair to this House. We have other business before this House. I ask the Chair to make a ruling on this.

The Temporary Deputy Speaker (Mr. Poghismo): Order! Mr. Obwocha, I have already made a ruling on that.

The Minister for Tourism, Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, I am dealing with aspects which the Supplementary Estimates will have an impact on. These include the need to move more towards enterprise---

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

The Temporary Deputy Speaker (Mr. Poghismo): Order! Mr. Angwenyi, I will not entertain more points of order on the same matter because I have already made a ruling.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Now that we are debating,

could you give me a chance to contribute to this important Bill?

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order! Have you finished? You had better finish. You should not bring in new issues, Mr. Biwott!

The Minister for Tourism, Trade and Industry (Mr. Biwott): I am only touching on something which will have an impact on this one.

Hon. Members: No! No!

The Minister for Tourism, Trade and Industry (Mr. Biwott): It will be very short. It touches on the things which this money which has been voted will have to address, especially on the issues which have caused the down-turn of our own economy like the drought and tariffs. He must ensure that our own people are encouraged to increase the production.

With these few remarks, I beg to support.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

Second Reading

THE CONSTITUTION OF KENYA REVIEW
(AMENDMENT) BILL

(The Attorney-General on 24.4.2001)

(Resumption of Debate interrupted on 26.4.2001)

The Minister for Education (Mr. Musyoka): Thank you, Mr. Temporary Deputy Speaker, Sir. Last time, to be precise, last Thursday before the House adjourned, I had made a few remarks, just about a minute and the House then adjourned. I was charged with the responsibility of replying to the debate on this very important matter. I would like to refer to this whole constitutional process as a matter of life and death for this country. I am tempted to revisit the history of this process.

When we first started the process at the Bomas of Kenya, I remember then there was a serious clamouring for positions by the various political players, call them stakeholders. When we first met at the Bomas of Kenya, it looked to me at that time that a lot of us wanted to derail or procrastinate the process. Then I said that the people of this country did not wish this process to continue in perpetuity. We moved from the Bomas of Kenya to Safari Park and eventually, some of us ended up in the Parliamentary Select Committee (PSC). I want to take this opportunity to thank all the Members of the PSC, including our able Chairman, Mr. Raila, for having steered the proceedings of the PSC

very well. Our other friends went to Ufungamano. Ufungamano is not a strange place to so many of us. Those of us who have gone through the University of Nairobi would remember that Ufungamano is actually the student leadership centre. I used to do my own sessions when I was a student several years ago. The only problem we had as a House was the matter of legitimacy. I know this is a touchy subject, I do not want to open wounds on that. But I think some of us held very strong views on what really constituted Ufungamano. Were we being asked to participate in perpetuation of an illegality? So many questions were asked and I think our friends on the other side had also many difficult questions.

Mr. Temporary Deputy Speaker, Sir, I started last time by thanking God because of where we are. There is one thing unique about the Kenyan people. When everybody else seems to write them off, that there will be national calamities or disasters and people will take to the streets and do impossible things, they have always a tendency to come together. This is a very unique feature of the Kenyan people. I find that the problems that attended on the process at the Bomas of Kenya and the Safari Park were mainly those of mistrust. Kenyans, particularly Members of this august House, were unable to trust each other sufficiently. Then, we had this long debate on the meaning of a people-driven process. We even listened to experts' opinion---

Mr. Wamalwa: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to interrupt the speaker on the Floor. He is somebody I respect very much, but I am sure my memory serves me right that the Minister did say, when referring to Ufungamano, whether it was going to be a perpetuation of an illegality. We all know that there was nothing illegal about Ufungamano. I do not know why he is casting that aspersion.

The Minister for Education (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I also do have great respect for my learned friend. But the truth of the matter is that this was one area of contention. Even as I speak, I am sure Mr. Wamalwa will bear me out that there were no formal negotiations between the PSC and the group that was calling itself Ufungamano. A lot of us believed that the mere sitting down with those friends out there would amount to a recognition which we found difficult in law. I will be coming to that later. But be **[The Minister for Education]** that as it may, we are here now talking of a unified process. I think it is important again to congratulate ourselves and also to learn from the mistakes that we think we may have made in the process. The main problem I found at that particular time was the definition of a people-driven process. But when, finally, talk of a referendum was brought in, that the people of this country at the end of the day would be able to vote, yes or no, for the new Constitution, debate on whether or not we were engaged in a people-driven process seemed to have subsided. I, therefore, want to take this opportunity to thank hon. Members who contributed to this debate.

Again, it looks to me that time is extremely---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order, Mr. Minister! Again, I want to appeal to the House, I am not able to follow the Minister and so many Members are consulting in different places! You have the option to withdraw if you want to consult loudly. But would you consult in low tones so that the Minister can be heard?

The Minister for Education (Mr. Musyoka): Thank you, Mr. Temporary Deputy Speaker, Sir. Indeed, I believe what I am saying here is a matter of life and death for all. Therefore, it is very important. I would really plead with my colleagues to listen to me so that they can tear me apart or listen to what I have to say because I think it does make some sense to me. I had finished thanking Mr. Raila and my other friends in the PSC and our other friends. I really have to keep on referring to them as my other friends for word of a better explanation. I do claim some kind of ownership to the word "Ufungamano" because of the historical reasons that I have given. But again, the people-driven process, I think we are now all finally agreed that when the people of this country will come together and vote, yes or no, for the new Constitution, again, I think we do realise the ownership of the process will have belonged to the Kenyan people.

] I am so grateful that this country again is not debating on whether or not Parliament should lead the process because, at the end of the day, there is a role for every Kenyan. This is a process that will belong to the Kenyan people. But you see, the Kenyan people also do express their sovereignty through their elected representatives. That is why we think that, in terms of the concept of separation of powers, we have a supreme Parliament, and I think the role of Parliament, again, has been very clearly established so that at the end of the day, it will not be seen to be arrogating itself the very crucial issue of sovereignty of the Kenyan people.

Mr. Temporary Deputy Speaker, Sir, having said that, I want at the tail-end to talk about the "reptiles, pythons and cobras" because I think that debate was introduced. I want to reserve that until the tail-end because I found it an exciting contribution that my learned friend, hon. Kiraitu Murungi, made.

I want to dwell at length, if you permit me, on a very important question; civic education. The Constitution of Kenya Review Commission (KCRC) should play a frontal role in implementing and overseeing civic education provisioning for a number of key reasons. First, there is the issue of the mandate that the Constitution of Kenya Review Act affords on a matter of the civic education. That mandate is not only well reasoned, and unambiguous, but it is also

continuous throughout the process of the constitutional review process. The mandate given to the KCRC is not accidental and is based on the understanding that the human and material resources requisite for the implementation of that wide brief can be marshalled. The KCRC cannot abdicate such a strong mandate and leave the provisions of civic education purely to the so-called civil society actors. There was representativeness, coverage, and I dare suggest, and objectivity which are matters of open speculation.

Secondly, civic education provisioning in the past has been associated more with political advocacy of a partisan nature, and less with imparting of civic knowledge. Therefore, civic skills and dispositions necessary for the effective participation of citizens in the political process get confused. The somewhat negative view of civic education as an extension of partisan politics makes the role of the exercise in the context of constitution-making controversial. Hence there is clearly a need to disabuse civic education of its negative connotations, if it has to contribute to the strongest possible participation of the people in the review exercise. I had to refresh my mind on that subject because I find it persuasive. Thirdly, many of the organisations seeking to provide civic education happen to be the same ones that arrogated themselves that role and caused all of us a lot of pain at the Safari Park meetings.

Mr. Murathe: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister, who claims to be responding on behalf of the Attorney-General, to take advantage of this opportunity to present his contribution, instead of responding to the issues that were raised by hon. Members during the debate on the Bill? He is wasting our time!

The Temporary Deputy Speaker (Mr. Poghiso): Order, Mr. Murathe!

Proceed, Mr. Minister!

The Minister for Education (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, there was a lot of contribution on that very important subject of civic education, and I thought there was need to demystify civic education in the first place, so that we can isolate the extremist elements who have been confusing this country on this very important subject.

(Applause)

Therefore, I beg to continue. The constitutional review exercise should involve the contribution and participation of the widest possible range and number of Kenyans.

Mr. Keriri: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have a lot of respect for the Minister for his eloquency, but should he be allowed to continue reading a speech when he should be speaking? He is merely reading out a speech!

The Minister for Education (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, for avoidance of doubts on

Mr. Keriri who at some stage was on the same side with me in this House, I thought that it was important to refresh my mind, and he knows something about refreshing of the speaker's memory, including refreshing his own because I do believe that he does need a bit of refreshing. This is because we have come such a long way that there is need for all of us to be exact on that important issue. What we are saying in so many words is: That, it should be the responsibility of the KCRC to undertake to conduct and give the road map on that very important subject of civic education.

Mr. Temporary Deputy Speaker, Sir, I think over that issue, there seems to be general agreement. Regarding the issue of the national referendum, in my honest believe, I think the issue is not whether we should have it or not, but rather the question is: At what stage should we have it? Again, I find that it is important that there should be need to have a national referendum in order to determine the acceptability of the final product to the Kenyan people. Subjecting the new Constitution to a national referendum cannot be gainsaid. The national referendum will provide the new Constitution with the ultimate seat of authority and at that point, all of us agree that it will be a people-driven process.

As I said, people do express themselves through their elected representatives. We had experts advice and, indeed, I think that all of us in the Parliamentary Select Committee ended up being properly schooled, thanks to the invitation that was extended to some of the experts who came to talk to us. For instance, we were able to listen to evidence and, indeed, views obtaining in other countries; if I could mention, the examples of South Africa and Japan. The Japanese people were many. I think I am very clear on the role of the Legislature.

Another thing that I found out was the question of people not being able to trust each other. I think if we can all get together and realise that, that is a matter for this country to swim or sink together, at the end of the day, we will be able to speak with one voice. For instance, and just to give an indication of my view over a matter that I feel very strongly about, and I know it is a matter that friends on the other side do feel strongly about, under the current Constitution, the President of the Republic has sworn to uphold the current Constitution as by law established. Then, we hear representations to the effect that the President is not a major stakeholder. We wonder, whether indeed, we are serious because it is important to recognise that. Currently, we have a President, but supposing that there is a President on the other side, and a lawyer at that; the Member for "Kabeteshire," Mr. Muite, stands up and says that he is not a major stakeholder as a President in the constitutional review process; what would happen? I would wonder, and, in fact, I would begin to question that reasoning. I am not going at the moment, to discuss

the credentials of the current holder of that office. I think it is important to recognise that the role of His Excellency the President is an important role in guiding the process, but of course, the Act itself is very clear, because if you exclude him, believe you me, the way I know it, and he is a holder of such an important constituency in this country, things may not easily move without his active involvement.

I think that was the mistake that we made at Safari Park and Bomas of Kenya. Indeed, we made a mistake when 26 of us used to meet in the office of the Attorney-General under the auspices of a caucus of this House, because then it was not formally a Parliamentary Select Committee that did the inviting job. We invited the so-called stakeholders to the Bomas of Kenya to the exclusion of so many Kenyans, and we ended up creating a problem at that time. Then, having started on a false foot, no wonder Safari Park meetings could not make progress. So, the history of this constitutional review process, I think, is something we need to talk about.

Mr. Kibicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. The President is a creation of the Constitution and, therefore, is it in order for this Minister to say that unless he is involved, this process will stall?

The Minister for Education (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I find it very difficult to reply to that point of order because I think I would have been tempted to dismiss it for no other reason than I never used serious words like "unless" and the phrase "I shall [**The Minister for Education**] do this and the other." I did suggest the constitutional position as it is and I did suggest that the President is a major stakeholder because he, alone, has sworn to uphold the current Constitution. So, when the rest of us threaten to abandon ship, the President is always there for this country and I think it is important to give him that credit.

(Applause)

Mr. Temporary Deputy Speaker, Sir, there has been mention of the independence of the Commission and the powers of the chairperson. I think we will be addressing that matter. I think the Act itself is very clear that there is need for a collective approach even to the proposed 27 Commissioners. I know that I would be doing injustice if I did not pay tribute to the role played by Prof. Yash Pal Ghai who I know has taught so many of the lawyers in this House, particularly those who did the final act at the University of Dar-es-Salaam. They did read a lot of Prof. Yash Pal Ghai and it is also good that he is a Kenyan and one of us. However, Prof. Yash Pal Ghai has not done this alone. It is important to realise that the thing that I give him full marks for is his sense of decorum. He hardly ever gets annoyed except on one occasion and I think he has since managed to balance himself up. When Kenyans, in our view, have a right to consult with each other and even if he holds the belief in the freedom of assembly and association--- Even last week,

I remember that a number of friends on the other side were addressing the question of freedom of assembly that a scheduled meeting at Kinoru Stadium was not going to take place, I think they accept that it did take place and that there was no interference because there was an assurance given by the hon. William Ruto.

So, similarly, if Kenyans, in the proper exercise and enjoyment of their constitutional rights, consult with each other including consulting with their own leaders, I really do not find anything wrong with that. This is because I do not think that it is a matter that would compromise the independence of the Commission. Under Subsection (4), for instance, I think I need to make proper reference to it where there is a tabulation there very clearly on when the Office of the Commissioner, for instance, falls vacant or, indeed, whether under the present Act, I find it that one person cannot fire a Commissioner. I think this is important even if the Commission Chairman feels that Commissioner "A" is not towing the line or is generally misbehaving---

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Speaker, Sir. Surely, we would have expected the Attorney-General, or his representative, to answer questions we raised during the debate here on whether he is going to bring amendments or allay fears that we expressed during the debate. This Minister has taken it upon himself to debate and tell us his own views. He is now telling us about Commissioners who went to visit President Moi. Is it in order? We would like him to reply to the debate.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Obwocha, Mr. Musyoka is replying for the Attorney-General. He still has time and so give him a chance. Let him come to a place where he will conclude.

The Minister for Education (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I am actually replying in some detail. I am replying because the issue of the independence of the Commission and the powers of the Chairperson were raised. The question of civic education that I think I have attempted to deal with, was widely touched upon by the Members who contributed and a lot of other things, including the story about pythons and whatever. So, I was not even halfway because I think I have the right to be heard. We hope this confusion will end and the Kenyans will continue to enjoy those basic freedoms to which they are all entitled.

On the very important question of how soon we think we should be able to move because as I said, Kenyans are waiting anxiously. They do not want this House or indeed, as I said, Bomas of Kenya, Safari Park, Parliamentary Select Committee or our friends at Ufungamano--- They did not want this process to continue in perpetuity. At some stage, I was suggesting that time is extremely of essence.

The specific provision dealing with the need for the Commission, at some stage, to come back to this House with the recommendations, I think, is a matter that was again touched upon. It is a matter that the people of this country would expect, bearing in mind that we are now in the month of May, 2001. We have to be realistic. This country is expected to go to elections in 2002, December. So, when I say that there is a certain amount of urgency to this process, I know I cannot be accused of repeating myself. This is because, indeed, I think we have to accept the fact that time is not on our side. However, I would also not be worried if we were to accept that the most important thing is to be, as far as possible, common-minded and like-minded. We may not, at the end of the day, come before the Commission with a uniform suggestion as to, for instance, on the manner of the future presidency in this country. However, I think we will have, if we accept the fact that there should be an enabling environment, that it is not time to think of extremist politics.

Mr. Temporary Deputy Speaker, Sir, the other day I was talking to my friend, the hon. Member for Ugenya; he is not in the House now. I [**The Minister for Education**] told him that politics of extremism really belonged to the last millennium and he really seemed to agree. We have to embrace dialogue, understanding and non-confrontation. This is why, at this stage, had it been in another country, maybe the people there would by now be on the streets but Kenyans are so tolerant and understanding. The moment they think you are preaching extremism to them, they will quietly ignore you and I think this is what has happened to other friends commonly referred to as Muungano wa Mageuzi. So, I know that was not raised and I want to say that I saw them sitting down at Uhuru Park and nobody went to them.

Mr. Muithia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to bring irrelevancies regarding Muungano wa Mageuzi in this House? I am the leader of Muungano wa Mageuzi!

The Temporary Deputy Speaker (Mr. Poghiso): Order! I did not hear the Minister say that Muungano wa Mageuzi was irrelevant. He just mentioned something about it which I do not remember.

The Minister for Education (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, perhaps, I wish the Member who has just interrupted me rather rudely would be able to tell us whether he is a member of SDP or Muungano wa Mageuzi and that people in Gatundu elected him as a Mageuzi Member. I think he should declare his interest. I hope he does not wish to interrupt me again. I want to say the following: An impression has been created again on the important question of the independence of the Commission which is so important. I know that my learned sister there wanted to interject me. I thank her because she was telling me outside that she would have said certain things. I think that it is important that the independence of the Commission is so important that, once elected, they will not represent

Mageuzi, Ufungamano or any constituencies in which they might be interested. This is because all of our seats, rightfully so, are targeted by some of these people.

Mr. Temporary Deputy Speaker, Sir, it is important to underscore the need for that independence. But also there is need to underline that no one Commissioner, whether the Chairperson or any other Commissioner can, in an interesting manner, throw out any other Commissioner. Therefore, there is a clear elaboration on how, for instance, Commissioners might lose their positions or how the office of a Commissioner can become vacant. For instance, that can happen if such a Commissioner dies or resigns from office or is adjudged bankrupt by a competent court, exercising a proper jurisdiction or is convicted of an offence and sentenced to imprisonment for a term of six months, or more without the option of a fine. So, if one is actually fined, he still continues serving as Commissioner. That would show that such a Commission is really empowered to act independently. If the Commissioner is also in breach of the Code of Conduct, as prescribed under Section 4(2) of the Act, or without reasonable excuse fails to attend three consecutive meetings of the Commission or by reason of physical or mental infirmity, is unable to discharge his duties as a Commissioner---

Lastly, the office of the Commissioner can be vacant only when, if for any other reason, one is unable or unwilling to act as a Commissioner or as a Secretary. I was going to say that, the Office of the Secretary is also very important. There was a suggestion that we could, perhaps, because of the sheer volume of documentation work--- Can you imagine, if it were to happen that in the 210 constituencies, and the Commissioners have to go there and be able to elicit representation and comments from all Kenyans, the sheer volume of documentation-- - I think it would be overwhelming to only one Secretary. So, in my opinion, I think we would have had joint Secretaries who would have been properly interviewed by the Committee that represents the sovereignty of this House. I am referring to the Parliamentary Select Committee.

Mr. Temporary Deputy Speaker, Sir, some other people suggested that, once the Commission is in place, the Parliamentary Select Committee should cease to exist. That is rather obvious because we would want to have a situation where our friends on the other side-- - We pleaded with Ms. Martha Karua, Member of Parliament for Gichugu, to join our Commission. You can see that we did not actually act in vain. I would wish that they had taken up their share out of 27 Commissioners. As fate would have it, we are still ending up with 27 Commissioners, which seems to indicate that if DP and other parties out there had taken up their places, maybe, by now we would be very far into the process.

Mr. Temporary Deputy Speaker, Sir, I would like to suggest that we continue to think, unlike now, in the hope that any extremism that shows its way would be discarded. I know Mr. Paul Muite will talk about 30 Commissioners. We would again be reverting to the same game of numbers. We could not move the Safari Park Hotel process forward because we disagreed on numbers. As result of that, there has been a misnomer that the Parliamentary Select Committee has been basically KANU and NDP. It has not--

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the Chair kindly get the hon. Member to refrain from anticipating debate on the amendments which have not been tabled and get him to reply to the issues that have been raised by hon. Members? For [Mr. Muite]

example, on Clause 11, are we reconstituting the Parliamentary Committee or it is the whole Committee that is going to remain? Let him clarify this issue!

The Temporary Deputy Speaker (Mr. Poghiso): Order! Order, Mr. Muite! You are asking the Minister to answer your question. This is becoming like Question Time! These are amendments which are appearing on the Order Paper.

The Minister for Education (Mr. Musyoka): I think I am attempting to do all that and my friend on the other side will appreciate this. That is really not possible because issues are so numerous. You will discover what I am saying once you go out to the people. The point I was making was that this has not been a KANU-NDP Parliamentary Select Committee. We have got Mr. George Anyona of KSC and Mr. Rashid Shakombo of Shirikisho Party of Kenya. I think it is proper to recognise, if we had Parliamentary political parties and their representatives---

I think it is only fair that every Kenyan is disabused of that concept of KANU-NDP, because we had hon. Members who properly represented their parties. Mr. Munyasia and Mr. Imanyara represented their political parties. So, this has been the most representative Committee. That is why we are saying that when we come to the end of it--- That is Mr. Shill of SAFINA and Mr. Muite is there!

(Applause)

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is important. Is it in order for the Minister to mislead this House that Mr. Shill represents SAFINA when I stood up in this House and said that Mr. Shill is there in his private capacity and SAFINA has not seconded him?

(Applause)

The Minister for Education (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, really, that does not defeat

my argument that this has not been a KANU-NDP affair, but it has been a Committee of this House and it does deserve respect. Reference has been made to snakes, like pythons and other reptiles.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Minister for Education, who is acting as the Attorney-General, to say that "anybody has ever said that it was a KANU-NDP Committee" when the phrase that has been used even in the Press is "a KANU-NDP dominated Committee"?

The Minister for Education (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, that is wonderful sense of semantics because everybody has been made to understand that we have not had other representatives of political parties in this House.

Mr. Temporary Deputy Speaker, Sir, we have to give recognition to the fact that there are ten political parties in this House, and we have had the majority of them in this Committee.

(Applause)

Mr. Wamalwa: On a point of order, Mr. Temporary Deputy Speaker, Sir. This point has been raised before, that the Minister should confine himself to replying to debate, but what he is doing is simply muckraking; raising issues upon which we disagreed - we have agreed to work together and he is still raising those issues on which we disagreed. He is simply muckraking, and I do not think this is helping anybody.

(Applause)

The Minister for Education (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I know that my learned friend has wonderful mastery of that very flowery language, but that does not derogate me from the point I was making.

I want to say that the reference to snakes and other reptiles made by Mr. Murungi should be countered by a similar reference to cobras.

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

(Mr. Kihoro stood up in his place)

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

Proceed, Mr. Minister!

The Minister for Education (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I was saying that reference to reptiles is not only derogatory to the person to whom reference is made, but is also escapist.

I am replying directly to a point that was raised that the people talking about reptiles---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio):
Order! Order! Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow Thursday, 3rd May, 2001 at 2.30 p.m.

The House rose at 6.30 p.m.